

IMPLEMENTING REGULATIONS TO THE EUROPEAN PATENT CONVENTION
of 5 October 1973
as amended by decision of the Administrative Council of the European Patent Organisation
of 28 June 2017

Article 1

The Implementing Regulations to the EPC shall be amended as follows:

1. Rule 32 shall read as follows:

"(1) Until completion of the technical preparations for publication of the European patent application, the applicant may inform the European Patent Office that,

(a) until the publication of the mention of the grant of the European patent or, where applicable,

(b) for twenty years from the date of filing, if the application is refused or withdrawn or deemed to be withdrawn,

the availability referred to in Rule 33 shall be effected only by the issue of a sample to an independent expert nominated by the requester.

(2) Any natural person may be nominated as an expert, provided that he complies with the requirements and obligations laid down by the President of the European Patent Office.

The nomination shall be accompanied by a declaration from the expert that he undertakes to comply with the aforementioned requirements and obligations and that he knows of no circumstances which might give rise to justified doubts as to his independence or which might conflict in any other way with his function as expert.

The nomination shall also be accompanied by a declaration from the expert vis-à-vis the applicant in which he enters into the undertaking given under Rule 33 until either the date on which the patent expires in all the designated States or, where the application is refused, withdrawn or deemed to be withdrawn, the date referred to in paragraph 1(b), the requester being regarded as a third party".

2. Rule 33(6) shall read as follows:

"The European Patent Office shall publish in its Official Journal the list of depository institutions recognised for the purpose of Rules 31, 33 and 34".

Article 2

(1) Rules 32 and 33 EPC as amended under Article 1 of this decision shall enter into force on 1 October 2017.

(2) They shall apply to European patent applications pending on the date of entry into force, and to European patent applications filed after that date.

Done at The Hague, 28 June 2017