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Aktenzeichen / Case Number / N<sup>o</sup> du recours : D 10/88

Anmeldenummer / Filing No / N<sup>o</sup> de la demande :

Veröffentlichungs-Nr. / Publication No / N<sup>o</sup> de la publication :

Bezeichnung der Erfindung:

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement :

### ENTSCHEIDUNG / DECISION

vom / of / du 24 May 1989

Anmelder / Applicant / Demandeur : N.N.

Patentinhaber / Proprietor of the patent /  
Titulaire du brevet :

Einsprechender / Opponent / Opposant :

Stichwort / Headword / Référence : Art. 1(f), 2(a)(c) Code of professional  
Conduct (CPC) Art. 12 Regulation on  
EPÜ / EPC / CBE Discipline for professional representatives (RDR)

Schlagwort / Keyword / Mot clé : Advertising - offer of unsolicited services -  
admissibility (no) - not adversely affected

Leitsatz / Headnote / Sommaire

Europäisches  
Patentamt

European Patent  
Office

Office européen  
des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Case Number : D 10 /88



**D E C I S I O N**  
of the Disciplinary Board of Appeal  
of 24 May 1989

**Appellant :** Hans Mock  
c/o "Eiger Translations Ltd."  
Suite 301, Sunlight House,  
Quay Street  
Manchester M3 3JY  
England

**Decision under appeal :** Decision of the Disciplinary  
Committee of the Institute of  
Professional Representatives before  
the European Patent Office dated 11  
April 1988

**Composition of the Board :**

**Chairman :** P. Gori  
**Members :** O. Bossung  
J. Stephens-Ofner  
A. Armengaud Ainé  
L. Durán

## Summary of Facts and Submissions

- I. The Appellant, as a European professional representative, is a Member of the Institute of Professional Representatives before the European Patent Office. In October 1987 a complaint was lodged with the Institute alleging that the Appellant had contravened Art. 1 of the Regulation on Discipline for Professional Representatives (hereinafter referred to as "RDR"; OJ EPO 1978, 91) and No. 1(f), 2(a) and (c) of the Code of Professional Conduct (hereinafter referred to as "CPC"; OJ EPO 1985, 47) by advertising professional translation-services through sending publicity material to other Members of the Institute namely to professional representatives, in German and French speaking countries. In this publicity material the Appellant offers his translation-services, namely those of "Eiger Translations" arguing inter alia that preference should be given to translators of English mother tongue living in Great Britain.
  
- II. The complaint was dealt with by the Disciplinary Committee. In its Decision dated 11 April 1988 this Committee dismissed the complaint of impermissible advertising, reasoning that the publicity material was only circulated to named Professional Representatives before the EPO. This was allowed exceptionally under No. 2(a), CPC, final sentence, which states: "It is ... permissible to circulate notices on such establishment (of a new service) ... but ... only to clients and associates". It was added, that if the publicity material was in the future also - as intended - mailed to companies in France and Germany, this would be impermissible advertising and breach of the Code of Professional Conduct.

III. By letter received by the EPO on 16 June 1988, the Appellant appealed to the Disciplinary Board of Appeal setting out his Grounds of Appeal. After an exchange of views with the Rapporteur of the Board the appellant clarified that the relief sought was: (a) a declaration that translation activities generally and specifically such activities relating to U.K. translation requirements for the national implementation of European patents were outside the scope of the Code of Professional Conduct, and, (b) that insofar as the Decision was concerned with such activities, it should be set aside.

#### Reasons for the Decision

The Appeal is conducted against a Decision which dismissed the complaint against the Appellant. This raises the question whether or not the appeal is admissible. Even if Art. 22 RDR does not expressly refer to Art. 107 EPC, an Appellant should be "adversely affected" by the decision under appeal. In this decision there is, however, some "obiter dictum" against the Appellant insofar as it states, that the intended further advertising to companies in France would be impermissible.

The Appellant may well feel that his future intentions are threatened by such a statement. But an appeal instance, as this Board, has only the power to hear Appeals on decided issues, and not on possible later decisions connected with such issues. Therefore, this appeal has to be rejected as inadmissible.

Order

For these reasons, it is decided that:

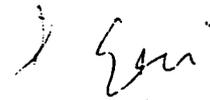
The appeal is rejected as inadmissible.

The Registrar:



J. Rückerl

The Chairman:



P. Gori