Preface

The idea for this book emanated from the series of ‘Opposition and Appeal’ seminars jointly organised by the European Patent Institute and the European Patent Office. The reactions from the audience in relation to the content of the seminars encouraged the two speakers, Marcus O. Müller and Cees A.M. Mulder, to prepare and publish a book on opposition and appeal with emphasis on the practical and tactical aspects of the opposition and appeal procedure.

It is believed that the book provides a better understanding of how opposition divisions and boards of appeal approach the cases before them. By way of this understanding, European Patent Attorneys will be better prepared for dealing with the relevant issues in opposition and appeal proceedings, such as, e.g., how to properly attack or defend a patent, how to argue in case of late filings, how to react if the patent is amended, or how to prepare for and act in oral proceedings. In addition, the Rules of Procedure of the Boards of Appeal are discussed, including their influence on opposition proceedings.

The book also gives advice to applicants and patent attorneys about what should be avoided when drafting and prosecuting a European patent application. Minor errors in the starting phase and during prosecution of the application may have a detrimental effect later on in opposition and appeal proceedings. In the seminars, this subject was dealt with at the end. For the purpose of the present book, it seems more logical to start with these considerations, although one might only realise the full impact after reading the whole book.

The authors hope that with the help of this book patent attorneys will feel in the future less confronted with ‘the unexpected’ in opposition and appeal proceedings, so that they can give better advice to their clients and increase their chances of success in these proceedings.

It is noted that the content of this book reflects the authors' personal view, not that of the European Patent Office nor of the boards of appeal. Any reference to, comment on, or discussion of decisions of the boards of appeal or the Enlarged Board of Appeal in this book is based on the authors' own understanding of these decisions and is not to supplement or replace the actual texts of these decisions.

In spite of all due care taken during the compilation of the book, the authors do not accept any liability for the correctness or completeness of the text. The authors would appreciate receiving suggestions for improving the content of the book as well as information on mistakes.

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