

# EPLAW

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## European Patent Lawyers Association

Association européenne d'avocats spécialisés dans le droit des brevets d'invention  
Europäische Vereinigung der im Patentrecht spezialisierten Rechtsanwälte

Dear EPLAW member,

With this letter I would like to update you on EPLAW activities after the general assembly in December.

As always, the Young EPLAW congress held in Brussels on April 23 was a success. From the Board of Directors of EPLAW and the Advisory Board there were present Sabine Agé, Kevin Mooney, Eric de Gryse and myself. The subject matters of presentations and discussions were Stem Cell Research, Goods in Transit, Bifurcation and Extending the Protection of Pharmaceutical Patent. In my introductory speech I addressed the issue of a smooth integration of participants to the Young EPLAW congresses into EPLAW itself when they have reached the Young EPLAW age limit at the latest.

The main work accomplished by members of the EPLAW Boards recently concerned the draft Rules of Procedure ("RoP") for the Unified Patent Court. It appears that the depth of information on this issue is not equal among the EPLAW members and I would like to explain what has been happening.

Earlier this year, upon request of the Danish Presidency a drafting committee ("Committee") assembled consisting of four lawyers and three judges. At the personal invitation of the Danish Presidency the judges are Klaus Grabinski, Christopher Floyd and Alice Pezard and the lawyers are Kevin Mooney (chair), Winfried Tilmann, Pierre Veron and Willem Hoyng. They are doing this in their own capacity and are unpaid. It certainly is a very important recognition of EPLAW's role in European patent law that all lawyers are past Presidents and members of the Advisory Board of our organisation. This Committee thus took the burden of working on a first draft of the RoP.

On the occasion of a regular EPLAW Board meeting held at the end of March the Boards were informed about the existence of this first draft of the RoP and were asked to submit preliminary views on it. It is a usual method of creating draft documents that a small group makes a first draft and then as progress in the development of the text is made, invites step by step wider groups to comment. Since the Committee is working under some time pressure from the Danish presidency it was agreed that members of the Boards would meet on April 20 to discuss initial comments. Because there had been raised some concerns as to the influence of the Committee on the Boards (which, however, were not shared by the majority of the members of the Board), only Winfried Tilmann from the Committee was present, who kindly served as "liaison officer" to explain to the other participants the background and reasoning of the authors of the first draft. Without his help it would have been difficult to discuss the first draft as thoroughly as was done in the very short time available. The tight timetable simply did not allow to involve all EPLAW members at this point but wider consultation with all EPLAW members is not precluded and definitely will be taking place in due course before the RoP are finalised.

The first draft of the RoP was not supposed to be widely distributed, but as we know now (and it seems to be typical for this kind of process in Europe) there were lots of leaks which varied geographically. This is unfortunate but of course beyond the control of EPLAW. To bring you all up to date, the draft RoP are now being placed on the EPLAW website together with the minutes of the Board meeting of April 20.

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Siège : Avenue Louise, 149 (boîte 20) 1050 BRUXELLES - BELGIQUE

Association sans but lucratif (Loi du 27 juin 1921)

VAT-no. BE0476.673.737

President: Christian Gassauer-Fleissner, Gassauer-Fleissner Attorneys at Law, Wallnerstrasse 4, 1010 Vienna, Austria

Vice President: Peter-Ulrik Plesner, Plesner Law Firm, Amerika Plads 37, 2100 Copenhagen, Denmark  
Richard Ebbink, Brinkhof, De Lairesestraat 111-115, 1075 HH Amsterdam, The Netherlands

Members of Board: Sabine Agé (Secretary), Véron & Associates Avocats, 1, rue Volney, 75002 Paris, France

Jonas Westerberg (Treasurer), Lindahl, Box 1065, 101 39 Stockholm, Sweden

Gonzalo De Ulloa Y Suelves, Gómez-Acebo & Pombo Abogados S. L. P., Castellana 216, 28046 Madrid, Spain

Penny Gilbert, Powell Gilbert LLP, 85 Fleet Street, EC4Y 1AE London, United Kingdom

Jozsef Talas, Sár and Partners Attorneys at Law, Bajcsy-Zsilinszky út 16, 1051 Budapest, Hungary

Klaus Haft, Reimann Osterrieth Köhler Haft, Steinstrasse 20, 40212 Düsseldorf, Germany

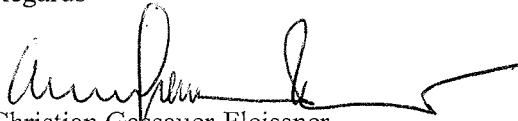
A revised draft version of the RoP is expected to be available by the end of May and it is suggested that EPLAW members at large wait and comment on that. You are encouraged to have discussions and make comments in groups organised by country or otherwise, rather than sending in comments from each individual member, which would likely surpass the resources of the EPLAW board to assimilate in a timely manner.

Please be assured that the fact that there is work being done in the background on the RoP certainly does not mean that EPLAW has given up its criticism on the Agreement of the creation of a Unified Court and the proposal for a Regulation implementing Enhanced Cooperation in the Area of Creation of Unitary Patent Protection.

Another working project for the Board as usual at this time of the year is the preparation of the Venice Judges Forum. You received fairly recently the invitation from Sabine Agé to participate in the traditional lottery for those who want to come to Venice (since there is available only a limited number of places) and the response to such invitation was good. This year we are not supported by the EPO because their decision to co-sponsor this event only every second year from now on. Accordingly, in 2012 this event will be co-hosted by the IP Judges Association and EPLAW, with the major part of the organisational burden resting on EPLAW.

In case you have any questions or comments, please do not hesitate to contact me or any other member of the EPLAW Board.

Regards

  
Christian Gassauer-Fleissner