

Kluwer Patent Blog

Growing pressure on EPO president Benoît Battistelli ahead of AC meeting

Kluwer Patent blogger · Saturday, February 27th, 2016

The longstanding social unrest at the European Patent Office (EPO) seems to be heading for a climax. After years of tensions and conflicts with the trade unions, Boards of Appeal and others, EPO president Benoît Battistelli, criticized for his ‘tyrannical’ leadership, has now lost the crucial support of Jesper Kongsted, chairman of the EPO’s Administrative Council (AC).

The dismissal last month of the chair and ex-chair of the EPO’s trade union SUEPO, Elizabeth Hardon and Ion Brumme, and the downgrading of SUEPO treasurer Malika Weaver, appear to have triggered the change of heart of Kongsted, who has long been considered an ally of Battistelli.

As reported by a number of sources, Kongsted wrote a letter to all 38 AC members, accompanied by a Resolution, which proposes Battistelli to agree to an external review of the disciplinary measures taken against the three and to suspend these pending the outcome of this investigation.

The Resolution also asks Battistelli to review other issues which have led to unrest at the EPO: the existence of an investigative unit checking on EPO workers, the failure to recognize EPO’s trade unions and the BoA reform. It asks for reinforcement of the AC secretariat itself and clarification of the AC’s position in terms of governance as well.

Kongsted reportedly explains in his letter to the AC members it was unavoidable to send a formal request to Battistelli, as it had turned out to be impossible to engage in a meaningful dialogue with the EPO president. The Techrights blog [published](#) what it says is a copy of Kongsted’s letter.

[According to the IP Kat blog](#), the letter ‘was shown to Mr Battistelli at a meeting [with Board 28, the presidium of the AC, ed.] on February 17th, but Mr Battistelli rejected the document and questioned the legal basis for certain of the AC’s requests (...) before walking out of the meeting’.

Benoît Battistelli has not reacted publicly on what’s going on at the moment. A letter from the EPO management – it isn’t clear who have signed it – has appeared however, urging the AC members not to support the Resolution (Techrights, again, has [published](#) what is said to be a copy of the letter).

The Resolution of Kongsted will be discussed and voted on during the Administrative Council’s meeting 16 and 17 March 2016 in Munich. According to Art 10 (1) of the European Patent Convention ‘The European Patent Office shall be managed by the President, who shall be responsible for its activities to the Administrative Council’.

It remains to be seen whether the management letter will help Battistelli. An AC meeting last December showed he does no longer have the traditional support from the Council. His [controversial](#) proposals for the reform of the Boards of Appeal were rejected, according to a [report](#) of the German legal website JUVE, and a new procedure to handle the reform was initiated. Earlier, the Presidium of the BoA, the Association of Members of the BoA (AMBA) and the president of epi had written to the AC, complaining Battistelli ignored the views of the Boards and their criticism on his reform proposals, although he maintained he had broad support for them.

The EPO hasn't reacted to questions by Kluwer IP Law on the reported tensions. According to JUVE an EPO spokesperson told them 'the president and the AC prepare the council meetings in close cooperation. Also when it concerns difficult social issues, which governments of member states may have different views on and therefore require thorough discussion.' According to JUVE, the spokesperson said a proposal for reform of the BoA would be ready in June, and a conference with all social partners is planned for the second half of this year.

However, sources of the Dutch daily [De Telegraaf](#) said it's likely that Battistelli will step down soon and that he has already demanded ten year salaries in return, which adds up to 18 million euro.

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