

**Update of the 15th edition of  
the Annotated European Patent Convention  
from 15-11-2007 till 31-12-2007**

The numbering of paragraphs in the references below begins at the start of a numbered section, not necessarily at the top of a page.

## **I Corrections**

### **Convention**

p.7, Preamble:3, second paragraph: replace 'R.38' by 'R.52, 53'.

p.77, Art.54(1):1, second paragraph: replace 'R.51(3)' by 'R.71(2)'.

p.120, Art.61(2):1, sixth, seventh and eighth paragraph: replace 'G2/93' by 'G3/92'.

p.132, Art.69(1):1, first paragraph: replace 'determined by the terms of the claims' by 'determined by the claims'.

p.140, Art.75:3, first paragraph: replace 'R.36(1)' by 'R.35(1)'.

p.143, Art.76:3, first paragraph: replace 'R.25(1)' by 'R.36(1)'.

p.145, Art.76(1):4, second paragraph: replace 'feel' by 'fees'.

p.170, Art.86(1):2, first paragraph: replace 'Rfees8' by 'Rfees7'.

p.170, Art.86(1):2, second paragraph: replace 'Rfees5' by 'Rfees2(5)'

p.194, Art.90(3), list of provisions: replace 'Art.78 Languages' by 'Art.78 Requirements of an application'.

p.198, Art.92:5, first paragraph: replace 'Art.92(1)' by 'Art.92'.

p.206, Art.94(3):3, fifth paragraph: replace 'R.27(1)(b),(c)' by 'R.42(1)(b),(c)'.

p.214, Art.97(3):1, second paragraph: replace 'Art.97(4)' by 'Art.97(3)'.

p.228, Art.101(1):6, fifth paragraph: replace 'R.81(1)' by 'R.81(2)' and replace 'R.81(2)' by 'R.81(3)'.

p.229, Art.101(2):2, third paragraph: replace 'Art.101(1) or (2)' by 'Art.101(2) or (3)'.

p.231, Art.104:2: replace 'Art.103' by 'Art.104'.

p.233, Art.104(1):2, second paragraph: replace 'final (R.88(1))' by 'final (R.88(2))'.

p.235, Art.105(1):1.1, third paragraph: replace 'Art.115' by 'Art.105'.

p.244, Art.106(3):1, last sentence: replace ‘Art.106(3)’ by ‘R.97(1)’.

p.245, Art.107:1, third paragraph: replace ‘Art.115(1)’ by ‘Art.115’.

p.249, Art.108:4, first paragraph: replace ‘R.50’ by ‘R.2(1)’.

p.249, Art.108:6, second paragraph: replace ‘Art.14(2), (4)’ by ‘Art.14(4)’ and replace ‘Rfees12(1)’ by ‘Rfees14(1)’.

p.250, Art.108:6, last paragraph: replace ‘R.69(2)’ by ‘R.112(2)’.

p.250, Art.180:7.4: replace ‘R.21(1)’ by ‘R.2(1)’.

p.257, Art.111(1):3, first paragraph: replace the sentence ‘the EPC has no provisions ...(e).’ by ‘Such a decision can only be revised on one of the grounds stated in Art.112a(2), including an alleged fundamental procedural defect (G1/97 hn.I r.2(e) is outdated by the EPC 2000 revision).’

p.260, Art.112:1, last paragraph: replace ‘R.11(2)’ by ‘R.13(2)’.

p.275, Art.115:3, third paragraph: replace ‘R.114(2)’ by ‘R.114(1)’.

p.276, Art.116:3, first paragraph: replace ‘ex-parte’ by ‘inter-partes’.

p.278, Art.117:2, last paragraph: replace ‘R.72(1)’ by ‘R.117’ (twice).

p.279, Art.117(1):2, first paragraph: replace ‘paragraph 6’ by ‘R.120’.

p.279, Art.117(1):2, eighth paragraph: replace ‘R.72(1)’ by ‘R.117, first sentence’.

p.279, Art.117(1):2, eighth paragraph: replace ‘R.72 and 73’ by ‘R.117, second sentence’.

p.279, Art.117(1):2, eighth paragraph: replace ‘R.73(4)’ by ‘R.121(4)’.

p.280, Art.117(1):3, second paragraph: replace ‘within one month’ by ‘within a period to be specified’.

p.280, Art.117(1):3, second paragraph: replace ‘The document may’ by ‘The EPO may’.

p.280, Art.117(1):3, second paragraph: replace ‘which only an applicant or proprietor can remedy using further processing (Art.121 and R.135)’ by ‘which an applicant can remedy using further processing (Art.121 and R.135) and a proprietor using re-establishment (Art.122 and R.136).’

p.281, Art.118:1, first paragraph: replace ‘R.87’ by ‘R.138’.

p.283, Art.119:4, second paragraph: replace ‘R.83(2)’ by ‘R.131(2)’.

p.285, Art.120:5, second paragraph: replace ‘R.39(1)’ by ‘R.38’.

p.293, Art.122(2):2, second paragraph: replace '4/98' by 'G4/98'.

p.300, Art.123(2):2.4.2, fifth paragraph: replace 'Art.52(4)' by 'Art.53(c)'.

p.301, Art.123(2):3, second paragraph: replace 'R.66(1)' by 'R.100(1)'.

p.305, Art.124(2):1, first paragraph: replace 'R.69(1)' by 'R.112(1)' and 'R.69(2)' by 'R.112(2)'.

p.310, Art.127:3, first paragraph: replace 'R.142(1)(w)' by 'R.143(1)(w)' and 'R.91421)(w)' by 'R.143(1)(w)'.

p.310, Art.127:3, second paragraph: replace 'R.92(1)' by 'R.143(1)'.

p.311, Art.128(1):1, last paragraph: replace 'R.94(2)' by 'R.145(2)'.

p.318, Art.133(3):1, second paragraph: replace 'R.101' by 'R.152'.

p.336, Art.141:2: replace 'Art.14' by 'Art.141'.

p.352, Art.153(6):2: replace 'R.112' by 'R.164'.

### **Implementing Regulations**

p.392, R.14(1):1: replace 'Art.106(3)' by 'Art.106(2)'.

p.394, R.14(4):2, first paragraph: replace '22.08.2008' by '22.09.2008'.

p.397, R.18:1: replace 'R.16(3)' by 'R.78'.

p.448, R.50(3):1, first paragraph: replace 'R.26(3)' by 'R.41(3)' and 'R.101(1)' by 'R.151'.

p.461, R.53(1):1, second paragraph: replace 'R.84' by 'R.132'.

p.526, R.78(1):1, second paragraph: replace first 'Art.99(5)' by 'Art.99(4), first sentence' and second 'Art.99(5)' by 'Art.99(4), second sentence'.

p.545, R.97(2):1, replace 'Art.104(2), second sentence' by 'R.88(3)'.

p.545, R.97(2):1, replace 'Rfees11' by 'R.97(2)'.

p.548, R.100(3):1, first paragraph: replace 'Art.96(3)' by 'Art.94(4)'.

p.584, R.131(2):3, third paragraph: replace 'R.107(1)(g)' by 'R.159(1)(g)'.

p.587, R.133:1, second paragraph: replace 'R.85(1)' by 'R.134(1)'.

p.591, R.134(2):2, third paragraph: replace 'R.85(2)' by 'R.134(2)'.

p.595, R.135(2), list of provisions: replace ‘R.40(3) Period for filing copy of priority document’ by ‘R.40(3) Period for filing copy of previous application’.

p.595, R.135(2):1, third paragraph: replace ‘and R.41’ by ‘and R.40(3)’.

p.595, R.135(2):1, third paragraph: replace ‘under R.41’ by ‘under R.55 and R.58, respectively’.

p.599, R.136(1):5, third paragraph: replace ‘R.37(2)’ by R.51(2)’.

p.611, R.139:3.4, fifth paragraph: replace ‘Art.91(1)(f)’ by ‘R.57(f)’.

p.611, R.139:4, fifth paragraph: replace ‘as originally’ by ‘as originally filed’.

p.612, R.139:4.1, first paragraph: replace ‘R.13r’ by ‘R.139’.

p.614, R.142(1):1, second paragraph: replace ‘R.90(1)’ by ‘R.142(1)’.

p.629, R.152(1):2.1: replace ‘R.101(6)’ by ‘R.152(6)’.

p.631, R.152(4):1, third paragraph: replace ‘R.101(2)’ by ‘R.152(4)’.

p.647, R.159(1):6.2, last paragraph: replace ‘filing fee’ by ‘designation fee’.

p.649, R.159(1):9: delete the sentence ‘Another remedy is to request ... Rfees2(12).’

p.657, R.163(4):1, second paragraph: delete ‘according to R.111’.

### **Rules relating to Fees**

p.701, Rfees2(15), text of law: replace ‘Rule 71, paragraph 7’ by ‘Rule 71, paragraph 6’ (see decision of Adm. Council of 14.12.2007 (CA/D 15/07)).

p.706, Rfees5(1):1, last paragraph: replace ‘Rfees8(1)’ by Rfees7(1)’.

p.709, Rfees6(1):2: replace ‘surcharge’ by ‘further processing fee’.

p.709, Rfees6(1):2: replace ‘possible surcharge ... in time’ by ‘further processing fee’.

p.709, Rfees6(1):2: add sentence ‘See also notes to Rfees8(2)’.

p.712, Rfees7(3):1, first paragraph: replace ‘Rfees8(3)(a)’ by ‘Rfees7(3)(a)’.

p.713, Rfees8:1, third paragraph: replace ‘Art.122(5)’ by ‘Art.121’.

p.714, Rfees8(2):2, replace both paragraphs by:

‘Rfees8(2) is a special provision for the case the amount paid in designation fees is insufficient to cover the designation fees payable. The underpayment may be intentional or uninten-

tional. When paying the designation fees in the further processing period, underpayment may occur accidentally by not paying the further processing fee. In this case the applicant is assumed to have intended to pay the designation fees including the further processing fee (J23/82 hn.II).

The EPO will apply the fees paid to the designations according to the specifications made by the applicant by the time of payment at the latest. If no specification is provided, the EPO will apply the payment to as many designation as covered by the payment and in the order in which the contracting states are listed in the Request for Grant form. The designations not covered are deemed withdrawn and the applicant will be notified of the loss of rights under R.112(1).

The addition of the phrase 'at the latest' in Rfees8(2) in the EPC 2000 revision and the explanatory remarks to the amendment of the provision appear to rule out the consecutive application of Rfees6(2) and Rfees8(2). However, the Guidelines still apply this procedure as set out in J23/82 hn.III (A-III,11.8), according to which the EPO will request the applicant, after an insufficient payment of designation fees without specification, to provide the purpose of the payment (Rfees6(2)), and, if the applicant does not provide the purpose, the EPO will apply the payment to the designations in the order of the Request for Grant form (Rfees8(2)).'

p.715, Rfees9:1, second paragraph: 'surcharge pursuant to R.85a or R.85b' by 'further processing fee'

p.715, Rfees9:1, last paragraph: replace 'Art.110(1)' by 'Art.110'.

## **Notes to the Patent Cooperation Treaty**

p.746, §2.8.6.1, second paragraph: replace 'Rfees10(2)' by 'Rfees9(2)'.

p.752, §2.10.4, fourth paragraph: replace 'the latter tending to be the more stringent criterion' by 'the latter tending to be the less stringent criterion'.

p.784, §6.6.4, fourth paragraph: replace 'Spec. Ed. of OJ 2007, N.3' by 'Spec. Ed. of OJ 2007, N.2'.

## **II Amendments in view of OJ 11 and 12 of 2007**

### **Convention**

p.61, Art.52(2):5, last paragraph, add: 'The practice of the EPO in examining computer-implemented inventions, in particular business methods, is set out in OJ 2007, 594.'

p.68, Art.53:6, third paragraph: replace 'OJ 2007, 468' by 'OJ 2007, 644'.

p.71, Art.53:9, last paragraph: replace 'OJ 2007, 360' by 'OJ 2007, 557'.

p.110, Art.56:8.2, last paragraph, add: 'The practice of the EPO in examining computer-implemented inventions, in particular business methods, is set out in OJ 2007, 594.'

p.323, Art.134a(1):2, first paragraph, third line: replace ‘OJ 12/2006’ by ‘OJ 12/2007’.

p.323, Art.134a(1):2, first paragraph: replace ‘OJ 12/2006, p.21, §4.2’ by ‘OJ 12/2007, p.23, §4.2’.

p.324, Art.134a(1):3, first paragraph: after ‘disciplinary bodies’ add ‘and OJ 2007, 548 and 552 for amendments of the rules’.

p.347, Art.152:2, second paragraph: replace ‘Spec. Ed. 3 of OJ 2007, N.3’ by ‘OJ 2007, 617’.

p.347, Art.152:3, second paragraph: replace ‘Spec. Ed. 3 of OJ 2007, N.3’ by ‘OJ 2007, 617’.

p.348, Art.152:5: replace ‘OJ 2001, 601 Art.3(2)’ by ‘OJ 2007, 617, Annex A(ii)’.

p.353, Art.153(7):4, first paragraph: replace ‘see overview OJ 2006, 192, §3(a)’ by ‘Dec. Adm. Council, OJ 2007, 642, Art.1’.

p.353, Art.153(7):4, add after the last paragraph:

‘International applications filed up to and including 30.06.2013 and for which the international search fee is paid on or after 01.04.2008, on which the above offices have drawn up the international search report, do require a supplementary search report. The fee for the supplementary search will be reduced by EUR 845. (Dec. Adm. Council, OJ 2007, 642, Art.2 and 3)’

p.359, Art.169:1, table: add a row ‘Croatia, HR, 01.01.2008’.  
See OJ 2007, 637.

## **Implementing Regulations**

Commentary Implementing Regulations EPC 2000: Most references in the notes to the Implementing Regulations to the preparatory documents CA/PL17/06 and CA/PL29/06 can now be found in Special edition 5 /2007 of the Official Journal.

p.390, R.12(3):1: replace ‘OJ 2003, 89, Since ...OJ 2004, 541)’ by ‘OJ 2007, 536’.  
See Decision of the Adm. Council, see OJ 2007, 536.

p.490, R.63:1, replace the entire second paragraph by:

‘Hence, a claim merely relating to no more than a method of doing business will not be searched. A declaration under R.63 to this effect will take the place of the search report. Where the claimed subject matter involves technical means, a search report or partial search report will be issued. When the technical means are so conventional that they were widely available to everyone at the date of filing an no documentary evidence is considered required because of their notoriety, the search report will state so and will not cite a document. (Not. EPO, OJ 2007, 592)’

See Notice of the EPO, OJ 2007, 592.

p.591, R.134(2):2: replace the entire second paragraph by

‘For example, a general dislocation of mail in the United Kingdom from 04.10.2007 to 02.11.2007 resulted in periods expiring in this interval being extended to Monday, 05.11.2007 for parties having their domicile or principal place of business in the United Kingdom or who

have appointed representatives having their place of business in the United Kingdom (OJ 2007, 670).’

p.593, R.134(5):2, last paragraph: replace the last sentence by ‘See OJ 2007, 671 for the application of R.134(5) to applicants and representatives who have their place of business or domicile in Southern California, USA, affected by the wildfires.’

### **Rules relating to fees**

p.706, Rfees5(1): replace entire law text by ‘The fees due to the Office shall be paid in euro by payment or transfer to a bank account held by the Office.’

Decision of the Administrative Council, see OJ 2007, 533, abolishing of payment of fees by transfer to an EPO Giro account or by remittance of a cheque as from 01.04.2008.

p.707, Rfees5(1):3: replace ‘OJ 2007, 533’ by ‘OJ 2007, 533 and 626’.

p.710, Rfees7(1): replace entire law text by ‘The date on which any payment shall be considered to have been made to the Office shall be the date on which the amount of the payment or of the transfer is actually entered in a bank account held by the Office.’

Decision of the Administrative Council, see OJ 2007, 533. The amendment is applicable to payments of fees made from 01.04.2008.

p.711, Rfees7(3)(a)(i) and (ii): delete ‘or a post office’. Rfees7(3)(a)(iii): delete entire law text.

Decision of the Administrative Council, see OJ 2007, 533. The amendment is applicable to payments of fees made from 01.04.2008.

### **Notes to the Patent Cooperation Treaty**

p.732, §1.5, second paragraph: replace ‘OJ 2001, 601 and OJ 2005, 463’ by ‘OJ 2007, 617’.

p.740, §2.4.1.2, first paragraph: replace ‘OJ 2001, 601, Art.3 and Annex A’ by ‘OJ 2007, 617 Art.3 and Annex A(I)’.

p.741, §2.4.3.2, first paragraph: replace ‘OJ 2001, 601, Art.3 and Annex A’ by ‘OJ 2007, 617 Art.3 and Annex A(I)’.

p.768, §4.8, first paragraph: replace ‘OJ 2001, 601; OJ 2003, 631; OJ 2005, 463 and 2006, 252’ by ‘OJ 2007, 617’.

p.768, §4.8, second paragraph: delete ‘(OJ 2001, 601)’.

p.768, §4.8, replace the entire third paragraph by:

‘The Agreement provides in Art.4 which subject-matter is excluded from search and in Annex B which subject-matter is not-excluded. The EPO as ISA strictly adheres to R.39.1(iii) and will not search claims relating to no more than methods of doing business. In such cases a declaration will be issued that no international search report will be established pursuant to Art.17(2). Under R.66.1(e) and 67.1(iii) the EPO acting as IPEA need not examine such claims, see §6.6.4 below. Where the claims include technical means, a search report will be established. Where the technical means are so conventional that they were widely available

and no documentary evidence is considered required because of their notoriety, the search report will state so and will not cite a document. (Not. EPO, OJ 2007, 592)

See Notice of the EPO, OJ 2007, 592.

p.782, §6.6.1, first paragraph: replace 'OJ 2001, 601' by 'OJ 2007, 617'.

p.783, §6.6.1, second paragraph: replace 'OJ 2001, 601' by 'OJ 2007, 617'.