

be granted directly – see EPO President's decision dated 21 November 2013 concerning the entrustment to non-legally qualified staff of certain duties incumbent on the Legal Division, OJ 2013, 601). Appeals against such decisions are a matter for the Legal Board of Appeal, not the technical boards (Art. 106(1) and Art. 21(2) EPC). The entitlement of the proprietor entered in the Register cannot be questioned in either opposition or appeal proceedings (see T.553/90, OJ 1993, 666).

2.2. Registration of licences

As to the recording in the Register of European Patents of an exclusive licence under a patent **already granted**, the Legal Board of Appeal ruled in its decisions J.17/91 (OJ 1994, 225) and J.19/91 that registration was no longer possible once the patent had been granted because the EPO had renounced jurisdiction in favour of the national offices of the contracting states designated in the request for grant.

2.3. Registration of transfers

Art. 72 EPC provides that an assignment of a European patent application must be made in writing and requires the signatures of the parties to the contract. Under R. 22 EPC, a transfer of a European patent application is recorded in the European Patent Register at the request of an interested party and on production of documents satisfying the EPO that the transfer has taken place. This is in line with the PCT system (R. 92bis.1 PCT).

In J.12/00 the Legal Board summarised the preconditions for registering a transfer of a European patent application (R. 20 EPC 1973; now R. 22 EPC) as follows: (i) a request of an interested party; (ii) the production of documents satisfying the EPO that the transfer has taken place; and (iii) the payment of an administrative fee. Documents relating merely to the obligation to transfer the right, but not to the transfer itself, were not sufficient to satisfy the EPO. Nor, according to the board, was it enough to cite registrations in different countries on the basis of documents other than assignment documents (similarly J.4/10).

In T.128/10 the board held that the three requirements under R. 22 EPC in conjunction with R. 85 EPC, as formulated in J.12/00, did not need to be fulfilled at the same time. If they were met on different dates, the transfer would only have effect vis-à-vis the EPO at the date on which all the requirements mentioned above were fulfilled.

In J.38/92 and J.39/92 the Legal Board of Appeal ruled that a transfer could only be recorded in the European Patent Register on the basis of an official document in accordance with R. 20(1) EPC 1973 if that document **directly** verified the transfer (similarly J.4/10). It did not suffice if a judgment was submitted which mentioned another document from which it was possible to verify the transfer.

In appeal proceedings, assessing whether there are documents satisfying the EPO that a transfer has taken place in accordance with R. 20(1) and (3) EPC 1973 and recording the transfer in the Register is a matter for the department of first instance responsible for making the entry in the Register. Accordingly, in appeal proceedings, substitution of another party for the original applicant is possible only once the relevant department of