

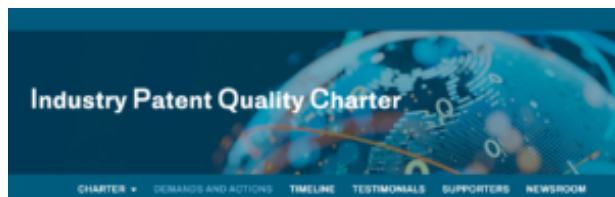
Kluwer Patent Blog

Quality at the EPO: staff and industry concerns not addressed

Kluwer Patent blogger · Sunday, January 28th, 2024

The Central Staff Committee (CSC) of the European Patent Office has published a paper on the activities of the Industry Patent Quality Charter, titled ‘50 years EPC – The EPO ignoring the skilled person’.

The Industry Patent Quality Charter (IPQC) was started by Beat Weibel, chief IP Counsel at Siemens, in October 2022 out of concern of deteriorating patent quality at the European Patent Office. Among its signatories are major patent applicants to the EPO in recent years, such as Deutsche Telekom, Hoffmann-La Roche, HP, Ericsson, Nokia, Procter & Gamble, Syngenta and Qualcomm.



The IPQC has since launched its own [website](#), on which it has [set out its demands](#):

‘In view of the decreasing quality of prior art searching and examination of the EPO, the IPQC members request improvements in the following topics:

1. Complete searches
2. Complete examination
3. User feedback
4. Training (of examiners)
5. A transparent incentive system for examiners’

On the IPQC website, concrete proposals have been made to improve patent quality, and the signatories of the IPQC also commit themselves to prioritise patent quality. However, the CSC paper, which was published earlier this month, shows once more that neither staff nor the IPQC have had any success in convincing the EPO not to focus on efficiency, production, speed and timeliness, but on the quality of the granted patents instead. As the CSC paper explains: ‘After a few “discussions” with the IPQC, the EPO has decided in June 2023 to stop any direct dialogue with the signatories. Nevertheless, the IPQC remains very active.’

What goes wrong at the EPO, in the view of staff and IPQC?

Among others, the CSC paper refers to [this blog article](#), titled ‘Productivity vs Quality at the EPO:

A rare glimpse behind the curtain that's worrying'. It quotes from internal mails, which show how much the focus of the management is on production: *'So yesterday I've informed the TMs [team manager] that the situation will have to improve, very soon. Not because production is the only thing that counts, it's because production is the only thing that guarantees our payslip on the 26th of every month.'*

The paper quotes from other media publications as well, including an [interview with Beat Weibel on this blog](#), in which he talks about the impact of low quality patents on startups and big companies: *'Instead of focusing on protecting their own innovations, they are mainly absorbed to do Freedom to Operate analysis of the masses of granted patents that are invalid or too broad [...] It could very well be that a project is not executed because an analysis of the field shows a landscape of thousands of patents. Then the management thinks: we're not going there because that's already blocked. But if these patents are all invalid, then this really harms the company'*.

Interesting, as well, is the reported criticism of anti-corruption organization Transparency International. In the *Stuttgarter Zeitung*, the Bavarian head of [Transparency International](#) Michael Heisel's said: *"We see structural problems at the EPA that make corruption easier."* According to the *Stuttgarter Zeitung*, an *'element of this is the EPO Administrative Council, in which 39 European countries are represented and which is supposed to control the administration of the office. But Heisel warns that this is called into question due to a conflict of interest. On the one hand, the office takes over the patent examination for many countries. On the other hand, the states receive a share of the Office's revenue for patents granted. "The supervisory board, the board of directors, is not independent of the person being controlled, that cannot go well," criticizes Heisel.'*

The CSC paper concludes:

'Over the last decade, the staff representation has continuously reported that the ever-increasing productivity targets and the New Career System did not create the conditions for staff to focus on quality. EPO management did not listen and kept the staff representation away from any discussion on substantive patent quality.

Since 2022, major industry players express their concerns. They bring arguments, data and propose working groups. Instead, the EPO opposes denial, publishes press releases not reflecting discussions and closes its door. One would expect the industry to be better treated than staff and their representation. It is remarkably not the case.

When performing an inventive step analysis of a patent application, EPO examiners take into account the general knowledge of the "skilled person" working in the corresponding technical field, especially from the industry.

If EPO management does not listen to the "skilled person", to whom will they listen?

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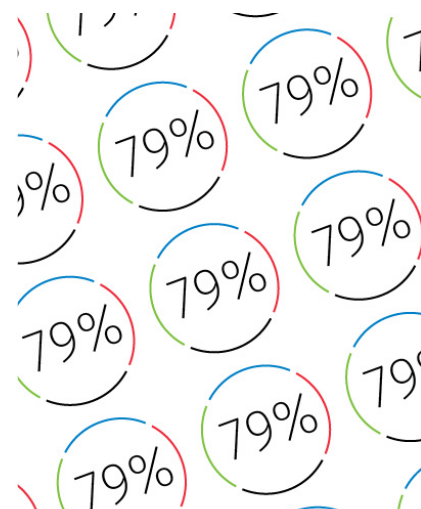
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