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Open consultation on divisional applications in the European patent system

Dear Mr Bosotti,

I am writing in relation to a topic which I believe is of interest for your Organisation and its members, namely the current provision governing the requirements for the filing of divisional applications (Rule 36 EPC).

After almost three years since its entry into force we are well aware that the introduction of the 24-month time limit for the filing of divisional applications is still disputed. When this issue was addressed by the practitioners soon after his arrival at the Office in July 2010, the President of the Office committed to engage a review after sufficient experience in relation to the implementation of the new rule had been gathered.

With a view to tackling the issue, we believe that the time has come now to start a broad, transparent process for the reconsideration of Rule 36 EPC. Open online consultations will be held as from March 2013 to take into consideration the views and proposals of all interested or affected parties. I would like to invite you and your members to participate and provide us with your assessment of Rule 36 EPC, and your suggestions on how to deal with those cases where the filing of divisional applications responds to purely tactical considerations at the expense of the interests of third parties and of legal certainty.

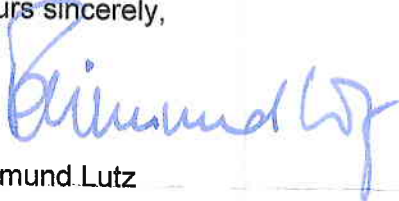
Detailed information on the consultation process regarding divisional applications can be found on the EPO's Homepage under <http://www.epo.org/law-practice/consultation/ongoing.html>.

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Please be assured that your views on the issue will be carefully considered in the framework of the processing of the feedback received. On the basis thereof the EPO will decide on the course of action to be taken.

I look forward to a continued constructive and fruitful dialogue on this issue with your Organisation and its members.

Yours sincerely,



Raimund Lutz