



# Position Paper

of the German Bar Association by the Committee on Intellectual Property

on the

DRAFT RULES ON THE EUROPEAN PATENT LITIGATION CERTIFICATE AND OTHER APPROPRIATE QUALIFICATIONS PURSUANT TO ARTICLE 48 (2) OF THE AGREEMENT ON A UNIFIED PATENT COURT

Position Paper No.: 37/2014

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Redaktion Neue Juristische Wochenschrift/NJW

Redaktion Monatsschrift für Deutsches Recht/MDR

Redaktion Zeitschrift für die anwaltliche Praxis/ZAP

Redaktion Juristenzeitung/JZ

Redaktion Bundesrechtsanwaltskammer-Mitteilungen/BRAK-Mitteilungen

Redaktion Legal Tribune Online

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Zeitschrift „Gewerblicher Rechtsschutz und Urheberrecht“

Zeitschrift „Mitteilungen der deutschen Patentanwälte“

Zeitschrift „ZEuP“

Frankfurter Allgemeine Zeitung

Süddeutsche Zeitung

Die Welt

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The German Bar Association (Deutscher Anwaltverein – DAV) is the professional body comprising more than 67.000 German lawyers. Being politically independent the DAV represents and promotes the professional and economic interests of the German legal profession.

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The Position Paper of the German Bar Association examines the legal requirements of Art. 48(2) of the Unified Patent Agreement (UPCA) concerning the right of European Patent Attorneys to represent clients before the Unified Patent Court (UPC) without a lawyer. The Paper, then, analyses the Draft Rules on this subject as published by the Preparatory Committee and comes to the result that the Draft needs improvement since it does not meet, in certain respects, the legal requirements of Art. 48(2) UPCA. The German Bar Association proposes specific amendments to the Draft as contained in the Annex.

### I. The requirements of the UPCA

1. In patent litigation cases in the Participating Member States (PMS) of the Agreement on a Unified Patent Court (UPCA), the parties are today represented by lawyers. Only in a small number of PMS do patent attorneys have the right to represent parties on their own. This right is mostly limited (to special courts and/or revocation procedures).
2. Art. 48(2) UPCA extends the right to represent parties to European patent attorneys (EPAs) who have the "**appropriate qualifications**, such as a European Patent Litigation Certificate".
3. In the interest of the parties and in the interest of the well-functioning of the UPC **Art. 48(2) UPCA** must be interpreted as allowing for the representation of a party by an EPA without a lawyer only if the EPA's legal qualification is **equivalent** to the legal qualification of **lawyers** representing the party before the UPC as far as legal questions may arise in patent litigation cases as defined in Art. 32(1) UPCA. Both (lawyers and EPAs) are addressed in the same Article. Only if the requirement of the necessary equivalent legal qualification is secured, EPAs will be, as the lawyers are, **qualified partners** for recognising, understanding and arguing legal questions arising in such litigation at the same level as **UPC-Judges**. All persons acting in UPC-procedures must have the same required level of legal knowledge. Only such a qualification is "**appropriate**" within the meaning of Art. 48(2) UPCA

- a) Regarding the requirements of the UPCA for legally qualified **UPC-judges**, such judges must ensure the **highest standards of competence** and should have **proven experience** in the field of patent litigation (Art. 15(1) UPCA). When appointing legally qualified judges, the Administrative Committee should ensure the **best legal expertise** (Art. 3(3) UPCA-Statute)
- b) The **lawyers** representing parties under Art. 48(1) UPCA will have passed State examinations after a **thorough legal education** and usually will have passed **bar examinations**, or a **second state examination**. Regarding the required technical knowledge they use to be accompanied by patent attorneys who normally are allowed to speak at hearings (ensured for proceedings before the UPC by Art. 48(4)). Traditionally only such lawyers offer services in representing clients in patent infringement or revocation cases, and only such lawyers are chosen by parties who have a long and reliable experience in patent litigation.

4. Under Art. 48(2) UPCA, the "appropriate qualification" of an EPA admitted to represent parties before the UPC can be proven by a **European Patent Litigation Certificate, (EPLC)**, or by **other means**.

- a) The **EPLC**, in order to be "appropriate" within the meaning of Art. 48(2), must prove that the EPA has acquired the legal knowledge and skills equivalent to that of the UPC judges and to that of experienced patent lawyers as far as this legal qualification is required for UPC patent litigation (see I.3).
- b) The "**other means**" must prove that the EPA has the same legal qualification as is required to gain an EPLC.

## **II. The Draft Rules breach Art. 48(2) UPCA**

5. The Draft Rules defining the **requirements for an EPLC** clearly fall short of the requirements of Art. 48(2) UPCA regarding the "appropriate qualification" of an EPA (for details, see III. below). The **Content** of the Course for acquiring an EPLC (**Rule 3**) does not ensure the knowledge in the relevant fields of law which is equivalent to those of UPC judges, or those lawyers active under the UPC.

- a) The defined fields of law are **incomplete**. Often only a "**basic knowledge**" is required. The **focus** of the Course is limited to certain fields of law where the other fields are just as important (**Rule 3**).

b) The **minimum duration** of the Course (**Rule 4(1)**) is far too short: 120 hours with difficult to control E-learning facilities to be "encouraged as an integral part of the Course" (**Rule 5(2)**).

6. The Draft Rules also clearly fall short of the requirements of Art. 48(2) UPCA in defining the **requirements for "other means"** for proving an "appropriate qualification" for an EPA:

a) EPA cannot argue with already being in the possession of a **legal status** under national law which would, legally, need to be preserved. In almost no PMS does an EPA have an unlimited right to represent parties in patent litigation.

b) Therefore, there can be no "rebate": The "other means" for proving legal knowledge and skills must prove the **same qualification** as to be acquired in the Course for an **EPLC** under the newly amended rules (amended Rules 3-5).

c) **Rule 12(a)** does not safeguard such a level of qualification when it already assumes an appropriate legal qualification for those EPAs who have passed certain nationally available courses. The **content** of these courses is **not comparable** to the Content of the Course (improved Rule 3, see III. below) to acquire an **EPLC** and **not comparable** to the **Law Diplomas** under Rule 11.

d) The appropriate qualification cannot be established by reference to courses, the contents and standards of which are, different from the Courses under Rules 3 to 5, **unsupervised** by the Administrative Council on the advice of the Advisory Council.

e) Therefore, Rules 3 to 5 and 11 on the one side, and Rule 12(a) on the other, set at least **two different standards** for an EPA to be admitted to represent. This is a **severe imbalance** within the same set of Rules, and at the same time a **clear breach** of Art. 48(2) UPCA.

f) **Rule 12** speaks of a "**transitional period**" and, therefore, seems to limit the admittance to a three year period ("during"). However, **Rule 16(1)** reveals that the registration, under the aspects of Rule 12, will be **permanent**. Therefore, the **imbalance will continue** after the "transitional period" and will be permanent. It makes the courses of the institutions named in Rule 12 permanently equivalent to the Course of the universities and equivalent bodies under Rules 2-5, which they are not.

g) Moreover, this favour is handed out only to those EPAs who have passed these courses during the "transitional period" of three years. This constitutes a **doubly unequal treatment**: not only regarding the EPAs who have passed the Course under Rules 3-5, but also regarding those EPAs who have passed the courses of the institutions in Rule 12 after the end of the three year period.

h) In addition to that, **Rule 12(b)**, taken together with **Rule 16(1)**, grants a permanent right to represent parties in UPC patent litigation to an EPA who has, in **three cases**, represented parties (on their own) **during the past five years** (how well, or badly remains open). This, in itself, is another **clear breach of Art. 48(2) of the UPCA**, and is contrary to the standards for an EPLC (Rule 3-5) and the standards for Law Diplomas (Rule 11), and therefore, creates another **severe imbalance**.

g) There is no other practical way to prove an "appropriate qualification such as a European Patent Litigation Certificate" (Art. 48(2) UPCA) than to consider each case individually and to require that the applicant **passes a final examination** under Rules 3 to 5 without having taken the Course before. This is a light burden for an appropriately qualified EPA, and does not take much time.

### **III. Detailed proposal**

7. The DAV has scrutinized the Draft Rules and tried to improve it so that it might be compatible with the requirements of Art. 48(2) UPCA. In the **Annex** a revised form of the Rules has been added to this Statement. The following remarks explain the suggested changes.

#### **8. Rule 2:**

a) Universities are appropriate to handle the Course, since they are the institutions which provide for the legal education of judges and lawyers.

b) There seem to be no "other non-profit educational bodies of higher education" equivalent to universities. If there are any, the Draft should expressly require that they must be **equivalent**.

c) The Patent Court's Training Centre in Budapest is not equipped to offer legal education up to the same level as universities. The Centre will offer additional patent litigation education for judges who have already passed a legal education.

**9. Rule 3:**

a) Rule 3 should be **reorganised**: Old items a), d), (as far as relating to the SPC) and e) should be combined into a new item, b). Old item f) and d) (as far as relating to the role of the EUCJ) should follow as c) and d).

b) Regarding old **items a), d) and e)** (now: b)): Since according to Art. 20 UPCA the UPC shall apply Union law in its entirety and shall respect its primacy under the obligation to submit requests for primary rulings of the EUCJ (Art. 21 UPCA) and since according to Art. 24 UPCA the UPC shall base its decisions in the first place on primary and secondary Union law, it is insufficient to only include the "main aspects of European law" into the required curriculum. Judges and lawyers must have an **advanced knowledge** of primary and secondary Union law and of relevant case law of the Court of Justice of the European Union as far as they may be applied by the UPC. The same must be required from an EPA applying for the right of representation (see I.3 above).

c) Regarding old **items b) and c)** (now: b) and f)): According to Art. 24(1)(e) and (2) UPCA the UPC will have to apply national law including national and international private law as far as it may become relevant in UPC cases. Judges and lawyers must have **advanced knowledge** of primary and secondary Union law and of relevant case law of the Court of Justice of the European Union as far as they may be applied by the UPC. The same must be required from an EPA applying for the right of representation (see I. above).

d) **Paragraph 2** of Rule 3 should be **deleted**. It follows from b) and c) above that the Course should **not "focus"** on old **items f) to i)**.

**10. Rule 4(1) and 5(2):**

a) **Rule 4(1)**: The legal education of Judges and Lawyers takes between three and six years, the medium being four to five years. Assuming there would be only 200 educational days per year, and only four hours per educational day, their education would require 3,300 hours. Of course, only a part of this aggregate number of hours is needed for an EPA to acquire the knowledge defined in Rule 3. However **120 hours** is **far too low a minimum**. The requirement should be at least **330 hours**, i.e. **one tenth** of the hours assumed for the legal education of judges and lawyers.

b) **Rule 5(2)**: According to this Rule **E-learning** forms an integral part of the Course and will be, thus, taken into regard when calculating the minimum time requirement. This is acceptable, if a **medium standard time** for finishing a part of the E-learning course,



including a **knowledge-check** after that part, is calculated for Rule 4(1). It should be expressly stated that the **main part** of the Course, and in particular the practical training, requires **personal participation**.

**11. Rules 8(4) and 9:**

a) The **first period** of accreditation should be limited to **three years**. If an accredited educational body, in its practice, does not meet the standards and grants EPLC to an EPA applying too low a standard, the damage done to the UPC system cannot be retroactively repaired. If the body performs well during the first three years accreditation should be renewed for a further **five years** as provided for in Rule 8(4).

b) The decision of the Administrative Committee on **prolongation** should follow the same procedure as on accreditation (Rule 8.1): The request for prolongation should be decided upon by the Administrative Committee on the basis of the **opinion of the Advisory Committee**.

c) **Rule 9:** The Administrative Committee should not only "take note of the report"; if it notices a failure to comply with Rules 3 to 5, it should **request correction** within a set time limit. If the time period expires without correction, the educational body should **lose its accreditation**.

**12. Rule 10(2)** should be deleted (see III.2(c) above).

**13. Rule 12(a) and (b):**

a) There is no reason for applying a different standard compared with the standard set by

(i) the amended Rules 3 to 5 on acquiring an EPLC

(ii) Rule 11 on Law Diplomas.

There is **no legal status to be preserved** ("grandfather clause", "*Besitzstand*"), because in most UPCA-PMS the EPAs do not have a right of representation. Where such a right exists, it is usually limited to special courts and cases (revocation cases).

b) **Rule 12(a): None of the courses** offered by the institutions mentioned in Rule 12 is an equivalent of the two standards in a).

- c) **Rule 12(b)**: Granting the right to represent parties on the basis of at least three patent infringement cases within the five years preceding the application is **unacceptable** under Art. 48(2) UPCA (see II.6 above).
- d) Applying a standard clearly inferior to the two standards in a) would constitute a **clear breach of Art. 48(2) UPCA** ("appropriate qualification such as a European Patent Litigation Certificate").
- e) Each case of an allegedly, already existing, "appropriate qualification" has to be **decided individually**, not by reference to courses the contents and standards of which are not examined and supervised by the Administrative Council on the advice of the Advisory Council. There is no practical alternative for proving an "appropriate qualification such as a European Patent Litigation Certificate" (Art. 48(2) UPCA) other than to **pass a final examination** under Rules 3 to 5 without having taken the Course before. This is not a heavy burden; it may cost a couple of hours.

**14. Rule 14 and 15** should be deleted. The necessary rules are contained in the new Rule 12.

**15. Part IV. Rules 17 to 20 (new Rules 15 to 18):**

- a) A review should also be possible in case of a decision of the Administrative Committee rejecting a request for accreditation (Rule 8(3)) or a request for the renewal of accreditation (Rule 8(4)).
- b) Since all relevant decisions are rendered by the Administrative Committee there should be no review by the Registrar, only a review by the President of the Court of Appeal who may decide the contested matter himself or send the case back to the Administrative Committee.

**V. Consequences of breaching Art. 48(2) UPCA**

**6.** The implementation of Art. 48(2) UPCA should not be seen as being subjected to private or group interests. It is subject only to the **legal requirements** of Art. 48 UPCA as defined in I. above.

**17.** According to Art. 48(3) UPCA the requirements for qualification pursuant to Art. 48(2) UPCA are to be established by the Administrative Committee. The Administrative

Committee must, however, **respect** the legal requirements of Art. 48 UPCA, otherwise it would transgress the borderlines of its competence.

**18.** In case of a **clear and substantial breach** of the said legal requirements the UPC would have to inform the Administrative Committee that it will **not accept** the EPLC, or registrations of allegedly otherwise qualified EPAs.

**19.** Therefore, the Administrative Committee should be careful in observing the relevant legal requirements and the limits of the responsibility vested upon that Committee in order to safeguard the well-functioning of the UPC.

## DECISION OF THE ADMINISTRATIVE COMMITTEE

### RULES ON THE EUROPEAN PATENT LITIGATION CERTIFICATE AND OTHER APPROPRIATE QUALIFICATIONS PURSUANT TO ARTICLE 48 (2) OF THE AGREEMENT ON A UNIFIED PATENT COURT

THE ADMINISTRATIVE COMMITTEE OF THE UNIFIED PATENT COURT,  
HAS DECIDED AS FOLLOWS:

#### Part I – European Patent Litigation Certificate

##### Rule 1

##### European Patent Litigation Certificate

~~A~~The European Patent Litigation Certificate (hereinafter referred to as the “Certificate”) may be acquired in accordance with the provisions laid down in this Part.

##### Rule 2

##### European Patent Litigation Course

The Certificate may be issued by universities and other equivalent non-profit educational bodies of higher education in a Contracting Member State and granted [as well as by the Unified Patent Court’s Training Centre in Budapest (hereinafter referred to as Training Centre)] to European Patent Attorneys entitled to act as professional representatives before the European Patent Office pursuant to Article 134 of the European Patent Convention (hereinafter referred to as “European Patent Attorneys”) who have successfully completed thea Cecourse on European patent litigation accredited pursuant to Rules 6 to 8 (hereinafter referred to as the “Course”).

##### Rule 3

##### Content of the Course

(1) The curriculum of the Course shall cover or require respectively

a) a general introduction into law, including main aspects

b) an advanced knowledge of primary and secondary Union Law relevant for patent litigation, in particular: the SPC-Regulations, the Bio-Technology Directive, primary and secondary

Union competition law, the Brussels I-Regulation, the Enforcement Directive, the Regulations Rome I and II, -and relevant case law of the Court of Justice of the European Union regarding these matters, of European law;

c) an advanced knowledge of Regulations 1157/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection, and 1160/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements, as well as the Rules relating to unitary patent protection

~~a)d) \_\_\_\_\_ the role, organisation and patent-related case law of the -Court of Justice of the European Union,~~

~~b)e) \_\_\_\_\_ an basic-advanced knowledge of private law, including contract law, company law and tort law, in both common and continental law,; and an advanced knowledge in general civil process law;~~

~~e)f) an basic-advanced knowledge of international private law;~~

~~d) the role, organisation and patent-related case law of the Court of Justice of the European Union, including case law on supplementary protection certificates;~~

~~enforcement of patents, providing knowledge of Directive 2004/48 (EC) on the enforcement of intellectual property rights and relevant case law of the Court of Justice of the European Union;~~

~~unitary patent protection, providing advanced knowledge of Regulations 1157/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection and 1160/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements as well as the Rules relating to unitary patent protection;~~

~~e)g) \_\_\_\_\_ a comparative overview on patent infringement proceedings and the revocation of patents proceedings -in Contracting Member States;~~

~~f)h) the operation of the Unified Patent Court, providing advanced knowledge of the Agreement on the Unified Patent Court, and the Unified Patent Court's Statute;~~

~~g)i) litigation before the Unified Patent Court, providing advanced knowledge of procedures, practice and case management before the Unified Patent Court, with special regard to the Rules of Procedure of the Unified Patent Court.~~

~~h)j) The Course shall focus in particular on the contents mentioned in points (f)-(i) of paragraph (1) and include practical exercises on litigation and negotiation each.~~

## Rule 4

### Duration of the Course, and examination requirements

(1) The minimum duration of the Course shall be 420-330 hours.

(2) The Course shall be concluded ~~with~~by both a written and oral examination.

## Rule 5

### Course languages and ~~E~~e-learning

(1) The Course may be provided in any official language of a Contracting Member State.

(2) E-learning facilities are encouraged as an integral part of the Course. However, the main part of the Course, and in particular the practical training, ~~always shall~~ requires personal participation.

## Rule 6

### Accreditation requirement

Universities and ~~other-equivalent~~ non-profit educational bodies of higher education of a Contracting Member State may offer the Course subject to accreditation by the Administrative Committee.

## Rule 7

### Request for accreditation

The request for the accreditation of the Course shall be filed with the Unified Patent Court in one of the official languages of the European Patent Office and shall contain:

- a) the curriculum of the envisaged Course ~~envisaged-implementing the required Content of the Course (Rule 3)~~;
- b) information concerning the requirements under Rules 4 and 5;
- c) information concerning the requestor's status (Rule 2);
- d) information concerning the number of hours for each topic of the Course divided up between E-learning and courses with personal attendance;
- e) the names and titles of the selected teachers;
- f) a draft scheme of the examination, defining the objectives and the method of the examination, including the number and duration of the written and oral exams.

## Rule 8

### Examination of the request and decision

- (1) The request for accreditation shall be decided upon by the Administrative Committee on the basis of ~~the~~an opinion of the Advisory Committee.
- (2) If the requirements under Rules ~~23 - 56~~ have been~~are~~ met and the request for accreditation complies with Rule 7, the Advisory Committee shall give an opinion in favour of accreditation to the Administrative Committee.
- (3) If the requirements under Rules ~~23 - 56~~ have not been~~are not~~ met, or if the request for accreditation fails to comply with Rule 7, the Advisory Committee shall give a negative opinion on the request.

In this event, the Administrative Committee shall communicate the Advisory Committee's opinion to the requestor and invite ~~them~~him, according to the nature of the objection, to correct the deficiencies noted, or to submit comments within a non-extendable period of two months. If the deficiencies have not been~~are not~~ corrected in due time, the Administrative Committee shall refuse the request. If the requestor corrects the deficiencies or submits comments, the Administrative Committee shall consult the Advisory Committee once again and decide on the request on the basis of the second opinion of the Advisory Committee.

- (4) Accreditation is granted for ~~five-three~~ academic years following the date of the notification of the decision on accreditation. ~~The~~Any later request for the prolongation of the accreditation for ~~another~~ five years may be filed one year before the expiry of the ~~five~~three and later five-year period ~~at the earliest~~. The Administrative Committee shall decide on such a request in accordance with Rules 8(1) to (3).

## Rule 9

### Reports

- (1) Participating educational bodies are required to report every year ~~before December 31~~ to the Unified Patent Court on the curriculum, results and statistics of the accredited Course.~~The Administrative Committee takes note of this report.~~
- (2) If the Administrative Committee advised by the Advisory Committee notices a failure to comply with Rules 23 to 5, it shall request that the participating educational body ~~to~~ correct the failure within a set time limit or otherwise lose its accreditation.
- (3) If the failure is not corrected within the set time limit the Administrative Committee shall withdraw the accreditation.

## Rule 10

### Training Centre

The Training Centre, by offering the necessary infrastructural and organizational assets, shall assist the educational bodies that wish to provide thea Course at the seat of the Training Centre ~~as well~~. It may also facilitate Ee-learning options.

~~[(2) The Training Centre may also offer the Course in compliance with Rules 3—5. In this case, Rule 9 applies to the Training Centre as well.]~~

## Part II – Other appropriate qualifications

### Rule 11

#### Law diplomas

European Patent Attorneys holding a bachelor or master's degree in law according to the relevant educational standards in a Member State, or who have passed an equivalent state examination in law ~~of in~~ a Member State of the European Union, shall be deemed to have the appropriate qualifications pursuant to Article 48(2) of the Agreement on a Unified Patent Court and may apply for registration ~~to~~ on the list of entitled representatives.

### Rule 12

#### Other appropriate qualifications ~~during a transitional period~~

~~(1) An appropriate qualification within the meaning of Art. 48(2) UPCA may be proven by passing the final examination (Rule 4.2) at one of the accredited participating educational bodies without having attended the Course (Rule 3 to 5) and without having acquired an European Patent Litigation Certificate on the basis of such a Course.~~

~~(2) The result of the examination and the contents of the examination shall be submitted to the Administrative Committee by the examining body, together with any other appropriate information.~~

~~(3) The candidate shall submit ~~their~~his/a request for registration (Rule 13) to the Administrative Committee.~~

~~(4) The Administrative Committee shall decide on the request, applying Rules 8(1) to (3).~~

~~During a period of three years from the entry into force of the Agreement on a Unified Patent Court, any of the following shall also be deemed as appropriate qualifications for a European Patent Attorney pursuant to Article 48(2) of the Agreement on a Unified Patent Court:~~



~~(a) the successful completion of one of the following courses:~~

- ~~i) Centre d'Études Internationales de la Propriété Intellectuelle, courses leading to the Diploma on Patent litigation in Europe or to the Diploma of international studies in industrial property (specialized in patents);~~
  - ~~ii) FernUniversität in Hagen, course "Law for Patent Attorneys";~~
  - ~~iii) Nottingham Law School, course "Intellectual Property Litigation and Advocacy";~~
  - ~~iv) Queen Mary College London, courses "Certificate in Intellectual Property Law" or "MSc Management of Intellectual Property";~~
  - ~~v) Brunel University London, course "Intellectual Property Law Postgraduate Certificate"~~
  - ~~vi) Bournemouth University, course "Intellectual Property Postgraduate Certificate";~~
- ~~[...]~~

~~(b) having represented a party on his own without the assistance of a lawyer admitted to the relevant court in at least three patent infringement actions, initiated before a national court of a Contracting Member State within the five years preceding the application for registration.~~

## Part III – Registration

### Rule 13

#### Entry on the list of representatives ~~based on a Certificate~~

~~(1) AThe European Patent Attorney having acquired an European Patent Litigation Certificate pursuant to Rules 1 to 5 or having proved an appropriate qualification pursuant Rule 11 or 12wishing to represent parties before the Unified Patent Court shall lodge the Certificate at the Registrar. and shall thereafter may apply be registeredfor registration on the list of entitled representatives under Article 48(3) second sentence of the Agreement on a Unified Patent Court (herein-after referred to as the "List").~~

~~(2) If the requirements are fulfilled the Registrar enters the European Patent Attorneyon the List.~~

## **Rule 14**

### **Request for recognition of other appropriate qualifications**

~~(1) Requests for recognition of other appropriate qualifications shall be filed with the Unified Patent Court in one of the official languages of the European Patent Office.~~

~~(2) In case of requests filed pursuant to Rule 11 or 12(a), the request for recognition of other appropriate qualifications shall contain a copy of the respective diploma.~~

~~(3) In case of requests filed pursuant to Rule 12(b), the request shall include all details necessary to identify the infringement actions the European Patent Attorney intends to rely on such as~~

- ~~a) name of the parties,~~
- ~~b) court seized with the action,~~
- ~~c) date of commencement of the proceedings.~~

~~Reasonably available evidence to support the request, such as a copy of the power of attorney shall be submitted.~~

## **Rule 15**

### **Examination of and decision on the request for recognition of other appropriate qualifications**

~~(1) The request for recognition of other appropriate qualifications shall be examined by the Registrar. The Registrar may, if he deems it necessary, consult the Advisory Committee for an opinion.~~

~~(2) If the requirements contained in Rules 11 or 12 are met and the request for recognition of other appropriate qualifications complies with Rule 14, the Registrar shall enter the requestor on the List.~~

~~(3) If the request for recognition of other appropriate qualifications complies with Rule 14, but the requirements under Rules 11 or 12 are not met, the Registrar shall reject the request.~~

~~(4) If the request for accreditation fails to comply with the requirements of Rule 14, the Registrar shall invite the requestor to correct the deficiencies noted within a non-extendable period of two months. If the deficiencies are not corrected in due time, the Registrar shall reject the request.~~

## **Rule 146**

### **Effect of entries**

(1) Subject to paragraphs 2 and 3 of this Rule, the registrations of European Patent Attorneys on the List shall be permanent, ~~including registrations made under the transitional provisions pursuant to Rule 12.~~

(2) Registration on the List shall cease to have effect in the event that the registered representative ceases to be a registered European Patent Attorney in the list of European Patent Attorneys maintained by the European Patent Office. The Registrar will strike the name off the List, upon request or ex-officio. In the case where a European Patent Attorney has been re-entered on the list maintained by the European Patent Office, he shall, upon their his request, be re-entered by the Registrar on the List.

(3) The registrar will strike the name of an entitled a registered representative from the List, upon their his request to this effect.

## **Part IV – Review**

## **Rule 157**

### **Decisions subject to review**

~~The d~~Decisions of the Registrar-Administrative Committee referred to in Rules 45-8(1), and (4), 9, and 46-12 may be challenged in accordance with the following provisions.

## **Rule 168**

### **Formalities for aof the petition for review**

~~A~~The petition for review shall be filed in writing with the Registrar in one of the official languages of the European Patent Office, within one month of the notification of the challenged decision. It shall indicate the reasons for setting aside the decision of the Registrar-Administrative Committee.

**Rule 19**

**Revision by the Registrar**

~~(1) If the Registrar considers the petition for review to be admissible and well founded, he shall rectify his decision.~~

~~(2) If the Registrar does not rectify his decision within one month of receipt of the petition for review, he shall forward it to the President of the Court of Appeal who shall decide on the petition for review.~~

**Rule 1820**

**Decision by the President of the Court of Appeal**

~~If the petition for review is admissible, the~~(1) The President of the Court of Appeal shall decide on the application for review.

~~(2) The President of the Court of Appeal may decide the contested matter himself, or order the Administrative Committee to decide again, taking into account his directions. examine whether the appeal is allowable. If the petition for review is allowable, he shall alter the Registrar's decision. If the petition for review is not allowable, he shall reject it.~~

**Part V – Notification and Entry into force**

**Rule 1924**

**Notification**

~~The d~~Decisions of the Administrative Committee, the Registrar and of the President of the Court of Appeal shall be notified.

**Rule 202**

**Entry into force**

This Decision shall enter into force on [...].

Completed Done at [ ... ] on [ ... ]

For the Administrative Committee

The Chairman