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Cover:

Autumn at the Arboretum

Oil Pastel, 2022

This picture painted by

Nerys Hucker

(European Patent Attorney, GB)

was part of the **epi** Artists

Exhibition 2024



Nerys Hucker

Nerys has been an in-house patent attorney most of her working life. When she had a career break, she decided to explore her creative side and discovered a love of drawing, painting and sculpting. These pieces reflect her interest in wildlife and wild places.

Nerys hat die meiste Zeit ihres Berufslebens als Patentanwältin gearbeitet. Als sie eine berufliche Pause einlegte, beschloss sie, ihre kreative Seite zu erkunden und entdeckte ihre Liebe zum Zeichnen, Malen und Bildhauen. Diese Werke spiegeln ihr Interesse an wilden Tieren und wilden Orten wider.

Nerys a été conseil en brevets en entreprise pendant la majeure partie de sa vie professionnelle. Lors d'une pause dans sa carrière, elle a décidé d'explorer son côté créatif et s'est découvert une passion pour le dessin, la peinture et la sculpture. Ces œuvres reflètent son intérêt pour la faune et les lieux sauvages.

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Editorial

Paralympic spirit

M. Névant (FR), Editorial Committee

*« Ô temps, suspends ton vol ! et vous, heures propices,
Suspendez votre cours !
Laissez-nous savourer les rapides délices
Des plus beaux de nos jours »¹*



Marc Névant

émerveillé(e)s par les exploits et les performances des (para)athlètes.

Cet extrait du poème « Le lac », écrit en 1820 par Alphonse de Lamartine, caractérise formidablement bien l'atmosphère qui a régné pendant 6 semaines autour des jeux olympiques et paralympiques : un grand nombre d'entre nous, dans les stades ou à la télévision, ont eu l'impression de vivre dans un monde parallèle,

On the occasion of the Paralympic Games, a vibrant and strong message was delivered by Tony Estanguet and Andrew Pearsons, respectively President of the 2024 Paris Organizing Committee and President of the International Paralympic Committee. Both Presidents urged that the Paralympians are fighting for a cause that is bigger than them, and called for an inclusion revolution.

Diese Dynamik muss uns mehr denn je dazu motivieren, die Werte der Diversität und Inklusion zu unterstützen und zu fördern. Wir sind dankbar, dass der Rat unseres Instituts im Jahr 2022 eine „D&I Policy“ verabschiedet hat. Der Weg ist jedoch lang und es gibt viele Baustellen, um nur einige zu nennen: besserer Zugang zum Beruf für Studierende aus benachteiligten Verhältnissen oder mit Behinderungen, psychisches Wohlbefinden im Arbeitsumfeld, Gleichstellung von Männern und Frauen. Lassen wir uns vom Geist der Paralympics mitreißen!

¹ O time, suspend your flight! And you, propitious hours,
Suspend your course!
Let us savour the swift delights
Of the most beautiful of our days

Oh Zeit, hänge deinen Flug auf! Und ihr, günstige Stunden,
Setzt euren Lauf aus!
Lasst uns die schnellen Wonnen genießen
Der schönsten unserer Tage

Note from the CEC By-Elections at C98

epl members wishing to contribute to the work of **epl** can be a member of one or more **epl** Committees. At the 98th Council meeting, there will be By-elections to fill vacant positions in several Committees.

epl members wishing to stand for election must submit their completed nomination form before the 98th Council meeting scheduled for 16 November 2024. If a member wishes to stand as a candidate for more than one Committee, they must submit a completed nomination form for each Committee.

The By-Elections will be opened on 1 October 2024 on the **epl** website.

epl Mitglieder, die einen Beitrag zur Arbeit des **epl** leisten möchten, können Mitglied in einem oder mehreren **epl** Ausschüssen werden. Auf der 98. Ratssitzung wird es Nachwahlen geben, um freie Positionen in mehreren Ausschüssen zu besetzen.

epl Mitglieder, die sich zur Wahl stellen möchten, müssen ihr ausgefülltes Nominierungsformular vor der 98. Ratssitzung am 16. November 2024 einreichen. Wenn ein Mitglied für mehr als einen Ausschuss kandidieren möchte, muss es für jeden Ausschuss ein ausgefülltes Nominierungsformular einreichen.

Die Nachwahlen werden am 1. Oktober 2024 auf der **epl** Webseite geöffnet.

Les membres de l'**epl** qui souhaitent contribuer au travail de l'**epl** peuvent être membres d'un ou de plusieurs commissions de l'**epl**. Lors de la 98^{ème} réunion du Conseil, des élections intermédiaires seront organisées afin de pourvoir les postes vacants au sein de plusieurs commissions.

Les membres de l'**epl** qui souhaitent se présenter aux élections doivent soumettre leur formulaire de candidature dûment rempli avant la 98^e réunion du Conseil prévue le 16 novembre 2024. Si un membre souhaite se porter candidat pour plus d'une commission, il doit soumettre un formulaire de candidature complété pour chaque commission.

Les élections intermédiaires seront ouvertes le 1^{er} octobre 2024 sur le site web de l'**epl**.

40 years of epi Information

New INSIGHT epi podcast



The first issue of **epi** Information has been published 40 years ago. Since then, the magazine was published four times a year. Originally written on a typewriter, the layout of the magazine has changed over the years in line with technical and graphical possibilities.

epi Information has been providing **epi** members not only with a trusted source of information, but a vital means of collaboration to further the development of the profession.

To celebrate such a milestone an INSIGHT **epi** podcast episode was recorded. The podcast is a journey along **epi**'s timeline and discusses how **epi** has constantly evolved to meet the challenges of delivering the Institute's core aims.

Co-founder of renowned German law firm Eisenführ Speiser, Dieter Speiser, who was a featured author in the very first issue of **epi** Information in 1984, is the ideal interview partner to take the audience back to the beginning. An **epi** member since its foundation in 1977, he can recall how **epi** communicated with its members from inception, and how **epi** Information sought to meet the need for a central source of information, transparency, and exchange amongst European patent attorneys.



Long before the advent of internet platforms, the Editorial Board invited constructive interaction from members via letters, which were regularly published in the journal, to provoke lively debate and discussion about controversial issues. In this way, the publication was utilized from the very start to give a voice to the **epi** members and actively shape the actions and decisions of the Council made on their behalf.

Of course, to spark such debate, it is imperative to provide the members with the most important information. This was no small task with a printed magazine. Content had to be compiled, typed, printed and distributed to the members spread across Europe. Long-time Head of General Management at the **epi** secretariat, Renate Schellenberg, who was responsible for the magazine in former times, also contributes to the podcast with an insight into the logistical challenges of this time.

The third interview partner is **epi** Committee Coordinator Sadia Liebig who supports the Editorial Committee since 2013 in producing every issue of **epi** Information. She reports from the substantial change when it was decided to publish the journal in electronic form on the **epi** website in 2016. The intention was to make the journal more interactive and attractive. A colorful layout has been implemented and categories were introduced to give the journal a clearer structure. Each cover page now features the artwork of an **epi** member who participated in the **epi** Artists Exhibition, to give the magazine an individual character and **epi** artists a platform to present their work to their colleagues.

Sadia Liebig further explains how the content is selected and how members are motivated to make contributions, without which the publication's role in the advancement of the profession would not be possible.

Current Chair of the Editorial Committee, Marc Nevant as the final speaker, takes the audience to the present day in all its digitalized glory. Not only are the contents now fully text searchable and directly accessible, but the digital relaunch of **epi** Information can be seen as a further development of the interactive nature of the magazine. It is considered how **epi** Information has and will continue to achieve its relevance in the internet age as the prominent source of information for the profession, despite the many alternative channels of communication.

It was clearly no underestimation when the then President of **epi**, Georges Bressard, referred to **epi** in the very first **epi** Information editorial as a “living organism in constant evolution.” The magazine has adapted constantly over the past 40 years to meet the everchanging demands and requirements of **epi**'s now over 14,000 members, and will continue to do so in the future. This is only possible through continued vibrant contributions from **epi** members. Happy 40th Anniversary readers!



Marc Nevant

The Editorial Committee would like to thank all **epi** members for their input over the last 40 years and looks forward to working with them in the future.

INSIGHT **epi** – THE PODCAST FOR EUROPEAN PATENT PROFESSIONALS is available via all common podcast platforms (see <https://patentepi.org/r/insight-epi>)





Patent Practice

Quis custodiet?

J. Boff (GB)



Jim Boff

Petitions for review were introduced with EPC 2000 to provide the possibility for a review of cases where appeal proceedings suffered from a fundamental procedural defect or if a criminal act may have had an impact on the decision¹.

The intent was that implementation of a petition for review procedure would:-

*“...improve the judicial relief available in proceedings before the European Patent Office and emphasise the judicial character of appeal proceedings in the EPO by offering a means to correct intolerable deficiencies. **Unwarranted and undue prolongation of the proceedings must be avoided** by the establishment of*

*an appropriately designed procedure for this extraordinary remedy. In particular, **a quick and simple screening procedure is necessary to sort out at the very beginning clearly inadmissible or ill-founded petitions for review**”¹.*

To achieve the aim of providing a “quick and simple screening procedure” Rule 109(2)(a) EPC provides as a first step that the Enlarged Board of Appeal

“consisting of two legally qualified members and one technically qualified member shall examine all petitions for review and shall reject those which are clearly inadmissible or unallowable; such decision shall require unanimity”

Only if a petition passes this hurdle does it proceed to a second step under Rule 109(2)(b) in which the Enlarged Board of Appeal

“consisting of four legally qualified members and one technically qualified member shall decide on any petition not rejected under sub-paragraph (a).”

¹ Paragraph 4, CA/PL17/00

Importantly, under Rule 109(3) EPC

*“The Enlarged Board of Appeal composed according to paragraph 2(a) shall decide without the involvement of other parties and **on the basis of the petition**”.*

In a recent decision R25/22 the Enlarged Board has questioned this procedure.

In these proceedings the question was raised as to how “clearly unallowable” was to be understood in Rule 109(2) (a) EPC.

The decision states:-

*One possible interpretation could be that the term “clearly” is meant to indicate a condition where **the unallowability of the petition is already manifest on the basis of a superficial examination of the petition**...²*

but rejects this arguing:-

However, while this shortened procedure may seem practical where the majority of petitions can be expected to be well founded and where a prima facie examination of the petition already suggests that there is undoubtedly a fundamental procedural defect, it does not seem right to apply such a fast-track procedure unconditionally where a prima facie examination suggests that the petition is unallowable. In the latter case, it could lead to the rejection of well-founded petitions, as the crucial aspects of the petition could remain unidentified during a superficial examination of the petition...³

The EBA then holds that:-

*...the correct criterion for determining whether the petition is “clearly” unallowable within the meaning of Rule 109(2) (a) EPC is not just the depth of the analysis required to understand the case from a legal or technical point of view. Instead, what also matters is **the degree of conviction of the individual members of the Enlarged Board** as to*

*whether the alleged procedural defect is indeed a fundamental procedural defect within the meaning of Article 112a(2) (a) to (d) EPC, **once the relevant facts of the case have been identified, possibly only after an exhaustive and detailed examination of all the legally and technically relevant facts**. The requirement for the members to reach a unanimous opinion is considered a confirmation of this principle.⁴*

and acknowledges that:-

It may seem that this interpretation of Rule 109(2)(a) EPC is contrary to the clear intention of the legislator; however, the EBA notes that the legislator itself was aware that the procedure might have to be modified in the light of future experience with the practical application of Article 112a EPC; see the explanatory remarks to Article 22(2) EPC, point 5, in the Basic Proposal.⁵

Several questions are raised by this decision, including:-

1. If Rule 109(3) EPC requires that the procedure under Rule 109(2)(a) EPC shall be based **on the petition**, why is an “exhaustive and detailed examination necessary”?
2. If the decision is contrary to the acknowledged intent of the legislator, what gives the Enlarged Board of Appeal the power to ignore this acknowledged intent?
3. If a quick and simple screening procedure was required by the legislator, to minimise legal uncertainty, does the 450-day period between filing the petition and issuing the decision in R25/22 meet the legislative intent?

There are very few petitions for review, and very few are successful⁶. The fear that the Boards of Appeal would be swamped were unfounded.

However it is plain that petitions for review should be given high priority because of the legal uncertainty that may ensue.

Is there a clear mismatch between Enlarged Board of Appeal practice, and the legislative intent as exemplified in the rules?

⁴ Reason 40, R25/22

⁵ Reason 40, R25/22

⁶ At time of writing over 210 petition for review decisions have been issued since 2008, of which only 9 have been successful. When you consider that there are over 2000 appeal decision **every year**, the petition rate is low and the successful petition rate extraordinarily low.

² Reason 38, R25/22
³ Reason 39, R25/22

Publication of the EPO report on SQAPs 2023 findings

F. Hagel (FR)

The report published by the EPO in June 2024 summarising the findings of the Stakeholder Quality Assurance Panels 2023 (“SQAP 2023”) is of such value to European patent attorneys that it deserves to be signaled in **epi** information. This report is included as an Annex to the EPO’s Quality Report 2023 (available at <https://patentepi.org/r/info-2403-01>).



Francis Hagel

The SQAP 2023 audits involved three panels covering the following topics : search reports and written opinions ; intermediate communications (substantive objections); grant procedures.

Each panel included 6 subpanels dedicated to the various technology areas, each made up of 2 EPO experts and 2 external assessors, appointed

by BusinessEurope and the **epi** . Each subpanel assessed 6 granted patents selected at random, which have not been subject to opposition. Thus each panel audited a total of 36 granted patent files.

The SQAP 2023 report provides rich and detailed assessments of quality issues relating to granted patents. The findings also include some helpful suggestions for improvement.

There is no need to repeat or paraphrase here the content of the EPO SQAP 2023 report, it speaks for itself. But the EPO is to be given special credit for the make-up of the SQAP 2023 panels. The mix of EPO experts and external assessors in the SQAP 2023 panels brought significant advantages : it favoured interactions between EPO experts and external assessors during the drafting of the findings, and it provided in many cases shared findings. Shared findings have obviously the key value of high credibility.

An issue of concern to practitioners, the requirement to adapt the description to remove inconsistencies with the claims, raised critical comments. The EPO has already heard the messages, as clear from the 2024 revision of Guideline F-IV 4.3 which now requires that the inconsistency “casts doubt” on the meaning of claim terms, not just “might cast doubt” . The practice of the Examining Divisions since April 2024 especially as to changes entered at the R 71(3) stage appears to have changed accordingly, avoiding the need for challenges by the applicant and speeding up the grant procedure.

Opinion by PCC on file retention policies

The Professional Conduct Committee (PCC) provides opinions upon enquiries from **epi** members under Art. 7(c) of the **epi** Code of Conduct. Any opinion given does not have regulatory force and is prepared with the intention to provide helpful assistance. No liability of any kind attaches to the **epi**, the Professional Conduct Committee or any members of that Committee in respect of these opinions. In accordance with Article 7(c) CoC, opinions of the Professional Conduct Committee shall not be binding on the disciplinary bodies.

The following opinion has been considered useful for **epi** members as the questions it addresses are particularly significant. Hence, it has been decided to publish it, in anonymised form.

Summary of enquiry:

The Enquiring Member raises three questions, all pertaining to file retention policies as they apply to paper (or other hard copy) file documents.

The questions are:

- (a) *how long should paper files be retained,*
- (b) *for example, if this is X years from an end date, what things qualify as an “end date”, and what is X, and*
- (c) *if files are scanned, what categories of documents, if any, should be retained as paper originals?*

Summary of Opinion

For reasons explained below PCC recommends that any paper file is retained for **five years** after the end of a representative's responsibility for the case forming the subject of the file. (*Question (a)*) This five-year period is consistent with the period of limitation of responsibility in respect of failures to comply with professional obligations, as set down in Article 26(1) of the Regulation on Discipline for Professional Representatives¹ (“RDR”).

This end date is likely to be variable from case to case and it is not possible to give guidance on when it may occur in specific cases. We do however include below some **questions** that we hope will be of **assistance** in establishing when in a given case the end date of responsibility has been reached. (*Question (b)*)

The Enquiring Member is urged to have regard to any relevant **national** statutory or regulatory **provisions** that have effect in the country/countries in which the Enquiring Member's business is established. In particular the Chamber thinks it very unlikely that any failure to observe a national legal or regulatory requirement will be excused by referring to this opinion.

As regards *Question (c)* it is not possible within the scope of this opinion to produce a definitive list of classes of document that must be retained as paper originals. PCC nonetheless recommends that any document the legal validity of which depends on the presence of an original signature, a seal, a hologram, an embedded or attached microchip or any other validating feature should be kept in hard copy form unless it is transferred in an intact condition to a newly instructed representative; or consent is given by the client to dispose of or destroy the document.

Similarly any documents stated to be valid only in original form (or stated not to be valid if in the form of a copy) must be retained unless transferred intact to the newly instructed representative; or disposal/destruction consent is given.

In the event of no new representative being instructed in a particular matter PCC recommends returning, via a reliable delivery means, any documents in the foregoing categories

to the entity the representative most recently has regarded as his/her instructing principal. It is recommended that the importance of keeping such documents safely is emphasised to the recipient.

Relevant Provisions

There are few directly relevant legal or regulatory provisions pertaining to the questions raised. To the extent any provisions are relevant these are mentioned in the Opinion below.

Opinion

Code of Conduct of epi² (“CoC”)

The CoC as presently in force does not include any specific provision relating to the keeping of files³. Hence the CoC does not provide guidance.

Investigations of certain national laws undertaken by the Professional Conduct Committee indicate that where national laws specify a minimum file retention period this consistently is at least 5 years, with longer periods applying in some jurisdictions and in some special circumstances. In view of this the opinion of PCC is that a five-year retention policy represents the minimum that can be recommended.

For the avoidance of doubt this recommendation does not preclude the keeping of files for more than five years if this is desired, or if the circumstances make this a requirement.

Regulation on Discipline for Professional Representatives (“RDR”)

RDR also does not include specific provisions concerning file retention policy. Hence it does not provide guidance on how long a file should be retained. However, as mentioned, Article 26(1) RDR bars proceedings in respect of a failure to comply with professional obligations once five years have elapsed; and this is consistent with the recommended five-year file retention period indicated above.

PCC further comments that Article 18 RDR requires the representative, in the event of proceedings arising against him/her before one of the disciplinary bodies, to make available any of his/her files requested by the body. This requirement however does not appear to create any obligation to store files or documents for any particular period after an end date (although it does appear implicitly to create an obligation to preserve any existing files if disciplinary proceedings are commenced against a member).

² <https://patentepi.org/r/info-2403-20>

³ This aspect is under consideration within the Professional Conduct Committee. It is hoped that provision pertaining to file retention policy can be added to the CoC before the end of 2025.

¹ <https://patentepi.org/r/info-2403-19>

European Patent Convention (“EPC”)

Rule 147(4) EPC specifies that the EPO must preserve files for at least five years from one of three specified end dates. The opinion given herein is essentially consistent with the EPO’s obligation in Rule 147(4) EPC.

Documents Requiring Keeping in Original Form

As discussed in this opinion, in a few instances preservation of original, hard-copy documents is desirable or unavoidable. Chiefly this arises when the legal validity of a document depends on the existence of a physical artefact or production of the original; or when copies are defined in law not to be valid.

In such a case it is important of course for the original documents to be kept carefully, i.e. in an intact, accessible form.

When there is a need to transfer a file to a new representative there can arise uncertainty over where the responsibility for keeping original documents, falling in to this category, lies.

PCC suggests that this uncertainty can be addressed by the former representative transferring hard copy documents **on condition** that the newly instructed representative keeps them in a serviceable condition and makes them available to the former representative in the event of the latter being held to account for any of his/her actions.

Such conditional transfer can be effected for instance by the former representative indicating, in advance of the transfer to the new representative, that the files will be transferred on this basis. The former representative can give the new representative a reasonable time, which it is suggested does not need to be more than (say) seven days, to object to the conditional document transfer. If the new representative does not object then the former representative may transfer the documents with reasonable confidence that they will be made available should this need arise in the future.

What is the “End Date”?

It is not possible to provide general guidance as to when a representative’s responsibility for a matter has ended. The circumstances will differ from case to case and the criteria determining when an end date has occurred also will differ.

However PCC believes it is possible to specify certain questions that help to indicate whether an end date has been reached.

The questions are:

- (i) Am I the only person able to take a particular step in the interest of the client at this stage?
- (ii) Am I the only person having access to documents or information of relevance to the matter?
- (iii) Is there any other indicator that I may have retained a degree of responsibility for the well-being of the matter?

If the answer to Question (i) is “yes” this indicates that the representative may not have been released from responsibility for the matter. On the other hand if the answer to Question (i) is “no”, and there exists an instruction to transfer responsibility to another representative, this is an indication that someone other than the initially instructed representative has acquired responsibility.

On the other hand if the initially instructed representative is the only person with access to relevant documents or information (Question (ii)) this implies that a transfer of information to a new representative has not been adequately completed. In such a situation either the initially instructed representative may have an obligation to take steps based on access to the documents or information in question; or he/she has acquired an obligation to transfer the documents/information to a new representative.

Question (iii) is a catch-all question intended to prompt the initially instructed representative to identify any further reason why he/she has retained some obligation in relation to the matter.

If the answers to all three questions are negative this implies that an end date probably has been passed and the recommended minimum file retention period has started to run.

Note on National Laws

As indicated in the summary above, it is not possible for PCC to comment on the impact of national laws. Nonetheless it is strongly recommended that representatives have regard to relevant national laws when determining file retention policies. In particular representatives should be cognisant of the principle of “*lex superior derogat legi inferiori*”, and be prepared to identify instances of national laws, regulations and codes of conduct taking precedence over for example this opinion.

This opinion does not have regulatory force and is prepared with the intention to provide helpful assistance. No liability of any kind attaches to the **epi**, the Professional Conduct Committee or any members of that Committee in respect of this opinion. In accordance with Article 7(c) Code of Conduct of the Institute of Professional Representatives before the European Patent Office, the opinion of the Professional Conduct Committee shall not be binding on the disciplinary bodies.



Case Law

Case-Law of the Unified Patent Court Key Takeaways from the first Decisions

M.Thesen (DE)

The Unified Patent Court (UPC) is up and running since more than one year, the number of cases at the UPC has now passed 500 and a flurry of major and minor decisions and orders have been issued. The new court has proven capable of acting swiftly and issuing well-reasoned decisions, some of which shall be highlighted in this article.

Preliminary Measures

The imposition of preliminary measures requires “sufficient degree of certainty” of the validity of the patent being enforced and of the infringement¹. While the German case-law had traditionally required validity of the patent “beyond reasonable doubt”, the CJEU had thrown

cold water on this approach in 2022² such that it should not come as a surprise that the UPC adopts a “balance of probabilities” standard in provisional measures. This approach requires that the court considers it on the balance of probabilities at least more likely than not that the applicant is entitled to initiate proceedings and that the patent is infringed. A sufficient degree of certainty is lacking if the court considers it on the balance of probabilities to be more likely than not that the patent is not valid.

Ex Parte Procedures

The UPC immediately showed its force with its first ex-parte decision *myStromer AG v. Revolt Zycling AG*³ on

¹ Art. 211.2 RoP, in conjunction with Art. 62(4) UPCA (see also Art. 9(3) Directive 2004/48/EC)

² <https://patentepi.org/r/info-2403-02>

³ <https://patentepi.org/r/info-2403-03>

June 22, 2023. Issued only a few days after starting its operation, the UPC has proven quick reaction and willingness to enjoin likely infringements even without hearing the defendant based on granted patents not having been proven valid in inter-partes procedures and to take measures to obtain evidence even outside its jurisdiction⁴. The prospect of having one's business closed in all UPCA signatory states without prior notice based on a freshly granted European Patent should make business holders rethink their patent monitoring strategies.

A similar willingness to act quickly was shown in actions for preservation of evidence, e.g. seizing machines at Milan trade fair and promotional materials in *OERLIKON TEXTILE GMBH & CO KG v. Himson Engineering Private Limited*⁵ and for inspection in situ ("saisie contrefaçon") *PROGRESS MASCHINEN & AUTOMATION AG v. AWM S.R.L., SCHNELL S.P.A.*⁶. What might be process as usual for French, Belgian and Italian colleagues is a new and exciting option for German litigants. Obtaining an order for preservation of evidence at the UPC basically requires a presumption of validity of the patent and presumption of infringement which must, however, be more than "fishing expedition". Procedurally, the on-site inspection at the presumable infringer's premises will be conducted by an expert under duty of confidentiality, wherein the court then rules on confidentiality questions after hearing the defendant.



Michael Thesen

A protective letter submitted by the defendant in *myS-tromer AG v. Revolt Zycling AG* did not prevent the preliminary injunction from being issued lacked sufficient detail to cast doubt on the validity of the patent in question. However, a protective letter submitted in *SES-imagotag SA v. Hanshow Technology Co. Ltd. Et al*⁷ seems to have helped the defendant.

Claim Interpretation

On claim interpretation, the UPC asserts itself self-consciously against the EPO by pre-empting the answers to the questions asked in G 1/24⁸. The Enlarged Board of Appeal is asked, the UPC answers!

4 The decision mentions an inspection on June 19 at the Swiss headquarters of Revolt Zycling. Procedural details are not published.

5 <https://patentepi.org/r/info-2403-04>

6 <https://patentepi.org/r/info-2403-05>

7 <https://patentepi.org/r/info-2403-06>

8 <https://patentepi.org/r/info-2403-07>

9 <https://patentepi.org/r/info-2403-08>, point 29

10 <https://patentepi.org/r/info-2403-09>

In *Nanostring v. 10x Genomics*⁹ and *VusionGroup/Hanshow*¹⁰ the Court of Appeal (CoA) of the UPC clarified that that the description and the drawings must always be used as explanatory aids for the interpretation of the patent claim and not only to resolve any ambiguities in the patent claim. According to the UPC; the person skilled in the art does not apply a philological understanding when interpreting a patent claim, but determines the technical meaning of the terms used with the aid of the description and the drawings. A feature in a patent claim is always to be interpreted in light of the claim as a whole.

In *Regeneron v. Amgen*¹¹, the Munich Central Division of the UPC adds that the actual technical function of the features the in question must be the deduced function of the individual features in the context of the patent claim as a whole. The description and the drawings may show that the patent specification defines terms independently and, in this respect, may represent a patent's own dictionary. Even if terms used in the patent deviate from general usage, it may therefore be that ultimately the meaning of the terms resulting from the patent specification is authoritative.¹²

The latter "function-oriented claim interpretation" seems to follow the approach developed by the Düsseldorf Courts German Federal Court of Justice (BGH), e.g. BGH X ZR 62/17 *Lenkergetriebe*¹³ and BGH X ZR 29/15 *Pemetrexed*¹⁴, which should not come as a surprise considering the background of the UPC judges setting these landmark decisions.

In *Nanostring v. 10x Genomics*, the function-oriented interpretation resulted in the finding of the CoA that a detection method "comprising" the method steps "(c) incubating" and "(d) detecting" covers embodiments where former steps are carried out multiple times, i.e. that the decoder samples may be removed and then replaced again with the same detection reagent analyte and the detection reagent, whereas the court of First Instance had found that claim 1 of the patent in suit requires the continuation of the binding between the analyte and the detection reagent¹⁵.

Inventive Step

In *Nanostring v. 10x Genomics*, the CoA of the UPC does not apply the Problem-and-Solution-Approach of the EPO and judges that a modification is obvious if it would be

11 <https://patentepi.org/r/info-2403-10>

12 <https://patentepi.org/r/info-2403-11>, Reasons 6.6

13 <https://patentepi.org/r/info-2403-12>

14 <https://patentepi.org/r/info-2403-13>

15 <https://patentepi.org/r/info-2403-14>, page 60

considered a logical “next step” in a development – here the transfer from *in vitro* detection to *in situ* detection¹⁶. According to the same decision, finding antibodies matching a given antigen is generally obvious. The UPC thereby follows the approach of the EPO¹⁷ rather than that to the US Federal Circuit, where a patent of the same family had been revoked due to lacking enablement¹⁸.

Inventive step is further addressed by the Munich Central division in *Regeneron v. Aventis*¹⁹, which asserts inter alia that the assessment of inventive step starts from a realistic starting point in the prior art, wherein here can be several realistic starting points. It is not necessary to identify the “most promising” starting points and that a technical effect or advantage achieved by the claimed subject matter compared to the prior art may be an indication for inventive step, whereas a feature that is selected in an arbitrary way out of several possibilities cannot generally contribute to inventive step.

¹⁶ <https://patentepi.org/r/info-2403-15>, see page 32, 2nd par

¹⁷ <https://patentepi.org/r/info-2403-16>

¹⁸ <https://patentepi.org/r/info-2403-17>

¹⁹ <https://patentepi.org/r/info-2403-18>

Conclusion

The UPC has proven to be capable of taking bold action in a swift and forceful manner and to be willing to develop an independent body of case-law. The promising first year will likely boost the confidence of litigants in the new system, leading to higher case-load. Divergent approaches on claim interpretation and inventive step should be closely watched and might result in friction and be detrimental to legal certainty.

Next deadline for epi Information	Nächster Redaktionsschluss für epi Information	Prochaine date limite for epi Information
<p>The Editorial Committee invites contributions for publication in the next issue of epi Information. Documents for publication or any enquiry should be sent by eMail to (editorialcommittee@patentepi.org) no later than 27 November 2024.</p> <p>Further information can be found in our “Guidelines for Authors” here: https://patentepi.org/r/guidelines-epi-info</p>	<p>Bitte senden Sie Ihre Beiträge zur Veröffentlichung in der nächsten Ausgabe der epi Information an den Redaktionsausschuss. Alle Artikel oder Anfragen schicken Sie bitte an folgende Email Adresse editorialcommittee@patentepi.org bis spätestens 27. November 2024.</p> <p>Weitere Informationen finden Sie in unseren „Guidelines for Authors“ auf der epi Webseite: https://patentepi.org/r/guidelines-epi-info</p>	<p>La Commission de Rédaction vous invite à lui faire parvenir vos contributions pour publication dans le prochain numéro d’epi Information. Les documents pour publication ou toute demande d’information doivent être envoyés par courriel (editorialcommittee@patentepi.org) au plus tard le 27 novembre 2024.</p> <p>De plus amples informations sont disponibles dans nos « Directives pour les auteurs » à l’adresse : https://patentepi.org/r/guidelines-epi-info</p>



Education

Announcing Upcoming epi Trainings and Events

We are pleased to announce a series of upcoming trainings and events aimed at enhancing the professional skills and knowledge of our members. These sessions are designed to provide valuable insights into various aspects of patent law and practice, ensuring that participants remain at the forefront of our profession.

Seminars

Some of our seminars offer a livestream broadcast in parallel to the on-site part. All seminars aim to cover a wide range of topics that are of decisive importance to patent professionals:

- Freedom to Operate (FTO) – Munich, 28 November 2024
- Impact of new case law on procedural aspects of appeal proceedings – Munich, 09 October 2024

- UP/UPC – Bucharest, 01 November 2024 (only on-site)
- Case Law supported by the Boards of Appeal of the EPO - Munich, 14 November 2024 (only on-site)

Webinars for Continuing Professional Education

We also offer a variety of webinars designed to aid in your continuing professional education:

- EPO opposition vs UPC revocation action – 16 October 2024
- International Patent Portfolio Management – 23 October 2024
- Case Law on Biotech – 20 November 2024

<https://patentepi.org/r/training-2024>

EQE Preparation Trainings for Candidates and **epi** Students: Boost Your Success

Congratulations to all those who passed the EQE either in full or in part earlier this year.

For those who are still in the process of studying for the EQE, we offer a range of specialized training programs to help you succeed, with experienced tutors guiding you through the exam preparation process. Whether you prefer one-on-one tutorials or group workshops, there is a solution for you.

1. EQE Tutorials: Personalized Feedback

Choose a past EQE main exam paper, work on it independently, and receive detailed feedback from an experienced **epi** tutor. You can arrange the submission deadline and feedback session at your convenience and discuss the results in depth. This flexible, tailored approach ensures you get targeted advice to improve your exam performance.

2. EQE Online Workshops: Group Learning

These workshops are ideal for candidates who have passed the Pre-Examination. In 6 to 8 online sessions, you will work in small groups on real exam examples. The

workshops focus on practical strategies for each paper. Upcoming sessions include:

- **Paper C:** 18 November – 12 December 2024
| 20 January – 13 February 2025
- **Paper D:** 07 November – 25 November 2024

3. Weekly Tutor Consultation Hour: Unique support only for **epi** Students

Join regular consultation sessions to ask questions, review exam strategies, and get real-time advice from **epi** tutors. These interactive sessions cover key EQE topics, including papers A, B, C, D, and the new Paper F. Active participation helps deepen your understanding and keeps you on track.

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<https://patentepi.org/r/eqe-preparing>



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2. **Stay Informed:**
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2. **Providing the necessary documents** to verify your training status.
3. **Paying the studentship fee** to complete the process.

For any questions or assistance with your application, contact the **epi** Secretariat at epi.student@patentepi.org.

Take the next step in your EQE preparation – apply for **epi** studentship today and enjoy all the support that **epi** has to offer.

<https://patentepi.org/r/epi-student>

¹ <https://epi.patentepi.org/student-application>



New monthly podcasts on UPC case law

B. van Wezenbeek (NL)



Epi is pleased to announce that from September 2024 epi produces podcasts on the case law of the UPC on a monthly basis. The focus of these podcasts lies on an overview of the orders and decisions that have come out of the UPC in the month before and the teachings of these decisions for our day-to-day practice, but the podcasts also deal with interviews with colleagues that have figured as (UPC-) representatives of the parties and with colleagues from industry employers that have acted as a party in the UPC proceedings. It is also the intention to interview both technically and legally qualified judges of the UPC to obtain their view on developments in the case law. Also views from the UPC registry will be presented.

The podcasts are available at the **epi**-learning site (www.epi-learning.org) where already a rich collection of podcasts on all sorts of aspects of our profession is made available to the general public. The podcast series on the UPC case law will be presented in episodes of 20-30 minutes and is offered for free.

The first episodes do not only cover the most recent case law, but also review the first year of the UPC and all kinds of procedural and material decisions that have been taken, such as the importance of protective letters, the access to process documents by third parties, the ways to serve a claim, the confidentiality regime, change of language of the proceedings and simultaneous translation, etc.

Stay tuned!

Free Training Opportunities for Members and Students on Our Learning Platform

At epi, we believe in fostering continuous learning and professional growth. To support our members and students, we offer an extensive range of free trainings that are accessible through our online learning platform.

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Members and students can enjoy the following key benefits:

- 1. Free Access to High-Quality Content**
As part of your membership or student registration, you have unlimited access to a wide variety of training materials, all available at no additional cost.
- 2. Wide Range of Recordings**
Our course library spans across multiple fields, including:
 - **Added matters series**
 - **IP Commercialisation**
 - **Case law online**
 - **Collaboration with overseas patent colleagues**

3. Flexible Learning at Your Pace

We understand that balancing personal, professional, and academic responsibilities can be challenging. Our platform allows you to learn at your own pace, with recordings that can be accessed anytime, anywhere. You can start, pause, and resume recordings as needed, ensuring a seamless learning experience.

How to Access the Platform

To register you on the platform we need your consent. This will be presumed when you fill in the required data using the following survey link¹.

For more information or support with accessing the platform, please contact education@patentepi.org

¹ <https://patentepi.org/r/info-2403-24>

Recruiting EQE Examination Committee Members

The Examination Board is seeking new members for the Examination Committees of the European qualifying examination (EQE), with appointments starting from 1 January 2025 for a two-year term.

If you are interested in joining one of the Examination Committees, please refer to the Notice of the Examination Board¹ and complete the application form² by Friday, 11 October.

¹ <https://patentepi.org/r/info-2403-22>
² <https://patentepi.org/r/info-2403-23>

Results of the 2024 European Qualifying Examination

Statistics on the results of the 2024 EQE

Number of candidates per country and passes pursuant to Article 14 (1) of the Regulation on the European qualifying examination (REE)

Place of residence	Total number of candidates	Pass
AL	0	0
AT	18	9
BE	33	15
BG	2	1
CH	30	8
CY	1	1
CZ	4	0
DE	495	177
DK	28	9
EE	1	0
ES	54	11
FI	25	13
FR	104	34
GB	193	116
GR	2	0
HR	0	0
HU	4	2
IE	2	0
IS	0	0
IT	80	21

Place of residence	Total number of candidates	Pass
LI	1	0
LT	1	0
LU	1	1
LV	1	0
MC	0	0
ME	0	0
MK	0	0
MT	0	0
NL	57	25
NO	7	0
PL	31	6
PT	7	0
RO	1	0
RS	0	0
SE	51	8
SI	1	0
SK	0	0
SM	0	0
TR	33	6
Grand Total:	1272	463

Information source: <https://www.epo.org/en/learning/professional-hub/european-qualifying-examination-eqe>

Candidates are free to choose which paper(s) they wish to sit. Candidates who have only sat a sub-set of papers cannot fulfil the conditions of Article 14(1) REE (ie have obtained the minimum grades for all four papers) and thus cannot be included in this table.

Example: A candidate has only sat papers A and B and passed both papers. Nonetheless the conditions of Article 14(1) REE are not yet fulfilled and this candidate is not included in this table.

This table includes all candidates who fulfil the conditions of Article 14(1) REE.

List of Professional Representatives

by their place of business or employment in the Contracting states
as at 01.09.2024

Contr. State	Number Total	% of Total Repr.
AL	10	0.07%
AT	196	1.35%
BE	326	2.24%
BG	42	0.29%
CH	667	4.59%
CY	9	0.06%
CZ	79	0.54%
DE	5336	36.73%
DK	333	2.29%
EE	17	0.12%
ES	273	1.88%
FI	210	1.45%
FR	1413	9.73%
GB	2949	20.30%
GR	26	0.18%
HR	22	0.15%
HU	67	0.46%
IE	93	0.64%
IS	17	0.12%
IT	616	4.24%

Contr. State	Number Total	% of Total Repr.
LI	23	0.16%
LT	22	0.15%
LU	24	0.17%
LV	13	0.09%
MC	7	0.05%
ME	1	0.01%
MK	15	0.10%
MT	6	0.04%
NL	599	4.12%
NO	107	0.74%
PL	235	1.62%
PT	44	0.30%
RO	42	0.29%
RS	40	0.28%
SE	488	3.36%
SI	28	0.19%
SK	29	0.20%
SM	15	0.10%
TR	90	0.62%
Total:	14529	100.00%



Committee Reports

Report of the Committees Election Committee

A. Pedersen (DK)

The CEC was established and tasked by Council with assisting the **epi** in implementing the first ever internet-based voting procedure for elections in Council to the committees under the **epi**.

These first internet-based elections were successfully held in the run-up to the 2023 autumn Council meeting in collaboration with the **epi** Secretariat and other bodies of the **epi**.

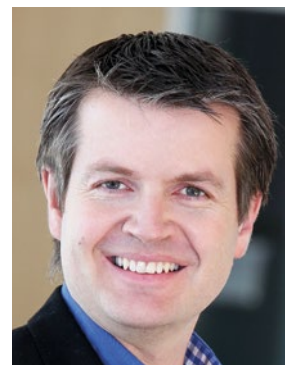
The election results were approved by Council during the autumn 2023 Council meeting.

In the spring of 2024, the internet-based voting procedure was also successfully used for the By-Elections leading up to the spring 2024 Council meeting.

The CEC, again in collaboration with the **epi** Secretariat, has been gathering and analyzing feedback and experiences from these first two internet-based voting procedures. Unsurprisingly, it has been found that improvements, both of technical and formal nature, can be made to the election process.

Therefore, the CEC are currently working along both a formal and a technical improvements track.

Given that the next General Election to committees is in the autumn of 2026 and that any amendments to the formal and procedural aspects of the internet-based election procedure must be approved by Council, the autumn 2024 focus of the CEC will primarily be on clarification and preparation of proposals to Council for formal amendments to the timeline and rules governing the internet-based election procedure. One aim of the proposed amendments will be to make the procedure around future internet-based elections smoother and less condensed timing-wise.



Anders Kjer Pedersen

Report of the Committee on Biotechnological Inventions

S. Wright (GB), Chair and B. Taravella (FR), Secretary

Below is a summary of discussion points in our Biotechnology Committee (BC) since the last Q1_2024 report:

1. EPO – Meeting with DG1

Members of the Biotech Committee who attended the EPPC / BC meeting between DG1 and **epi** held in The Hague last 28 February reported that the meeting was conducted in a cooperative and constructive atmosphere with significant representation from the European Patent Office (EPO) Directors, demonstrating the EPO's commitment to the discussions.

On the subject of SEQ Listings, the BC's representatives attending in person attempted to present a PowerPoint presentation with technical information but was unable to do so due the structure of the meeting. It is reported that it would be possible to propose a separate independent meeting with Biotech representatives from the EPO to further discuss Biotech matters. Chris Mercer (GB) proposed to introduce Simon WRIGHT



Simon Wright

to Razik Menidjel, Chief Operating Officer Operations from the EPO and working closely with EPO Vice-President Stephen Rowan, to organize that meeting. This is ongoing. Simon WRIGHT met with Sonke Holtorf at the EPO in the Hague last Monday to help facilitate the F" F meeting.

The immediate next step agreed by the BC is to arrange a dedicated BC / DG1 meeting with Biotech representatives from the EPO through to Razik Menidjel. A face-to-face meeting should take place in the next October 2024. The agenda has been discussed the last 10 June and need to be finalized. BC indicated the following points of interest for the future agenda: Sequence Listings ST26, in particular the

practical implementation at the EPO; NGT plants; WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge; Adaptation of the description and Antibodies and Chimeric Antigen Receptors (CAR) examination practice.



Brigitte Taravalla

Furthermore, during the last in person BC meeting in Barcelona (16 April 2024), BC's members also discussed the complaint process at the EPO and it has been suggested to initiate a standardized, constructive complaint process, a kind of "code of conduct" on how to handle complaint at the EPO. When you're contacting a director directly, it might help if this director has a good way of communicating that in his team and has an attitude to try to improve that but it's not always the case. This approach aims to create a productive complaint culture without causing issues for examiners and ultimately affecting applicants who fear to file complaints.

2. Education and training

During the last BC of 16 April 2024, after the great success of the 1st **epi**'s podcast dedicated to NGT plants, the BC agreed on the importance to continue to educate people. As a next step, a webinar is now planned on 20 November 2024 on Biotech case Law.

3. SEQ Listings

During the last BC of 16 April 2024, BC's members were agreed **epi** must continue to push back at the EPO about the way the EPO has implemented the new standard ST26 and in parallel to act also with our own national patent offices to get their support. The ST26 software is written by the WIPO and not the EPO, the issue is on the way the EPO implemented it.

The BC agreed that the main issue with ST26 remains about the risk of added matter and the EPO knows that. There's additional information in ST26 that wasn't in in ST25.

About the next action to be taken, it's proposed to amend **epi**'s position paper and for each BC's members to add any recent comments about our experience with ST26 by using as a basis the Benjamin's information. Then the updated version will be sent to the EPO.

4. BC meeting

An in-person BC was organised on 16 April 2024 in Barcelona. Another meeting will be planned for 2024 only by Videoconference to respect the established 2024 BC's budget. The date must be defined, it should be planned before the next C98 **epi**'s Council.

Report of the Litigation Committee

T. Pfrang (DE), Vice-Chair, Litigation Committee

Litigation Committee meetings

Since the last report, the Litigation Committee has not convened a full meeting.

The LitCom Executive Group held meetings on 18 June 2024 and on 25 July 2024 via Zoom, with Chair Kim Finnilä, Secretary Triona Walshe and Vice-Chair Tilman Pfrang supported by Susanne Ullmann and Nicole van der Laan.

One item addressed the activities of the sub-committees. Information was provided on the UPC Sub-committee's efforts to produce an article on file accessibility and a subsequent podcast, as well as an article on the service of documents in collaboration with the EU and International Litigation Sub-committee. The National Litigation Matters Sub-committee had posted a questionnaire on funding for patent litigation at the national level. Sub-committee members were requested to provide feedback and test the questionnaire

Updates on educational activities within the Inter-Com WG PEC-EPPC were provided, see below.

The next LitCom committee meeting is set for 11 October 2024 in Munich.

UPC related education

There are plans for a podcast on recent case law. The first episode will be recorded in September, including Bart van Wezenbeek and Tilman Pfrang. Additionally, a webinar on private prior use, a useful objection facing an infringement allegation, is scheduled for 24 September 2024, with speakers Jasper Werhahn and Andreas Kabisch. Another webinar on public prior use, a common topic in opposition and revocation cases, is scheduled for 27 September 2024, with speakers Tilman Pfrang and Julian Würmser. Another

webinar, "UPC Revocation vs. EPO Opposition," is planned for 15-16 October 2024, including speakers Elisabetta Papa, Bernard Ledebouer, and Tilman Pfrang, with Bart van Wezenbeek as moderator.

This work is undertaken by the **Inter-Committee Working Group** (PEC, EPPC, Litigation Committee).

UPC Administrative Committee (AC) and the UPC Registrar & IT Team

The 12th meeting of the UPC Administrative Committee was held on 19 July 2024. The accreditation request of POLIMI (Politecnico di Milano) for their EPLC course was approved, bringing the total number of institutions providing EPLC training to five. Additionally, it was announced that the Milan Central Division had opened, and judges had been appointed.

The President of the Court of Appeal (CoA), Klaus Grabinski, welcomed Romania as a new UPCA Contracting State. He noted that judicial developments in Europe are being closely watched by Japan, Korea, and the United States.



Tilman Pfrang

The UPC has entered a cooperation with the EPO regarding IT matters including the CMS.

A high uptake of Unitary Patents was reported by the EPO, with 24.3% of granted patents, totaling approximately 30,000 registered Unitary Patents. Around 30 requests were rejected due to various issues such as different claims, missed deadlines, and missing translations.

Report of the Online Communications Committee

J. Gray (UK), Chair

Summer months are quiet in the usual way, but we prepare for lots of work in the new season. An **OCC annual meeting** is planned for 15 October 2024, in physical/hybrid form for the first time since the pandemic and since election of the new OCC. The annual meeting with EPO is being scheduled for early December.



John Gray

As OCC Chair I accompanied Peter Thomsen as observers at the **IP5 Heads/IP5 Industry** meeting in Seoul. OCC members are well placed to represent industry on IT, standardisation etc., but that is contingent on a fruitful cooperation with the other members of IP5 industry.

Details of **EPO's MyEPO services** and latest **IT Roadmap** are available online at <https://patentepi.org/r/info-2403-21>. **MyEPO pilot group** sessions are paused for the summer, but take off again on 24 September.

Pilot users (only) are currently able to play with the new **Legal Interactive Platform** – an AI tool for researching legal/procedural questions within EPO legislation (EPC, Guidelines etc) and case law.

Welcome

Select data source(s)

Legal Text

Case Law

Coverage

EPC 2023 PCT-EPO Guidelines EPC Guidelines PCT Guidelines Unitary Patent Related Provisions

Decisions of the Boards of Appeal

Explain

to me when a division can issue a refusal

Describe

the "problem solution approach" please

What does the term

"common matter" refer to in the EPC?

Summarise

the decision G1/15

Send a message

Legal Interactive Platform can produce inaccurate information.

I have personally used it for research and argumentation in written submissions and found it an excellent time-saver. As it was developed primarily for EPO examiners, more than one user has commented that the quality of reasoning in EPO objections should improve, if they really make use of this tool.

The **new Third Party Observations platform** is in development but seemingly delayed. With support from **epi** colleagues, I have already stated that we disapprove the EPO suggestion that TPO may be filed only through this platform, and not (e.g.) on paper in future. How is this compatible with EPC Rule 2?

We are in contact with **epi** delegates to **SACEPO-WPR** (Working Party on Rules), to coordinate responses on these agenda items for the 24/10/2024 WPR meeting:

2. Update on implementing the 2nd basket of legal changes

- *Reforming authorisation requirements – associations and general authorisations*
- *Filing with the EPO in DOCX format and in colour*
- *Updating the legal framework for electronic filing and file inspection*

3. Using AI to create submissions in the patent grant process

We should also watch for changes to improve safeguards against IT failures at the user side, for last-day filings/fees.

OCC Collaborations: A remarkable number of **new collaborative projects** are in progress/preparation:

- OCC members have been supporting **LitCom** in collaboration with the UPC IT team and other user bodies to improve the **UPC CMS**. An OCC associate with UPC litigation experience has volunteered to join the UPC/EPO/user workshop sessions for development of the **UPC CMS replacement**. OCC member Ben Grau has experience of such a development process (Front Office), and will brief the **epi** team in advance. Expect development to be rapid and interactive, with early release of 'minimum viable product' and improvements by iteration.
- OCC members have participated with EPO and NPO experts on new **IT Cooperation Workshops** for SP 2028, covering "Digital Toolkit", API's and interconnectivity, and Front Office (continued from SP 2023).

- OCC members have volunteered to participate in **PCC** working groups on **use of AI tools** and **cloud computing**.
- OCC is ready to assist **PEC** in IT matters relating to the **EQE – Wiseflow etc.**
- A **joint epi-EPO webinar** has been mooted and contact has been made with EPO. Topics are not confirmed, and ideas are invited. **epi** would certainly like the seminar to familiarise members with the Contingency Upload Service CUS, in the same spirit as a flight crew demonstrates the emergency procedures on a plane). To make a more substantial programme, perhaps the topic could be expanded to “lesser-known corners of EPO online services”, to include CUS, Third Party Observations and the new Legal Interactive Platform (when released).

Also recently, at the Board’s request, some OCC members prepared a draft position paper on the subject “**Support for national office procedures post-eOLF: What to expect of EPO?**” For example, Online Filing 2.0 does not support national office procedures including Form 1001 filed with the national office, in the same way eOLF does.

After studying the matter, OCC’s recommendation that **epi** should not ask EPO to create new IT solutions for national office filings, more than it does already. We observe the EPO and the NPOs working well together in IT Cooperation framework, but there are clear limits between what is EPO and what is national responsibility. That said, **epi** will be asking EPO and NPOs to pay attention to the completeness and accuracy of the information they publish, for example in service documentation and user interface screens, and in *National Law Relating to the EPC*. This is particularly important as the online systems are in a period of transition.

It would be good to hear from members in those countries where eOLF is used for national procedures, whether there are any problems accessing eOLF or alternative national services for these procedures. After **30 September**, EPO will no longer accept requests for **replacement smart cards**, and smart cards will cease working altogether at the end of 2024. Additionally, we know that eOLF may be retired completely at the end of 2025, and already EPO is winding down support for NPOs if they need help to amend their procedures in eOLF.



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Next Board and Council Meetings

Council Meetings

98th Council meeting in Budapest (Hungary) on 16 November 2024

99th Council meeting in Vilnius (Lithuania) on 17 May 2025

100th Council meeting in Nice (France) on 8 November 2025

The EPO takes its digital services to the next level

"An intuitive interface" – "No going back for us" – "Unlike snail mail, documents are received within deadlines" ...user feedback during our 2023 podcast speaks for itself.

Since the European Patent Office (EPO) launched its first online service in 2001, there have been many challenges. Today, the MyEPO services suite covers the entire patent granting process at the EPO, including the EP, Euro-PCT and UP procedures, setting a world-class benchmark in their electronic processing.

MyEPO services go beyond merely converting paper-based processes into paperless ones. With a focus on user-friendliness, simplification and saving time, new features are continuously designed and added in close collaboration with our user community. Our working groups, which include participants from 145 companies, regularly engage in various activities to ensure we meet user expectations. A special thanks goes to the epi members of our user groups.

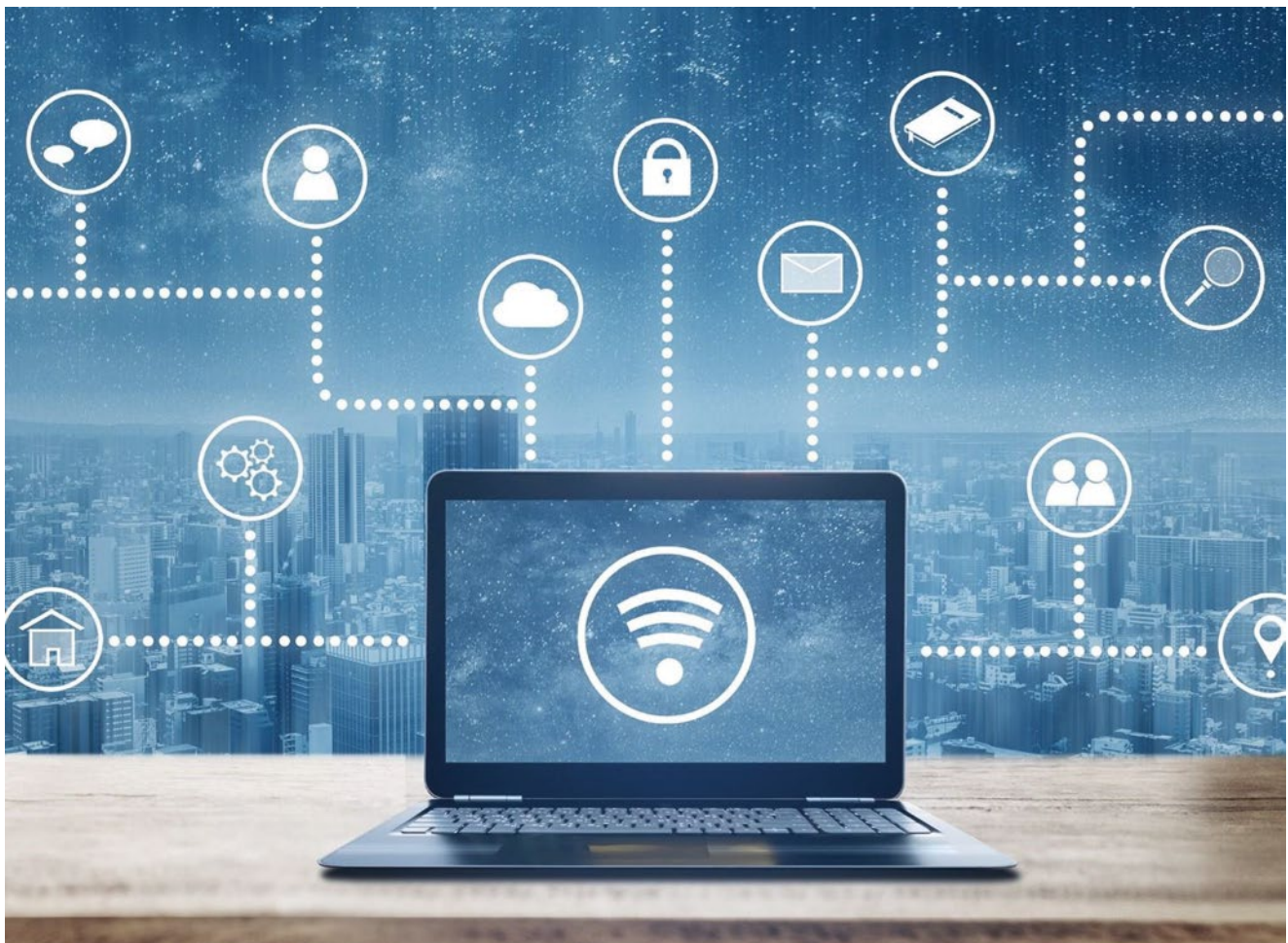
On 1 November, we will release a set of features that have been tested within the focus group, taking MyEPO Portfolio to the next level.

The digitalisation of our operations has enabled us to reduce our paper consumption from 123 million sheets of paper in 2019 to 14.6 million at the end of 2023. For 2024, we aim to further save some 2.5 million sheets of paper by not sending paper copies of cited patent literature in search and examination proceedings (starting 1 October 2024). This will further contribute to reaching our goal of carbon neutrality by 2030.

A closer look

The MyEPO services suite comprises three parts:

- Applications and other documents are submitted using the Online Filing 2.0 application. Today, about 60% of all filings are completed this way.



- For all procedures at the EPO, MyEPO Portfolio constitutes the central hub of our services, not only centralising communications via its Mailbox but also offering functionalities for the day-to-day management of applications, documents and requests. Currently, 75% of all examiner communications are sent via the electronic Mailbox and more than 8 300 patent attorneys use it regularly. In our User Satisfaction Survey 2022/23, 75% of users reported being satisfied with the tool.
- Finally, the Central Fee Payment tool streamlines financial transactions related to EPO procedures, including fee payments and refunds.

Within the MyEPO Portfolio, two areas stand out, highlighting our approach to simplify and modernise users' interactions with us:

- **The Shared Area**

The „Shared Area“ is a dedicated part of the MyEPO Portfolio that allows for live interaction and informal consultations between the applicant/representative and the EPO examiner. Documents can be uploaded, jointly edited or annotated, and changes discussed and agreed upon in real time. Transparent and secure, the “Shared Area” is a great way to make the procedure more efficient and avoid otherwise lengthy exchanges.

- **The Representative Area**

The administrative needs of professional representatives and their IP support staff are being catered to. In MyEPO Portfolio, representatives can request entry or re-entry in the list of professional representatives before the EPO and manage their profiles in the dedicated “Representative Area”. Additionally, company administrators can control user access to the applicant's Mailbox, application portfolios and fee payment.

Looking ahead

Enhancing the quality of our online services is a key commitment in the EPO's Strategic Plan 2028. We are determined to take our digital transformation journey further, leveraging cutting-edge technologies with a user-centric approach. We will pursue new solutions and decommission legacy systems. The selection of new services will be based on the potential for improvement as well as user feedback.

Multiple developments aiming to streamline processes, enhance usability and accommodate the needs of users more effectively are scheduled for the remaining part of 2024 and 2025.

Among others, searching legal aspects of the European patent system will be possible via a new easy-to-use AI-based platform. Extended workflows of tasks will allow users to conveniently save actions as “drafts” for future use, and the workflow for the submission procedure will be further clarified based on feedback. The administrative self-services will be complemented to include the management of access rights as well as deposit accounts. From a usability perspective, the Portfolio's application detail screen and the proceedings overview page will be redesigned to benefit users. By the end of 2024, smart card access to our tools will be replaced by our more flexible two-factor authentication (2FA) alternative. The Webform Filing tool, currently used in well under 1% of filings, will also be discontinued.

Recognising that many companies use their own IP management systems, the EPO has introduced business-to-business technical interfaces (also known as APIs or Application Programming Interfaces) to enable automatic data exchange between systems. New APIs will be added in the future.

Further information on our online services, our User Online Engagement Pipeline (a follow-up to our previous MyEPO Roadmap) and latest news can be found on our website www.epo.org. Have a look and participate in our User Satisfaction Survey as of mid-September.

Disciplinary Bodies, Committees and Audit

Disziplinarorgane, Ausschüsse und Rechnungsprüfung · Organes de discipline, Commissions et Vérification des comptes

Disziplinarrat (epi)	Disciplinary Committee (epi)	Commission de Discipline (epi)
AL – NIKA Melina	GR – TSIMIKALIS Athanasios	MT – SANSONE Luigi A.
AT – POTH Wolfgang ^{oo}	HR – MARSIC Natasa	NL – VAN LOOIJENGOED Ferry A.T.
BE – DEBLED Thierry	HU – KOVÁRI Zoltán	NO – THRANE Dag
BG – TSVETKOV Atanas	IE – SMYTH Shane	PL – ROGOZINSKA Alicja
CH – REUTELER Raymond	IS – FRIDRIKSSON Einar Karl	PT – DIAS MACHADO Antonio J.
CY – ROUSOUNIDOU Vasiliki	IT – MAURO Marina Eliana	RO – PUSCASU Dan
CZ – FISCHER Michael	LI – ROSENICH Paul*	RS – BOGDANOVIC Dejan
DE – FRÖHLING Werner ^o	LT – GERASIMOVIC Jelena	SE – KARLSTRÖM Lennart
DK – KUHN Oliver Wolfgang	LU – KIHN Pierre	SI – JAPELJ Bostjan
EE – KAULER Urmas	LV – SMIRNOV Alexander	SK – ČECHVALA Radovan
ES – STIEBE Lars Magnus	MC – AMIRA Sami	SM – MARTINI Riccardo
FI – WESTERHOLM Christian	ME – LUTOVAC Vuk	TR – YURTSEVEN Tuna**
GB – GRAY John	MK – DAMJANSKI Vanco	

Disziplinarausschuss (EPA/epi)	Disciplinary Board (EPO/epi)	Conseil de Discipline (OEB/epi)
epi Mitglieder	epi Members	Membres de l'epi
DE – MÜLLER Wolfram	FR – MAROLLÉ Patrick Pierre Pascal	IS – HARDARSON Gunnar Örn
DE – VOGELANG-WENKE Heike		

Beschwerdekammer in Disziplinarangelegenheiten (EPA/epi)	Disciplinary Board of Appeal (EPO/epi)	Chambre de Recours en Matière Disciplinaire (OEB/epi)
epi Mitglieder	epi Members	Membres de l'epi
CH – WALSER Peter	FR – GENDRAUD Pierre H.	NL – BIJVANK Koen
DE – REBBEREH Cornelia	IT – COLOMBO Stefano	TR – ARKAN Selda
DK – FREDERIKSEN Jakob Pade		

Ausschuss für Berufliche Bildung	Professional Education Committee	Commission de Formation Professionnelle
Ordentliche Mitglieder	Full Members	Membres titulaires
AT – STADLER Michael	HU – TEPFENHÁRT Dóra Andrea	NL – VAN WEZENBEEK Lambertus A.C.M.
BE – DUYVER Jurgen Martha Herman	IE – SKRBA Sinéad	NO – REITAN Katja
BG – GEORGIEVA Mariya	IS – GUDMUNDSDÓTTIR Anna Valborg	PL – DARGIEWICZ Joanna
CH – KAPIC Tarik**	IT – MORABITO Sara	PT – DO NASCIMENTO GOMES Rui
CY – THEODOULOU Christos A.	LI – HOFMANN Markus Günter	RO – BONCEA Oana-Laura
CZ – HARTVICOVA Katerina	LT – GERASIMOVIC Liudmila	RS – PRIBIC Jelena
DE – POTT Thomas	LU – MELLET Valérie Martine	SE – HERBJØRNSEN Rut
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ES – PATO COUR Isabel	MC – THACH Tum	SK – CECHVALA Radovan
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CY – CURLEY Donnacha John	IE – BO Lin	SK – MISKOVICOVÁ Ivica
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FI – VATTULAINEN ERKKILÄ Anniina	LT – ARMALYTE Elena	TR – HAMAMCIOGLU Volkan
	NL – OP DEN BROUW-SPRAKEL Vera Stefanie Irene	

*Chair/ **Secretary ^oVice-Chair / ^{oo}Vice-Secretary

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CY – ROUSOUNIDOU Vasiliki A.	IE – MCCARTHY Denis Alexis	PL – AUGUSTYNIAK Magdalena Anna
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DE – FLEUCHAUS Michael A.°	IT – MODIANO Micaela Nadia	RO – NICOLAESCU Daniella Olga
DK – HEGNER Anette	LI – GYAJA Christoph Benjamin	RS – PRIBIC Jelena
EE – TOOME Jürgen	LT – PAKENIENE Ausra	SE – FRANKS Barry Gerard
ES – LASANTA RICA César	LU – OCVIRK Philippe	SK – DREVENÝ Lukás
FI – KOKKO Antti Ohto Kalervo	LV – FORTUNA Jevgenijs	SM – TIBURZI Andrea
		TR – SIMSEK Meliha Merve

Technical Field: Information and Communication Technologies

CH – KAPIC Tarik°	GR – SAMOUILIDIS Emmanouil	NL – VAN WOUDEBERG Roel
DE – HEISKE Harald R.	IE – HANRATTY Catherine	PL – BURY Marek*
FR – LEBKIRI Alexandre	IT – MASCIOPIATO Gian Giuseppe	PT – SILVESTRE DE ALMEIDA
GB – ASQUITH Julian Peter	LT – PAKENIENE Ausra	FERREIRA Luís Humberto

Technical Field: Pharmaceuticals

BE – GEORGIEVA Mariya	DE – NESTLE-NGUYEN Denise	HU – SZENTPÉTERI Zsolt
BE – LEYDER Francis	Kim-Lien Tu-Anh	IE – KELLY Donal Morgan
CH – WILMING Martin*	FR – ROUSSEAU Pierick Edouard	IT – MODIANO Micaela Nadia
	GB – SARDHARWALA Fatema Elyasali	PL – KAWCZYNSKA Marta Joanna

Technical Field: Chemistry

BE – LUYTEN Ingrid Lena Rene	FI – KOKKO Antti Ohto Kalervo	IT – COLUCCI Giuseppe
CH – COGNAT Eric Jean Marie	FR – KLING Simone	IT – SULCIS Roberta
DE – KREMER Véronique Marie Joséphine	GB – BOFF James Charles*	

Technical Field: Mechanics

AT – DONATELLO Daniele	FR – DE LAMBILLY DELORME	PL – LEWICKA Katarzyna Dorota
DE – HARTIG Michael	Marie Pierre	RO – VASILESCU Raluca
DK – CARLSSON Eva*	GB – DUNN Paul Edward	SE – FRANKS Barry Gerard
FI – HEINO Pekka Antero	MK – ILIEVSKI Bogoljub**	

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Ordentliche Mitglieder	Full Members	Membres titulaires
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CH – LIEBETANZ Michael	GB – MERCER Christopher Paul	Suppléants
Stellvertreter	Substitutes	GB – INSTONE Alicia Claire
BE – LEYDER Francis	DE – SCHOBER Christoph D.	FR – NEVANT Marc.

Ausschuss für epi-Finzen	epi-Finances Committee	Commission des Finances de l'epi
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DE – SCHOBER Christoph D.	IT – PAGLIA Pietro	PT – PEREIRA DA CRUZ Joao
FI – KONKONEN Tomi-Matti Juhani		

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BE – KELLENBERGER Jakob	GB – BOFF James Charles*	DE – SCHOBER Christoph D.
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IE – CASEY LINDSAY JOSEPH	CH – KÖRNER Thomas Ottmar	NL – TANWAR GIRISH

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AT – PREHOFER Boris André	GR – KOSTI Vasiliki	NO – HJELSVOLD Bodil Merete Sollie
BE – VAN DEN BOECK Wim	HR – DLACIC Albina	PL – DARGIEWICZ Joanna
BG – BENATOV Samuil Gabriel	HU – SOVARI Miklos	PT – ARAÚJO VIEIRA Sílvia Cristina
CH – KÖRNER Thomas Ottmar	IE – KELLY Donal Morgan	RO – TEODORESCU Mihaela
CY – CURLEY Donnacha John	IT – CHECCACCI Giorgio**	SE – BJERNDELL Per Ingvar
DE – STORK Martina*	LI – KÜNSCH Joachim	SI – LEYDER Francis°
ES – JORDÁ PETERSEN Santiago	LT – PETNIUNAITE Jurga	SM – AGAZZANI Giampaolo
FI – SAHLIN Jonna Elisabeth	MC – THACH Tum	TR – CAYLI Hülya
FR – DELORME Nicolas	MK – ILIEVSKI Bogoljub	
Stellvertreter	Substitutes	Suppléants
CH – HOFFMANN Jürgen Gerhard	GB – DUNN Paul Edward	RO – GEORGESCU Cristina
DE – MOHR Christian	IE – O'CONNOR Cornelius John	SE – HOLMBERG-SCHWINDT Tor Martin
ES – SATURIO CARRASCO Pedro Javier	LI – BAZZON Andreas	SM – MAROSCIA Antonio
FI – BOIJE AF GENNÄS Per Gustav	PL – CHIMIAK Monika	TR – AKSOY Okan Alper
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Ordentliche Mitglieder	Full Members	Membres titulaires
AL – PANIDHA Ela	FR – NUSS Laurent	MC – THACH Tum
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BE – DE CLERCQ Ann G. Y.	GR – KOUZELIS Dimitrios	NL – HESSELINK Dinah Elisabeth
BG – GEORGIEVA-TABAKOVA Milena Lubenova	HR – VUKINA Sanja	NO – SIMONSEN Kari Helen
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CY – THEODOULOU Christos A.	IE – WALSHE Triona Mary**	PT – CRUZ Nuno
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DE – PFRANG Tilman°	IT – COLUCCI Giuseppe	RS – ZATEZALO Mihajlo
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	LV – OSMANS Voldemars	SM – PERRONACE Andrea
		TR – TAS Emrah
Stellvertreter	Substitutes	Suppléants
AT – STADLER Michael	GB – CRITTEN Matthew Peter	NO – READ Howard Graham
BE – VANHALLE Maja	GR – VAVEKIS Konstantinos	PL – GODLEWSKI Piotr
BG – SIRAKOVA Olga Rousseva	HU – GRÓF Pálma	PT – SILVESTRE DE ALMEIDA FERREIRA Luís Humberto
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CY – ROUSOUNIDOU Vasiliki A.	IT – DE GREGORI Antonella	SE – RÅDBO Lars Olof
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ES – SÁEZ GRANERO Francisco Javier	LT – PAKENIENE Ausra	TR – ALPAYIM Anil Bugra
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FR – LE ROY Gwennaël	NL – LAND Addick Adrianus Gosling	

Ausschuss für IP-Kommerzialisierung	IP Commercialization Committee	Commission de commercialisation de la propriété intellectuelle
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DE – MÜLLER Hans Jörg	GB – DUFFY Claudia Magdalena	SE – ISAKSSON Anders**
DE – STÖCKLE Florian	IE – QUINLAN Angela	
ES – DURÁN MOYA Luis-Alfonso	IT – GERBINO Angelo	

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Ausschuss für Biotechnologische Erfindungen	Committee on Biotechnological Inventions	Commission pour les Inventions en Biotechnologie
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BE – VANHALST Koen	HR – MARSIC Natasa	PT – TEIXEIRA DE CARVALHO Anabela
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CZ – HARTVICOVA Katerina	IE – HALLY Anna-Louise	RS – HERAK Nada
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FI – VIRTAHARJU Outi Elina	LT – ARMALYTE Elena	TR – SÖYLEYICI Merve
FR – TARAVELLA Brigitte**	MC – SENDROWSKI Heiko	
	MK – VESKOVSKA Blagica	

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ES – DURÁN MOYA Luis-Alfonso	IE – ROCHE Dermot	RO – TEODORESCU Mihaela
FI – KÄRKKÄINEN Veli-Matti		

Ausschuss für Online-Kommunikation	Online Communications Committee	Commission pour les Communications en Ligne
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DE – GRAU Benjamin	IE – BROPHY David Timothy°	

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Redaktionsausschuss	Editorial Committee	Commission de Rédaction
DE – SCHMID Johannes	GR – SAMOUILIDIS Emmanouil	NL – BLOKLAND Arie
DE – THESEN Michael	IE – CASEY Lindsay Joseph°	PT – DINIS ABRANTES Ricardo Jorge
FR – NEVANT Marc*	MC – AMIRA Sami	

Zulassungsausschuss für epi Studenten	epi Studentship Admissions Committee	Commission d'admission des étudiants de l'epi
CH – FAVRE Nicolas	FR – HAINES Sara Christine	NL – VAN WEZENBEEK Lambertus A.C.M.
DE – FERARA Nina	GB – MERCER Christopher Paul*	
DE – LEISSLER-GERST Gabriele	IT – PROVVISIATO Paolo	

Rechnungsprüfer	Auditors	Commissaires aux Comptes
Ordentliche Mitglieder	Full Members	Membres titulaires
AT – HEDENETZ Alexander Gernot	CH – KLEY Hansjörg	
Stellvertreter	Substitutes	Suppléants
LV – FORTUNA Larisa	RS – JANKOVIĆ Mara	

Nominierungsausschuss	Nominations Committee	Commission des étudiants de l'epi
BE – LEYDER Francis	CH – LIEBETANZ Michael	DE – TÜNGLER Eberhard
BG – SIRAKOVA Olga Rousseva	DE – VOGELSANG-WENKE Heike*	TR – ARKAN Selda

*Chair/ **Secretary °Vice-Chair / °°Vice-Secretary

Ausschuss zur Ausschusswahl	Committees Election Committee	Commission des élections des commissions
DE – MARX Thomas*	DK – PEDERSEN Anders Kjer	PT – NEVES Ana
Ständiger Beratender Ausschuss beim EPA (SACEPO)	Standing Advisory Committee before the EPO (SACEPO)	Comité consultatif permanent auprès de l'OEB (SACEPO)
epi-Delegierte	epi Delegates	Délégués de l'epi
CH – THOMSEN Peter CZ – HARTVICOVA Katerina	GB – BOFF James Charles GB – GRAY John James	GB – MERCER Christopher Paul NL – REIJNS Tiemen
SACEPO – Arbeitsgruppe Regeln	SACEPO – Working Party on Rules	SACEPO – Groupe de Travail Règles
DE – Wilming Martin	DK – HEGNER Anette	GB – MERCER Christopher Paul
SACEPO – Arbeitsgruppe Richtlinien	SACEPO – Working Party on Guidelines	SACEPO – Groupe de Travail Directives
DK – HEGNER Anette	GR – SAMUELIDES Manolis	NL – WOUDEMBERG Roel van
SACEPO – Arbeitsgruppe Qualität	SACEPO – Working Party on Quality	SACEPO – Groupe de Travail Qualité
CH – THOMSEN Peter DK – CARLSSON Eva	LU – MELLET Valérie	MK – ILIEVSKI Bogoljub
SACEPO – PDI	SACEPO – PDI	SACEPO – PDI
AT – GASSNER Birgitta	BE – LEYDER Francis	IT – PROVVISIATO Paolo
SACEPO – EPP	SACEPO – EPP	SACEPO – EPP
DE – HARBACH Ulrich	GB – MERCER Christopher Paul	

Contact Data of EPO Legal Division

Update of the searchable database of professional representatives on the EPO website

Please notify the Legal Division of the EPO of any changes to your contact details, ensuring that the list of professional representatives remains up to date. The list of professional representatives maintained by the EPO is also the one used by **epi**. To ensure that you receive **epi** mailings and email correspondence at the correct address, kindly inform the Legal Division of the EPO (Dept. 5.3.2.1).

Kindly note the following contact data of the Legal Division of the EPO:

European Patent Office
Dept. 5.3.2.1
Legal Division
80298 Munich
Germany

Tel.: +49 (0)89 2399-5231
legaldivision@epo.org
www.epo.org

The relevant form(s) to be submitted in the case of changes can be downloaded from the new EPO website:

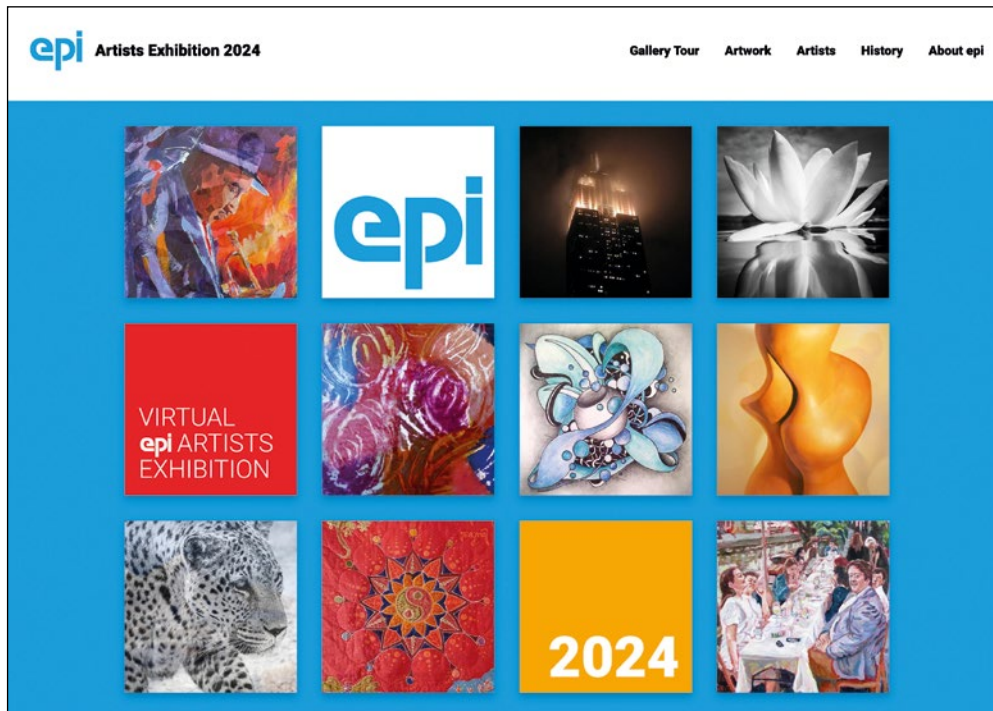
<https://patentepi.org/r/epo-legal-division>

At the bottom of the options for professional representatives you will find a link to consult your details in the searchable database of professional representatives. As from 1 November 2023, professional representatives can use the representative area in MyEPO Portfolio to request changes to their entry on the list and to manage their telecommunication details, including the publication of these details in the searchable database on the EPO website as a self-service. Deletion from the list of professional representatives can then also be requested via the Representative area. For more information about the Representative area, you may consult the announcement in the September edition of **epi** information. Additionally, the EPO will be publishing a feature guide and dedicated FAQs to provide further details.

Further information and forms relating to the list of professional representatives can be found on the EPO website and in the FAQ section of the **epi** website (<https://patentepi.org/en/faq>).

epi Artists Exhibition on the epi website

For all those who have not yet had the opportunity: You are kindly invited to enjoy a virtual tour through the exhibition and learn more about the **epi** Artists and their exhibits.



The **epi** Artists Exhibition has become a cherished tradition within the cultural life of **epi**. This unique exhibition features European patent attorneys who, in addition to their professional pursuits, showcase their artistic capabilities. The exhibition presents a diverse array of creative works ranging from paintings to graphical and fine art works, such as ceramics, sophisticated watches, jewelry, and artistic textile creations.

Notably, 2021 marked the Exhibition's 30th anniversary and Covid 19 restrictions required **epi** to organise the Exhibition in a virtual manner on the **epi** website. A dedicated website section for the presentation of all **epi** Artists and their artworks was launched on the **epi** website to present their artwork, offering an expansive virtual stage. The resounding success of the virtual exhibition in 2021 has led to the decision to continue this format in 2024.

A critical prerequisite for each exhibition is a robust participation of artists eager to showcase their skills and artworks. The virtual platform is envisioned to attract a more extensive and diverse participation from all contracting member states.

The intention is to prolong the visibility of the artworks and artists by maintaining an online presence on the dedicated website for an extended period, allowing all **epi** members to appreciate the creative contributions.

The 13th **epi** Artists Exhibition has been launched on the **epi** website on 27 May 2024.

We are proud to have 29 creative members participating in this exhibition with 217 great artworks of different kinds of display.

We thank all the artists for providing their contributions, and we are equally impressed by these extraordinarily talented **epi** members.

You are kindly invited to follow this link for a virtual tour through the exhibition:
<https://artists-exhibition.patentepi.org>

Professional Liability Insurance for **epi** Members

Why?

European patent attorneys handle National, European and Foreign patent applications and patents. Those patent applications and patents may have a high commercial value and the loss of those patents might cause their proprietor serious damages for which the patent attorney might be liable. In particular for those working in private practice it is thus highly recommend to have a professional liability insurance.

At **epi** we realized that it was not always easy, and in particular not cheap, for our members to subscribe an appropriate professional liability insurance, so we decided to help our members in offering them a product tailor-made for them.

What?

In line with the **epi** Council decisions, **epi** negotiated and agreed a framework contract for a professional liability insurance setting out general principles and conditions applicable in all 39 EPC Contracting States. The framework contract was signed with RMS, a Coverholder at Lloyd's, and placed by certain Underwriters at Lloyd's of London.

Any **epi** member offering services to external clients can benefit from this insurance. The insurance premium to be paid is calculated on the basis of the turnover of the insured **epi** member and depending on the insurance coverage selected.

Which are the advantages for **epi** members?

- An insurance coverage selectable between 500 000€ and 5 000 000€ as maximum payable for claims and in the annual aggregate (if several persons are insured, the sum insured does not apply to each individual insured person but to all insured persons together.)
- Covers the work done by the support staff of the patent attorney
- Covers the work of the patent attorney before the EPO and the national offices in Europe before which the **epi** member is entitled to act
- Additional coverage for trademarks and design work can be obtained with the payment of an additional premium
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