

# Kluwer Patent Blog

## Top ten of most popular articles of 2021

Kluwer Patent blogger · Wednesday, January 12th, 2022

What were the most popular articles of the Kluwer Patent Blog in 2021? Some topics keep on returning, but new issues found their way into the chart of best read posts on this blog as well.

The **number ten** of 2021 is the blogpost [Technicality at EPO After G 1/19](#). This article comments on the G1/19 decision which admits the patentability of a computer-implemented simulation [and] was the second opportunity for the Enlarged Board of Appeal to rule on the assessment of the patentability of computer-implemented inventions. The conclusion of its author: “the Enlarged Board adopts a vision which seems to be too imprecise to obtain the desired legal certainty in the field of computer science.”

**Number nine:** [Compulsory License: India](#) is one of the posts in the [compulsory licencing series](#) the blog posted last year, and discusses the requirements, procedures, appeal and review options and the termination of a compulsory licence in India, as well as jurisprudence in this field. “In 2012, India’s first ever compulsory license was granted by the Indian Patent Office to Natco Pharma for generic production of Bayer Corp’s Nexaver® (Sorafenib Tosylate), a life-saving medicine used for treating liver and kidney cancer.

Number **eight** and **six** in the list concern the often perceived lack of democracy and transparency at the European Patent Office.



The **number eight** blogpost, [A Few More Thoughts on Normality](#), criticized the fact that the very persons who were behind the implementation of article 15a in the Rules of Procedure of the EPO’s Boards of Appeal, allowing these boards to hold oral proceedings by videoconference, even without consent of the parties, would be hearing an appeal (G 1/21) questioning the legality of this article 15a. (Less than a week later the persons involved were [replaced](#))

Videoconferencing was also mentioned in the [Towards a new normal](#) document, which the EPO issued last March. Users and stakeholders were consulted and invited by the EPO to take position

on the document, but article **number six** of this year, [Will the EPO still be normal under the „New Normal“?](#), warned: “The results of such consultations usually never see the light of the day again, and their impact, if any, is negligible at best. So, for what it’s worth, I will summarize a few thoughts on the EPO’s New Normal in the following, rather than sending them to the EPO via the official one-way-street channel.” The conclusion of the article is very critical as well: “So it seems the EPO are planning a significant overhaul of the old normal and whilst I welcome change if fair and well implemented, it appears this will not be the case in many of the New Normal plans.”



Number **seven**, **five** and **two** in the top ten of most read articles concern various stages in the process towards the new Unitary Patent system. After some years without any progress, due to the constitutional court case in Germany, the project now seems to be finally heading towards the preparatory phase, which may start as soon as this month.

Number **seven**, [Germany and Slovenia ratify Protocol on Provisional Application Unified Patent Court](#), was published in September, after the German government had deposited its instrument of ratification with the secretariat of the European Council. It meant that just two more ratifications of the PPA (including Slovenia’s) were necessary to start the official preparatory phase.

Number **five**, [UPC: The John Doe of Patent Law](#), was published last month, after the required number of PPA ratifications or expressions of support had been reached due to the Austrian parliamentary vote in favour of the PPA. Ahead of the start of the system, the article summarized the problems and uncertainties still surrounding the Unified Patent Court and Unitary Patent: “We are, according to some, a few months away from a revolution for the European patent system and I have the feeling, perhaps very personal, that I am swimming in the fog with many of my peers (and the governors). Perhaps it is time to bring this debate into the public arena? Otherwise the legitimacy and therefore the success of the future jurisdiction will suffer.”

Blogpost **number two**, [German ratification of Unified Patent Court Agreement put on hold](#), was published a year ago, after two new constitutional complaints had been filed in Germany against the system. It proves predictions are dangerous: “Unless the FCC throws out the complaints as inadmissible or manifestly unfounded in the short term, it means the ratification of the UPCA in Germany could be delayed severely once more. (...) It is not unthinkable that due to new delay in Germany, combined with the departure of the UK from the EU and the Unitary Patent project, which has led to legal uncertainty and has made the UP and UPC less attractive for the industry, the new patent system will never see the light of day.” The UP system seems now closer than ever before.

For the number **four** and **three** we go back to the European Patent Office, which has been plagued by social unrest for many years, a situation which has not fundamentally changed unfortunately since the former EPO president Benoît Battistelli was succeeded by António Campinos.

[Survey: EPO working conditions continue to deteriorate](#) is **number four** in the list. The number speak for themselves: “Less than one out of three employees at the EPO are satisfied with their working life, according to a survey on psychosocial risks which was carried out for the Staff Union of the EPO. 66% of the respondents in the survey said their working conditions have deteriorated over the last 3 years, and 63% perceive a negative impact of work on their health.”

**Number three** [ILO: EPO president Battistelli abused his power in restraining workers’ right to](#)

[strike](#) describes the outcome of several cases about labour conflicts the Administrative Tribunal of the ILO decided on, sometimes more than eight years after these conflicts arose. “The cases show, in the first place, how slow the means for redress are if you are an EPO staff member and get in conflict with management. Most of them date back to the period of deep social conflicts at the EPO under Battistelli’s leadership, during which several leaders of the trade union SUEPO or staff committees were fired or demoted on dubious grounds (see for instance [here](#), [here](#) and [here](#)), and many controversial measures were implemented (see [here](#) and [here](#)). If it takes eight to thirteen years ([case 4427](#)) to get to a final decision in cases which directly affect the daily life of people, that is very worrying.”

Finally, the **number one!** The February blogpost [Top 5 changes to the 2021 EPO Guidelines for Examination](#). It is an extensive and detailed article discussing guidelines which came into force in March 2021, with topics varying from description amendments and unity harmonisation to correction of debit orders, renewal fees during stay of procedure, the new section on patentability of database management systems and the patentability of antibodies and requirements depending on how a claimed antibody is defined.

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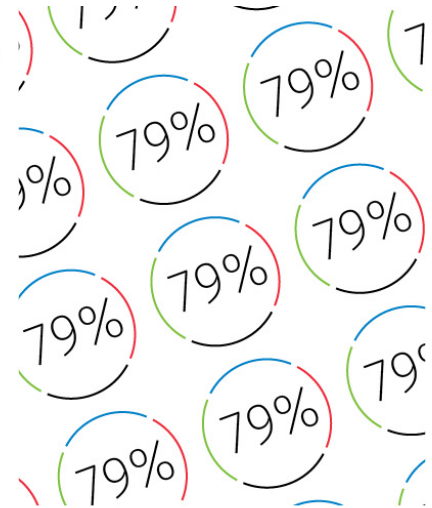
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