France

“Engraving Machine”

European Patent Convention, Art. 138(1)(e) – *Pio Echeverria Lizarazou v. Sic Marketing SAS*

**Decision of the Supreme Court (Cour de cassation)
14 February 2012**

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Although no such restriction is contained in the wording of the provision as such, Art. 138(1)(e) European Patent Convention is meant to protect the private interests of the true inventor or his successor in title. A contravention of said provision therefore leads to a relative nullity of the patent in that the provision can only be invoked by those persons protected thereby, in other words, the true inventor or his successor in title.

Note: *see also* the decision of Paris Court of Appeal, 15 September 2000, 34 *IIC* 297 (2003) – “*AIDS Anti-Virus*” w. comment by P. Vigand (in agreement with the above approach to Art. 138(1)(e) EPC); and the second instance decision in this case, Lyon Court of Appeal, 2 December 2010, 43 *IIC* 90 (2012) that took the opposite view.

Summarised from the original by Christopher Heath.