
Kluwer Patent Blog

Patent case: S. Upreti, EPO

Bart van Wezenbeek (Hoffmann Eitle) · Tuesday, October 17th, 2023

The requirement for immediate and complete substantiation of a request for re-establishment corresponds to the principle of “Eventualmaxime/ Häufungsgrundsatz/ le principe de la concentration des moyens”, according to which the request must state all grounds for re-establishment and means of evidence without the possibility of submitting these at a later stage.

Dynamic interpretation of the EPC, as derived from Articles 31(1) and 31(3) Vienna Convention on the Law of Treaties, must take account of developments in national and international procedural law, notably as regards the guarantees of fair trial before a tribunal of law (Article 6(1) ECHR).

There is no “absolute” right to oral proceedings upon a party’s request, but it is subject to inherent restrictions by the EPC and procedural principles generally recognised in the Contracting States of the EPO. If oral proceedings do not serve any legitimate purpose, the requirement of legal certainty in due time prevents the Board from appointing them. It is not the purpose of oral proceedings in the context of proceedings for re-establishment to give the appellant a further chance to substantiate their factual assertions or to provide evidence despite the absence of factual assertions in the request for re-establishment.

Case date: 26 July 2023

Case number: J 0006/22

Court: European Patent Office (EPO), Board of Appeal

A full summary of this case has been published on [Kluwer IP Law](#).

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

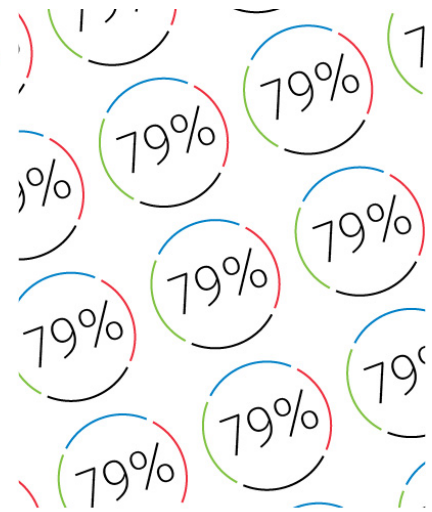
increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

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.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer
Leading change

This entry was posted on Tuesday, October 17th, 2023 at 4:53 pm and is filed under [Case Law](#), [EPO](#). You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.