Submission of Information by Third Parties

European Patent Office (EPO)

Notice from the European Patent Office dated 16 December 2025 concerning the improved online form, the updated means of filing and the processing of third-party observations under Article 115 EPC

1. Under Article 115 EPC, third parties can file, free of charge, observations concerning the patentability of the invention to which a European patent application or patent relates. Such observations serve the public interest by helping to foster a high-quality European patent system and by increasing the likelihood that only solid and robust patents are granted. In view of their importance, observations by third parties have become one of the common practices established under the convergence of practice programme launched by the EPO in 2023.[1]

2. Following a review of EPO online services and taking into account feedback received from users, including MyEPO pilot participants[2], as of 15 December 2025 the EPO provides a simplified online form for the filing of third-party observations. This form is accessible at more prominent locations on the EPO website and via MyEPO. Section I of the present notice lists the improvements made to the form. To provide users with a single source of reference for the filing of third-party observations, previous information on the filing and processing of third-party observations is contained in section II. The present notice therefore replaces the notice from the EPO dated 31 October 2017 (OJ EPO 2017, A86).

I. Improved online form for filing third-party observations

3. The updated online form for filing third-party observations is accessible since 15 December 2025 in both MyEPO and at various locations on the EPO website.

4. Key features of the updated online form include:

- updated technology, with better performance and security
- intuitive design, with a layout designed to better guide users, and make it clear where they can file observations
- adaptive sections/fields, with relevant fields becoming visible and active only when a particular section – personal details, subject, observations, facts and evidence, summary – is selected (again making it clearer where observations can be filed)
- summary overviews, with clear and concise summaries of observations
- previews, enabling third parties to quickly preview and check their observations before filing

II. Formal requirements and processing of third-party observations

While this notice serves to highlight the key principles and benefits of third-party observations, the Guidelines for Examination in the EPO provide more detailed guidance on their filing and processing[3].

a. Formal requirements

5. Article 115 EPC applies only to published European patent applications and patents for which proceedings are pending before the EPO. During the international phase, third-party observations are processed in accordance with the PCT legal framework and must be filed

[1] epo.org/en/law-practice/convergence-of-practice

[2] The EPO continuously strives to improve its online services and incorporate feedback from its user community. It regularly consults and engages with its users through focus groups and through pilots. For more information, see MyEPO services.

[3] Additional information on the filing and processing of third-party observations can be found in the Guidelines for Examination, 2025, Part E-VI, 3, the Guidelines for Search and Examination at the EPO as PCT Authority, 2025, Part E-II, and in the FAQ published on the EPO website.

with the International Bureau (IB) using ePCT[4]. The following formal requirements apply to third-party observations filed under the EPC:

6. Third-party observations should be filed in their entirety in an official language of the EPO (English, French or German). If a non-anonymous third party files an observation in another language, the EPO will invite it to furnish a translation in an EPO official language. Supporting documents, e.g. prior-art citations, can be in any language. However, the EPO may require the third party to file a translation in an official language. If the required translation is not filed in due time, the EPO may disregard the observation and/or the supporting document.

7. Observations should not concern formal aspects, but be restricted to the substantive requirements of the EPC, for example those under Articles 52-57 EPC.

8. Use of the online form[5] is highly recommended as it makes processing faster and more efficient, while fostering sustainability by reducing paper use.

9. Observations may be filed anonymously.

b. **Treatment of observations**

10. Subject to the above formal requirements and after the removal of any offensive language, third-party observations are placed in the public part of the file of the patent application or patent concerned and forwarded to the parties to proceedings.

11. All observations meeting the formal requirements will be considered by the examining or opposition division as long as proceedings are pending. The division will comment on their relevance in its next substantive communication to the parties to the proceedings. Observations by third parties received once proceedings are no longer pending will be neither taken into account nor made available for file inspection.

12. If applicable, the observations will be considered when the (supplementary) European search report and opinion on patentability are being drafted.

13. A third party is not a party to the proceedings before the EPO and will, therefore, not be informed about the proceedings. However, the progress of the proceedings can be followed online using the European Patent Register, which includes an email alert service.

c. **Expediting the next office action**

14. In addition to making a significant contribution to the efficiency and quality of the examination process, third-party observations can also lead to an acceleration of the procedure. The EPO makes every effort to issue the next office action within three months of the examining division's receipt of a third-party observation, provided the third party has substantiated the observation and has not filed it anonymously. If, when the observation is received, a reply from the applicant to a communication is outstanding, the three-month period starts when the EPO receives the reply.

15. Third parties are encouraged to file substantiated and non-anonymous observations as early as possible, including already during the international phase. These are taken into account in the procedure before the EPO as designated/elected Office once available to the EPO and upon effective entry into the European phase.

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[4] See Administrative Instructions under the PCT, sections 801-805, and the latest version of **WIPO's User Guide**.
[5] **tpo.apps.epo.org** and in the dedicated sections of the EPO website. In the European Patent Register, the form can be accessed by selecting **Submit observations**.

16. Substantiated and non-anonymous observations filed during the international phase will trigger acceleration of the examination procedure, and the EPO will make every effort to issue the next office action within three months of expiry of the period under Rule 161 EPC, provided that:

- the entire observation was filed in an EPO official language (see point 6 above)
- the third party has clearly expressed its wish that the next office action in the European phase be expedited

17. A third party wanting the next office action in the European phase to be expedited should, therefore, express this wish in the observation submitted in the international phase. Alternatively, once the application has entered the European phase, the third party may refile the observation with the EPO as designated/elected Office or refer the EPO as designated/elected Office to its observation filed earlier with the IB.

18. Here are two examples illustrating how the EPO will proceed.

Example 1: International application A was filed with the USPTO as receiving Office. The EPO was selected as ISA. Third party T1 filed a non-anonymous observation on novelty with the IB in English 27 months after the priority date, without expressly asking for the next office action in the European phase to be expedited. The IB forwarded the observation to the EPO as designated Office after expiry of 30 months from the priority date. The application entered the European phase within the 31-month period under Rule 159(1) EPC.

T1 did not ask for the next office action in the European phase to be expedited. Hence, the EPO will consider the contents of the observation, but will expedite the next office action in the European phase only if T1 refiles the observation non-anonymously with the EPO as designated Office or non-anonymously refers the EPO as designated Office to the observation filed earlier with the IB.

Example 2: International application B was filed with the JPO as receiving Office. The JPO was selected as ISA. Third party T2 filed a non-anonymous observation on novelty with the IB in Japanese 27 months after the priority date, expressly asking for the next office action in the European phase to be expedited. The IB forwarded the observation to the EPO as designated Office after expiry of 30 months from the priority date. The application entered the European phase within the 31-month period under Rule 159(1) EPC.

As the observation is not in an EPO official language, shortly after expiry of the 31-month period the EPO will invite T2 to file a translation (see point 6 above). When the EPO receives the translation, it will see that T2 wants the next office action to be expedited. It will then consider the contents of the observation when drawing up the supplementary European search report and expedite the first office action in the examination phase.