

Kluwer Patent Blog

New edition of Visser's Annotated EPC – the highlights

Nina Ferara (IBM) · Tuesday, March 21st, 2023

This year's release of Visser's Annotated European Patent Convention, or as it is commonly known, simply "Visser" is just around the corner. Since the previous edition, updated until March 2022, there have been several law changes, as well as new case law and updates in the Guidelines. Those changes are reflected in the update, and a preview of some important changes is given below.

1. UPC – the long-awaited disruptor of the European patent landscape

With Germany ratifying it on February 17th 2023, the Unitary Patent Court (UPC) agreement will finally enter into force on June 1st 2023. Although most of the UPC provisions are not within the scope of Visser, commentaries on the rules relating to Unitary Patent Protection and corresponding rules relating to fees are included in an annex. Furthermore, the relationship between the EPC and the UPC rules is mentioned where appropriate in the commentary. For example, the UPC is discussed in the preamble (history and main principles of the UP), under Art.2 (relationship between the European Patent and the Unitary Patent), Art. 3 (territorial effect), Art.14 (language for UP request), Art 65 (translation of the UP), Art.133 (representation in proceedings relating to UP), and Art. 148 (UP as an object of property) EPC.

2. Oops, I didn't mean *that*! Erroneously filed parts (R.56a EPC)

New rule R.56a EPC, which entered into force on November 1st 2022, has brought the EPO's practice with regard to erroneously filed parts of a European patent application into line with R.20.5bis PCT. While the EPC and the PCT were already aligned with respect to missing parts of the description and missing drawings, i.e. those missing parts could be added to the application based on the priority application without affecting the filing date, the situation was different for wrongly filed application parts. With R.56a coming into effect, an analogous „incorporation by reference“ is now possible for EP and PCT applications, provided that the requirements of R.56a(4) EPC and R.20.6 and R.20.7 PCT, respectively, are complied with.

3. New kid on the block – Montenegro joins the EPC!

On 1st October 2022, the European Patent Organisation welcomed its newest contracting state into the fold. Montenegro is now the 39th contracting state, and its extension agreement has been terminated as a result. More details under Art. 169.

4. Description amendments – a neverending story

The debate on whether the description of a European patent application needs to be amended to be in line with the claims and the extent to which such an amendment need to be performed continues to rage on. Originally triggered by T1989/18, it was fueled by several decisions of the Boards of Appeal published in the course of 2022. While most decisions tend to agree that the embodiments in the description should not extend beyond those falling under the scope of the claims, several dissenting decisions following the reasoning of T1989/18 were published as well. See the current score under Art.84:1.1 and stay tuned for more developments!

5. No progress on AI's campaign for equal rights as inventors

Recent decisions J8/20 and J9/20 confirm that Artificial Intelligence systems cannot be named as inventors on European patents. An inventor must be a “a person with legal capacity” – for now, that is... See comments under Art.60(1):1.

6. New spin on the classics – revamped list of G decisions

This year's edition includes an improved list of G decisions as part of the corresponding annex. The list summarises the key points from the decisions mentioned in the book. The authors hope that this may prove useful as a quick reference guide for students and patent practitioners alike.

7. See you soon? Most likely on a video feed!

The trial run of oral proceedings by videoconference has been indefinitely extended and announced as a new house rule of the EPO for all first instance OP's. Originally triggered by the difficulty of traveling due to the pandemic, the measure has been seen as an improvement by some, and a hindrance by others. One of the editors hopes that it may one day give rise to Lawyer Cat 2: the patent attorney – a sequel to the [trailblazing original](#). Further details to be found under Art.116.

Have we piqued your interest with those exciting snippets? All the above changes and more are captured in the new edition of Visser's Annotated Patent Convention, available for pre-order [here](#).

To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please subscribe [here](#).

Kluwer IP Law

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how **Kluwer IP Law** can support you.

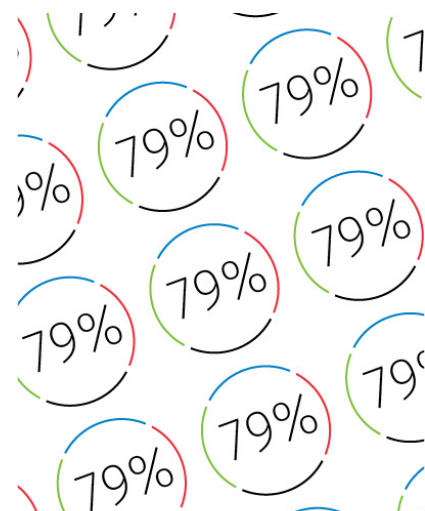
79% of the lawyers think that the importance of legal technology will increase for next year.

Drive change with Kluwer IP Law.

The master resource for Intellectual Property rights and registration.



Wolters Kluwer



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer
Leading change

This entry was posted on Tuesday, March 21st, 2023 at 9:01 am and is filed under [EPC](#), [EPO](#), [European Union](#), [UPC](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.