

A. S. (No. 14) and others

v.

EPO*

129th Session

Judgment No. 4256

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaints filed by Mr J. A. S. (his fourteenth), Mr F. B. (his third), Mr I. L. R. (his second) and Mr L. P. (his twenty-fourth) against the European Patent Organisation (EPO) on 21 April 2016, the EPO's single reply of 21 October, the complainants' rejoinder of 12 December 2016, the EPO's surrejoinder of 20 March 2017, the complainants' further submissions of 3 June and the EPO's final comments thereon of 11 September 2017;

Considering the fifth complaint filed by Mr J. B. against the EPO on 15 July 2016, corrected on 25 August, the EPO's reply of 22 December 2016, the complainant's rejoinder of 13 April 2017, the EPO's surrejoinder of 6 July, the complainant's further submissions of 20 October and the EPO's final comments thereon of 15 December 2017;

Considering the complaint filed by Mr H. B. against the EPO on 29 September 2015, corrected on 16 November 2015, the EPO's reply of 7 April 2016, corrected on 28 April, the complainant's rejoinder of 22 June, the EPO's surrejoinder of 4 October, the complainant's further

* The original text of this judgment was amended after it was delivered in public, in order to correct a clerical error in the list of complaints covered by the judgment.

submissions of 6 December 2016 and the EPO's final comments thereon of 10 March 2017;

Considering the thirteenth complaint filed by Mr F. B. against the EPO on 29 September 2015, corrected on 6 January 2016, the EPO's reply of 20 May, the complainant's rejoinder of 5 August and the EPO's surrejoinder of 14 November 2016;

Considering the fourteenth complaint filed by Mr F. B. against the EPO on 22 October 2015, the EPO's reply of 20 March 2017, the complainant's rejoinder of 26 September 2017 and the EPO's surrejoinder of 3 April 2018;

Considering the fifth complaint filed by Mr I. B. against the EPO on 10 February 2017, corrected on 22 February, the EPO's reply of 6 June, the complainant's rejoinder of 11 September and the EPO's surrejoinder of 18 December 2017;

Considering the complaint filed by Mr J. W. C. against the EPO on 21 December 2016, corrected on 28 January 2017, the EPO's reply of 19 May, the complainant's rejoinder of 24 June and the EPO's surrejoinder of 25 September 2017;

Considering the complaints filed by Mr T. C. (his fifth) and Mr D. d. I. T. (his twentieth) against the EPO on 14 September 2016, corrected on 3 December 2016, the EPO's single reply of 20 March 2017, the complainants' rejoinder of 28 April, corrected on 18 May, and the EPO's surrejoinder of 21 July 2017;

Considering the complaints filed by Mr D. d. I. T. (his twelfth) and Mr M. S. (his fourth) against the EPO on 15 May 2015, corrected on 4 July, the EPO's single reply of 1 December 2015, confined to the issue of receivability, the complainants' rejoinder of 1 April 2016 and the EPO's surrejoinder of 12 July 2016;

Considering the complaint filed by Ms F. d. R.-N. against the EPO on 23 June 2015, corrected on 2 September, the EPO's reply of 9 December 2015, the complainant's rejoinder of 28 January 2016 and the EPO's surrejoinder of 4 May 2016;

Considering the second complaint filed by Ms F. d. R.-N. against the EPO on 23 November 2016, corrected on 19 January 2017, the

EPO's reply of 11 May, the complainant's rejoinder of 19 June, corrected on 30 June, and the EPO's surrejoinder of 18 October 2017;

Considering the third complaint filed by Mr A. D. against the EPO on 8 May 2015, corrected on 9 June, the EPO's reply of 30 October 2015, the complainant's rejoinder of 16 February 2016 and the EPO's surrejoinder of 6 June 2016;

Considering the fourth complaint filed by Mr A. D. against the EPO on 23 October 2015, corrected on 29 November 2015, and the EPO's reply of 27 May 2016, the complainant having failed to file a rejoinder within the allocated time;

Considering the seventh complaint filed by Mr A. D. against the EPO on 17 September 2016, the EPO's reply of 12 January 2017, the complainant's rejoinder of 31 March and the EPO's surrejoinder of 4 July 2017;

Considering the fourth complaint filed by Ms B. E. against the EPO on 18 December 2015, the EPO's reply of 12 May 2016, the complainant's rejoinder of 6 June and the EPO's surrejoinder of 8 August 2016;

Considering the second and third complaints filed by Ms M. E. against the EPO on 8 August 2016, corrected on 22 September 2016, the EPO's single reply of 9 January 2017, the complainant's rejoinder of 15 February and the EPO's surrejoinder of 31 May 2017;

Considering the fourth complaint filed by Ms M. E. against the EPO on 12 August 2016, corrected on 8 November 2016, the EPO's reply of 27 February 2017, the complainant's rejoinder of 12 June and the EPO's surrejoinder of 18 September 2017;

Considering the sixth complaint filed by Ms M. E. against the EPO on 16 September 2016, corrected on 2 December 2016, the EPO's reply of 14 March 2017, the complainant's rejoinder of 12 April, corrected on 26 April, and the EPO's surrejoinder of 12 July 2017;

Considering the seventh complaint filed by Ms M. E. against the EPO on 20 January 2017, corrected on 5 March, the EPO's reply of 29 August 2017, the complainant's rejoinder of 4 January 2018 and the EPO's surrejoinder of 16 April 2018;

Considering the complaints filed by Mr V. F. and Mr K.-D. H. against the EPO on 7 May 2015, corrected on 10 June 2015, and the EPO's single reply of 2 February 2016, confined to the issue of receivability, the complainants having failed to file a rejoinder within the allocated time;

Considering the complaint filed by Mr S. C. F. against the EPO on 26 May 2015, the EPO's reply of 29 September, confined to the issue of receivability, the complainant's rejoinder of 18 December 2015 and the EPO's surrejoinder of 8 April 2016;

Considering the third complaint filed by Mr S. C. F. against the EPO on 5 October 2015, the EPO's reply of 13 April 2016, the complainant's rejoinder of 30 May and the EPO's surrejoinder of 8 September 2016;

Considering the fourth complaint filed by Mr S. C. F. against the EPO on 26 October 2015, the EPO's reply of 7 April 2016, corrected on 14 April, the complainant's rejoinder of 31 August, corrected on 19 September, the EPO's surrejoinder of 22 December 2016, the application to intervene in this case filed by Mr H. H. on 18 March 2016, the EPO's comments thereon of 30 June 2016, the application to intervene in this case filed by Mr H. W. L. on 9 July 2018 and the EPO's comments thereon of 9 October 2018;

Considering the fifth complaint filed by Mr S. C. F. against the EPO on 26 October 2015, the EPO's reply of 13 April 2016, the complainant's rejoinder of 2 September and the EPO's surrejoinder of 16 December 2016;

Considering the sixth complaint filed by Mr S. C. F. against the EPO on 8 August 2016, corrected on 14 October 2016, the EPO's reply of 14 March 2017, the complainant's rejoinder of 31 July, the EPO's surrejoinder of 15 November 2017, the application to intervene in this case filed by Mr H. H. on 15 December 2016 and the EPO's comments thereon of 6 April 2017;

Considering the eighth complaint filed by Mr S. C. F. against the EPO on 10 January 2017, corrected on 31 January, the EPO's reply of

22 May, the complainant's rejoinder of 31 July and the EPO's surrejoinder of 15 November 2017;

Considering the ninth complaint filed by Mr S. C. F. against the EPO on 11 January 2017, corrected on 31 January, the EPO's reply of 22 May, corrected on 30 May, the complainant's rejoinder of 31 July and the EPO's surrejoinder of 15 November 2017;

Considering the tenth complaint filed by Mr S. C. F. against the EPO on 12 January 2017, corrected on 31 January, the EPO's reply of 22 May, corrected on 30 May, the complainant's rejoinder of 31 July and the EPO's surrejoinder of 15 November 2017;

Considering the complaints filed by Mr W. A. G. (his third) and by Ms V. B. A. V. (her third) against the EPO on 11 June 2015, corrected on 2 July, the EPO's single reply of 9 December 2015, the complainants' individual rejoinders of 29 January 2016, the EPO's single surrejoinder of 4 May, the complainants' further submissions of 29 September, the EPO's final comments of 9 November 2016, the application to intervene in this case filed by Mr H. H. on 31 August 2015 and the EPO's comments thereon of 17 September 2015;

Considering the complaints filed by Mr W. A. G. (his fourth) and by Ms V. B. A. V. (her fourth) against the EPO on 8 September 2015, the EPO's single reply of 11 July 2016, the complainants' common rejoinder of 8 September and the EPO's surrejoinder of 29 November 2016;

Considering the second complaint filed by Ms M.-F. G. against the EPO on 2 October 2015, corrected on 26 October 2015, the EPO's reply of 4 March 2016, the complainant's rejoinder of 17 May and the EPO's surrejoinder of 27 July 2016;

Considering the fourth complaint filed by Ms M.-F. G. against the EPO on 19 September 2016, the EPO's reply of 12 January 2017 and the email of 20 February 2017 by which the complainant informed the Registrar of the Tribunal that she did not wish to file a rejoinder;

Considering the complaints filed by Mr T. H. (his sixth), Mr A. C. K. (his twelfth), Mr P. O. A. T. (his fifteenth) and Mr W. Z. against the EPO on 9 May 2015, corrected on 3 September 2015, the EPO's single

reply of 29 February 2016, Messrs H., K. and Z.'s individual rejoinders of 13 June 2016, Mr T. having failed to file a rejoinder within the allocated time, and the EPO's surrejoinders of 28 September 2016;

Considering the second complaint filed by Mr S. H. against the EPO on 21 July 2015, the EPO's reply of 12 November, corrected on 30 November 2015, the complainant's rejoinder of 28 January 2016, the EPO's surrejoinder of 9 May, the complainant's further submissions of 27 May and the EPO's final comments thereon of 24 October 2016;

Considering the twenty-third complaint filed by Ms E. H. against the EPO on 9 May 2016, corrected on 17 June, the EPO's reply of 5 October 2016, the complainant's rejoinder of 26 January 2017 and the EPO's surrejoinder of 8 May 2017;

Considering the complaints filed by Ms A. D. E. H. (her seventh) and Mr L. R. (his fifteenth) against the EPO on 6 June 2015, the EPO's single reply of 26 November 2015, the complainants' rejoinder of 25 January 2016 and the EPO's surrejoinder of 27 April 2016;

Considering the complaints filed by Mr W. H. H. (his fifteenth) and Mr D. M. S. (his seventh) against the EPO on 8 May 2015, the EPO's single reply of 11 August, the complainants' rejoinder of 14 September, corrected on 2 October, the EPO's surrejoinder of 10 December 2015 and the application to intervene in this case filed by Ms C. S. on 2 October 2019;

Considering the complaints filed by Mr W. H. H. (his sixteenth) and Mr D. M. S. (his eighth) against the EPO on 24 September 2015, corrected on 4 March 2016, the EPO's single reply of 20 June, the complainants' rejoinder of 2 September, the EPO's surrejoinder of 30 November 2016 and the application to intervene in this case filed by Ms C. S. on 2 October 2019;

Considering the seventeenth complaint filed by Mr W. H. H. against the EPO on 20 October 2015, corrected on 2 April 2016, the EPO's reply of 2 September, the complainant's rejoinder of 20 October 2016 and the EPO's surrejoinder of 25 January 2017;

Considering the twenty-second complaint filed by Mr W. H. H. against the EPO on 2 September 2016, corrected on 4 October 2016,

the EPO's reply of 15 March 2017, the complainant's rejoinder of 6 April and the EPO's surrejoinder of 19 July 2017;

Considering the twenty-third complaint filed by Mr W. H. H. against the EPO on 9 September 2016, corrected on 10 October 2016, the EPO's reply of 13 February 2017, the complainant's rejoinder of 6 April and the EPO's surrejoinder of 18 July 2017;

Considering the third complaint filed by Mr H. H. against the EPO on 16 September 2016, the EPO's reply of 27 February 2017, the complainant's rejoinder of 5 April, corrected on 18 April, and the EPO's surrejoinder of 12 July 2017;

Considering the fifth complaint filed by Mr H. H. against the EPO on 13 January 2017, corrected on 22 June, the EPO's reply of 27 September 2017, the complainant's rejoinder of 20 January 2018, corrected on 30 January, and the EPO's surrejoinder of 14 May 2018;

Considering the third complaint filed by Mr P. J. against the EPO on 12 June 2015, corrected on 25 September, the EPO's reply of 22 December 2015, the complainant's rejoinder of 29 February 2016 and the EPO's surrejoinder of 6 June 2016;

Considering the fourth complaint filed by Mr P. J. against the EPO on 6 June 2016, the EPO's reply of 21 September, the complainant's rejoinder of 20 December 2016 and the EPO's surrejoinder of 11 April 2017;

Considering the second complaint filed by Mr P. O. J. against the EPO on 11 May 2015, corrected on 11 June, the EPO's reply of 12 October 2015, the complainant's rejoinder of 11 February 2016 and the EPO's surrejoinder of 19 May 2016;

Considering the complaints filed by Mr A. C. K. (his thirteenth) and Mr P. O. A. T. (his sixteenth) against the EPO on 6 May 2015, corrected on 12 August 2015, the EPO's single reply of 22 January 2016, confined to the issue of receivability, the complainants' rejoinder of 3 March and the EPO's surrejoinder of 20 May 2016;

Considering the fifteenth complaint filed by Mr A. C. K. against the EPO on 14 October 2015, the EPO's reply of 22 March 2016, the

complainant's rejoinder of 4 July and the EPO's surrejoinder of 22 September 2016;

Considering the seventeenth and eighteenth complaints filed by Mr A. C. K. against the EPO on 22 December 2015, corrected on 2 April 2016, the EPO's replies of 3 November 2016, the complainant's rejoinders of 1 April 2017, corrected on 21 April, and the EPO's surrejoinders of 9 August 2017;

Considering the nineteenth complaint filed by Mr A. C. K. against the EPO on 9 March 2016, the EPO's reply of 20 July, the complainant's rejoinder of 31 October 2016 and the EPO's surrejoinder of 6 February 2017;

Considering the twentieth complaint filed by Mr A. C. K. against the EPO on 10 March 2016, corrected on 8 August, the EPO's reply of 27 December 2016, the complainant's rejoinder of 13 February 2017, the EPO's surrejoinder of 22 May, the application to intervene filed in this case by Mr I. H. T. on 18 August and the EPO's comments thereon of 29 September 2017;

Considering the twenty-first complaint filed by Mr A. C. K. against the EPO on 14 March 2016, corrected on 25 April, the EPO's reply of 12 September 2016, the complainant's rejoinder of 16 January 2017 and the EPO's surrejoinder of 28 April 2017;

Considering the twenty-second complaint filed by Mr A. C. K. against the EPO on 20 June 2016, corrected on 15 July, the EPO's reply of 3 November 2016, the complainant's rejoinder of 16 January 2017 and the EPO's surrejoinder of 28 April 2017;

Considering the twenty-third complaint filed by Mr A. C. K. against the EPO on 8 July 2016, the EPO's reply of 28 October 2016, the complainant's rejoinder of 3 February 2017 and the EPO's surrejoinder of 16 May 2017;

Considering the twenty-fifth complaint filed by Mr A. C. K. against the EPO on 11 July 2016 and the twenty-seventh complaint filed by the complainant on 13 August 2016, corrected on 28 September 2016, the EPO's single reply of 21 March 2017, the complainant's rejoinder of

12 July, corrected on 27 July, and the EPO's surrejoinder of 26 October 2017;

Considering the twenty-eighth complaint filed by Mr A. C. K. against the EPO on 11 October 2016, corrected on 14 November 2016, the EPO's reply of 23 February 2017, the complainant's rejoinder of 7 June and the EPO's surrejoinder of 12 September 2017;

Considering the twenty-ninth and thirtieth complaints filed by Mr A. C. K. against the EPO on 25 October 2016, corrected on 16 December 2016, the EPO's replies of 11 April 2017, the complainant's rejoinders of 29 January 2018 (following a stay of proceedings granted by the President of the Tribunal at the complainant's request) and the EPO's surrejoinders of 30 April 2018;

Considering the thirty-first and thirty-second complaints filed by Mr A. C. K. against the EPO on 30 November 2016, corrected on 16 January 2017, the EPO's replies of 4 May 2017, the complainant's rejoinders of 1 March 2018 (following a stay of proceedings granted by the President of the Tribunal at the complainant's request) and the EPO's surrejoinders of 13 June 2018;

Considering the thirty-third complaint filed by Mr A. C. K. against the EPO on 16 January 2017, corrected on 20 February, the EPO's reply of 6 June 2017, the complainant's rejoinder filed on 8 January 2018, corrected on 29 January (following a stay of proceedings granted by the President of the Tribunal at the complainant's request), and the EPO's surrejoinder of 2 May 2018;

Considering the thirty-fourth complaint filed by Mr A. C. K. against the EPO on 16 January 2017, corrected on 20 February, the EPO's reply of 6 June 2017, the complainant's rejoinder of 22 March 2018 (following a stay of proceedings granted by the President of the Tribunal at the complainant's request) and the EPO's surrejoinder of 9 July 2018;

Considering the complaint filed by Mr F. M. K. against the EPO on 14 May 2016, corrected on 20 June, the EPO's reply of 5 October, the complainant's rejoinder of 28 November 2016 and the EPO's surrejoinder of 7 March 2017;

Considering the twelfth complaint filed by Ms A. K. against the EPO on 10 June 2016, corrected on 8 July, the EPO's reply of 15 November 2016, the complainant's rejoinder of 30 January 2017, corrected on 2 March, the EPO's surrejoinder of 2 June 2017, the complainant's further submissions of 11 June 2018, the EPO's comments thereon of 10 April 2019 (following a stay of proceedings granted by the President of the Tribunal at the complainant's request), the complainant's further submissions of 23 August and the EPO's final comments of 2 October 2019;

Considering the thirteenth complaint filed by Ms A. K. against the EPO on 29 November 2016, the EPO's reply of 20 March 2017, the complainant's rejoinder of 29 May, the EPO's surrejoinder of 12 September 2017, the complainant's further submissions of 10 March 2018, the EPO's final comments thereon of 20 June, the complainant's additional comments of 20 August and the EPO's observations thereon of 2 October 2018;

Considering the seventh complaint filed by Mr M. K. against the EPO on 14 December 2015, corrected on 9 March 2016, the EPO's reply of 9 June, the complainant's rejoinder of 22 September, the EPO's surrejoinder of 16 December 2016, the applications to intervene in this case filed by Mr A. D. and Mr O. A. N. on 29 April 2016 and the EPO's comments thereon of 4 July 2016;

Considering the ninth complaint filed by Mr M. K. against the EPO on 13 February 2017, corrected on 18 March, the EPO's reply of 28 June, the complainant's rejoinder of 5 October 2017 and the EPO's surrejoinder of 15 January 2018;

Considering the eighth complaint filed by Mr T. K. against the EPO on 18 September 2015, corrected on 19 February 2016, the EPO's reply of 15 June, the complainant's rejoinder of 4 August, corrected on 18 August, and the EPO's surrejoinder of 10 November 2016;

Considering the ninth complaint filed by Mr T. K. against the EPO on 14 November 2015, corrected on 19 December 2015, the EPO's reply of 17 May 2016, the complainant's rejoinder of 4 August, corrected on 18 August, and the EPO's surrejoinder of 10 November 2016;

Considering the thirteenth, fourteenth and fifteenth complaints filed by Mr T. K. against the EPO on 16 September 2016, the EPO's replies of 13 January 2017, the complainant's rejoinders of 30 March, corrected on 8 April, and the EPO's surrejoinders of 17 July 2017;

Considering the tenth complaint filed by Mr C. O. D. L. against the EPO on 22 July 2016, corrected on 7 December 2016, the EPO's reply of 20 March 2017, the complainant's rejoinder of 24 June, corrected on 15 September 2017, and the EPO's surrejoinder of 16 January 2018;

Considering the eleventh complaint filed by Mr C. O. D. L. against the EPO on 15 September 2016, corrected on 2 November 2016, the EPO's reply of 24 February 2017, the complainant's rejoinder of 4 April and the EPO's surrejoinder of 22 August 2017;

Considering the thirteenth complaint filed by Mr C. O. D. L. against the EPO on 23 November 2016, corrected on 22 December 2016, the EPO's reply of 10 April 2017, the complainant's rejoinder of 29 December 2017, corrected on 17 January 2018, and the EPO's surrejoinder of 30 April 2018;

Considering the fourteenth, fifteenth and sixteenth complaints filed by Mr C. O. D. L. against the EPO on 23 November 2016, corrected on 22 December 2016, the EPO's replies of 10 April 2017, the complainant's rejoinders of 5 January 2018, corrected on 17 January, and the EPO's surrejoinders of 30 April 2018;

Considering the fifth complaint filed by Mr C. L. against the EPO on 23 June 2015, corrected on 26 August, the EPO's reply of 30 December 2015, the complainant's rejoinder of 14 April 2016 and the EPO's surrejoinder of 21 July 2016;

Considering the sixth complaint filed by Mr C. L. against the EPO on 15 August 2015, corrected on 24 September 2015, the EPO's reply of 27 April 2016, confined to the issue of receivability, the complainant's rejoinder of 2 September and the EPO's surrejoinder of 24 November 2016;

Considering the seventh complaint filed by Mr C. L. against the EPO on 15 August 2015, the EPO's reply of 13 January 2016, corrected

on 15 January, the complainant's rejoinder of 28 June and the EPO's surrejoinder of 30 September 2016;

Considering the third complaint filed by Ms D. L. against the EPO on 12 October 2015, corrected on 2 December 2015, the EPO's reply of 18 March 2016, the complainant's rejoinder of 22 June and the EPO's surrejoinder of 28 September, corrected on 30 September 2016;

Considering the fourth complaint filed by Ms D. L. against the EPO on 18 July 2016, corrected on 5 September, the EPO's reply of 21 December 2016, the complainant's rejoinder of 17 July 2017, corrected on 21 July, and the EPO's surrejoinder of 26 October 2017;

Considering the fifth complaint filed by Ms D. L. against the EPO on 8 December 2016, corrected on 4 January 2017, the EPO's reply of 11 April, the complainant's rejoinder of 21 July and the EPO's surrejoinder of 26 October 2017;

Considering the second complaint filed by Ms A. M. against the EPO on 10 September 2015 and the EPO's reply of 18 March 2016, the complainant having failed to file a rejoinder within the allocated time;

Considering the complaint filed by Mr H. M. against the EPO on 18 May 2015, corrected on 8 June 2016, the EPO's reply of 28 October 2016, the complainant's rejoinder of 7 February 2017 and the EPO's surrejoinder of 22 May 2017;

Considering the complaint filed by Ms A. G. O. against the EPO on 22 October 2015, corrected on 18 November 2015, and the EPO's reply of 18 March 2016, the complainant having failed to file a rejoinder within the allocated time;

Considering the tenth complaint filed by Mr R. P. on 8 July 2016, corrected on 22 August 2016, the EPO's reply of 3 January 2017, the complainant's rejoinder of 10 February, the EPO's surrejoinder of 17 May, the complainant's further submissions of 14 July and the EPO's final comments thereon of 6 October 2017;

Considering the second complaint filed by Mr S. P. against the EPO on 18 May 2015, corrected on 1 June 2016, the EPO's reply of 28 October 2016, the complainant's rejoinder of 7 February 2017, the EPO's surrejoinder of 22 May 2017, the application to intervene in

this case filed by Mr H. L. on 21 July 2018 and the EPO's comments thereon of 19 September 2018;

Considering the complaint filed by Mr T. P. against the EPO on 16 September 2016, corrected on 21 October 2016, the EPO's reply of 8 March 2017, the complainant's rejoinder of 7 April, corrected on 19 April, and the EPO's surrejoinder of 11 July 2017;

Considering the seventh complaint filed by Ms E. P. against the EPO on 19 October 2015, corrected on 18 November 2015, the EPO's reply of 12 April 2016, the complainant's rejoinder of 19 July and the EPO's surrejoinder of 27 October 2016;

Considering the complaints filed by Mr L. P. (his twenty-second) and Mr A. R. P. R. (his eighth) against the EPO on 11 May 2015, corrected on 13 August 2015, the EPO's single reply of 11 March 2016, the complainants' rejoinder of 18 April, corrected on 6 May, and the EPO's surrejoinder of 3 August 2016;

Considering the twenty-seventh complaint filed by Mr L. P. against the EPO on 16 November 2016, the EPO's reply of 27 February 2017, the complainant's rejoinder of 4 April and the EPO's surrejoinder of 17 July 2017;

Considering the complaint filed by Ms A. E. C. L. R.-S. against the EPO on 21 January 2017, corrected on 3 March, the EPO's reply of 15 June, the complainant's rejoinder of 4 August and the EPO's surrejoinder of 17 November 2017;

Considering the sixteenth complaint filed by Mr L. R. against the EPO on 13 February 2016, the EPO's reply of 10 August, the complainant's rejoinder of 1 November 2016 and the EPO's surrejoinder of 8 February 2017;

Considering the complaints filed by Mr L. R. (his seventeenth) and Mr W. H. H. (his twenty-first) against the EPO on 4 June 2016, corrected on 25 June, the EPO's single reply of 27 October, the complainants' rejoinder of 28 November 2016 and the EPO's surrejoinder of 8 March 2017;

Considering the complaint filed by Ms E. R. against the EPO on 23 October 2015, the EPO's reply of 14 July 2016, corrected on 25 July,

and the email of 14 September 2016 by which the complainant informed the Registrar of the Tribunal that she did not wish to file a rejoinder;

Considering the sixth complaint filed by Mr M. S. against the EPO on 3 August 2015, corrected on 16 November 2015, the EPO's reply of 22 August 2016, the complainant's rejoinder of 13 December 2016 and the EPO's surrejoinder of 21 March 2017;

Considering the seventh complaint filed by Mr M. S. against the EPO on 8 September 2015, corrected on 6 November 2015, the EPO's reply of 22 August 2016, the complainant's rejoinder of 13 December 2016 and the EPO's surrejoinder of 21 March 2017;

Considering the eighth and ninth complaints filed by Mr M. S. against the EPO on 21 October 2015, corrected on 28 November 2015, the EPO's replies of 22 August 2016, the complainant's rejoinders of 13 December 2016 and the EPO's surrejoinders of 21 March 2017;

Considering the complaint filed by Mr R. J. S. against the EPO on 31 May 2016, corrected on 6 July, the EPO's reply of 24 October, the complainant's rejoinder of 25 November, corrected on 5 December 2016, and the EPO's surrejoinder of 10 March 2017;

Considering the thirteenth complaint filed by Mr H. S. against the EPO on 10 March 2016, corrected on 19 September, the EPO's reply of 27 December 2016, the complainant's rejoinder of 4 April 2017, the EPO's surrejoinder of 10 July 2017, the application to intervene in this case filed by Mr I. H. T. on 18 August 2017 and the EPO's comments thereon of 29 September 2017;

Considering the thirtieth complaint filed by Mr I. H. T. against the EPO on 12 May 2015, the EPO's reply of 21 September, confined to the issue of receivability, the complainant's rejoinder of 22 December 2015, corrected on 11 January 2016, and the EPO's surrejoinder of 29 March 2016;

Considering the thirty-fifth complaint filed by Mr I. H. T. against the EPO on 17 February 2016, the EPO's reply of 15 September, the complainant's rejoinder of 28 November 2016 and the EPO's surrejoinder of 7 March 2017;

Considering the thirty-sixth complaint filed by Mr I. H. T. against the EPO on 13 May 2016, corrected on 17 June, the EPO's reply of 24 October 2016, the complainant's rejoinder of 30 January 2017, the EPO's surrejoinder of 8 May, the complainant's additional comments of 24 May and the EPO's observations thereon of 2 October 2017;

Considering the thirty-seventh complaint filed by Mr I. H. T. against the EPO on 20 September 2016, corrected on 8 November 2016, the EPO's reply of 28 February 2017, the complainant's rejoinder of 28 March and the EPO's surrejoinder of 4 July 2017;

Considering the thirty-eighth complaint filed by Mr I. H. T. against the EPO on 5 December 2016, the EPO's reply of 16 March 2017, the complainant's rejoinder of 22 April and the EPO's surrejoinder of 7 August 2017;

Considering the thirty-ninth complaint filed by Mr I. H. T. against the EPO on 25 February 2017, the EPO's reply of 11 July, corrected on 28 July, the complainant's rejoinder of 15 September 2017 and the EPO's surrejoinder of 17 January 2018;

Considering the fourth complaint filed by Mr H. G. T. against the EPO on 25 June 2015, corrected on 29 August 2015, the EPO's reply of 8 March 2016, the complainant's rejoinder of 26 April and the EPO's surrejoinder of 6 September 2016;

Considering the nineteenth complaint filed by Mr P. O. A. T. against the EPO on 18 February 2016 and the EPO's reply of 15 September 2016, the complainant having failed to file a rejoinder within the allocated time;

Considering the twentieth complaint filed by Mr P. O. A. T. against the EPO on 10 March 2016, corrected on 10 August, the EPO's reply of 27 December 2016, the complainant's rejoinder of 13 February 2017, the EPO's surrejoinder of 22 May, the application to intervene in this case filed by Mr I. H. T. on 18 August 2017 and the EPO's comments thereon of 29 September 2017;

Considering the twenty-second complaint filed by Mr P. O. A. T. against the EPO on 13 May 2016, corrected on 14 July, and the EPO's

reply of 2 December 2016, no rejoinder having been submitted by the complainant;

Considering the fifth complaint filed by Ms V. B. A. V. against the EPO on 16 September 2016, corrected on 13 October 2016, the EPO's reply of 27 February 2017, the complainant's rejoinder of 31 March, corrected on 7 April, and the EPO's surrejoinder of 11 July 2017;

Considering the nineteenth complaint filed by Mr J. M. W. against the EPO on 27 February 2015, corrected on 1 June, the EPO's reply of 23 September, confined to the issue of receivability, the complainant's rejoinder of 28 October 2015 and the EPO's surrejoinder of 15 January 2016;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions;

CONSIDERATIONS

1. The 57 complainants listed above challenged decisions taken within the EPO. While the subject matter of those challenges differs, the 135 complaints before the Tribunal are similar in that the impugned decision in each case is a decision of the President of the Office taken following a recommendation of the internal Appeals Committee. Accordingly, they will be joined by the Tribunal to form the subject of a single judgment.

2. After the filing of these complaints, the Tribunal adopted two judgments in which it addressed an issue that concerns all of them, namely the lawfulness of the composition of the Appeals Committee which issued the recommendations on which the impugned decisions are based.

3. In Judgments 3694 and 3785, the Tribunal found that the Appeals Committee was not composed in accordance with the applicable rules. The impugned decisions in those cases were set aside and the cases sent back to the EPO for the Appeals Committee, composed in accordance with the applicable rules, to examine the appeals.

4. Following the public delivery of those judgments, the EPO reviewed a number of other cases which had been examined by the Appeals Committee during the same period and concluded that the internal appeal proceedings were tainted with the same flaw concerning the composition of the Appeals Committee. The President of the Office therefore decided to withdraw the final decisions he had taken at the end of those internal appeal proceedings and to refer the appeals back to a newly constituted Appeals Committee.

5. Some of the decisions in question were already the subject of complaints before the Tribunal. This applies to each of the decisions impugned in these proceedings. The President of the Office considered that the complaints pending before the Tribunal were rendered moot by the withdrawal of his final decisions, and he invited the complainants to withdraw them. The EPO informed the Tribunal of this development in writing, providing a list of the complaints concerned. The present complainants refused to withdraw their complaints, despite the fact that the impugned decisions had been withdrawn.

6. Regarding the referral of the appeals back to the Appeals Committee, this step taken by the President has already been challenged before the Tribunal. In the case leading to Judgment 4131, the complainant had argued before the Appeals Committee that the President's decision to refer his appeal back to it had no basis in law. The Tribunal rejected this argument in consideration 5 of Judgment 4131.

7. As for the withdrawal itself, the President revoked an unlawful decision in the Organisation's interests to avoid an unfavourable ruling by the Tribunal. The withdrawal of the final decisions on account of the unlawful composition of the Appeals Committee and the related action of referring the cases to a newly constituted Appeals Committee were rational steps lawfully taken by the President in light of Judgments 3694 and 3785. Accordingly the various arguments raised by the complainants to explain what the President should have done amount to mere speculation.

8. As a result of the withdrawal of the impugned decisions, the Tribunal can only conclude that the complaints are now without object. The legal foundation for the complainants' claims no longer exists, and their complaints must therefore be dismissed in their entirety. It follows that the applications to intervene are to be dismissed as well.

9. It is however noted that the complainants may have incurred costs in filing complaints against a decision which was presented to them as a final decision that could be impugned before the Tribunal. As the withdrawal of the impugned decisions was not caused by the complainants but by the way in which the EPO interpreted its rules, the complainants may be entitled to costs (see Judgment 2853, considerations 6 to 8). Such costs should be considered in the resumed internal appeal proceedings.

DECISION

For the above reasons,

The complaints are dismissed, as are the applications to intervene.

In witness of this judgment, adopted on 5 November 2019, Ms Dolores M. Hansen, Vice-President of the Tribunal, Mr Giuseppe Barbagallo, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 10 February 2020.

DOLORES M. HANSEN

GIUSEPPE BARBAGALLO

HUGH A. RAWLINS

DRAŽEN PETROVIĆ