

The EPO – time for talk?

The requirements of examining increasing numbers of patent applications whilst maintaining efficiency and quality have always been testing for the EPO. Inevitably, these requirements require change and astute management of that change both internally at the EPO and externally with users of the system. Recent events perhaps suggest that the management of the EPO is alert to this and open to embracing consultation internally and externally.

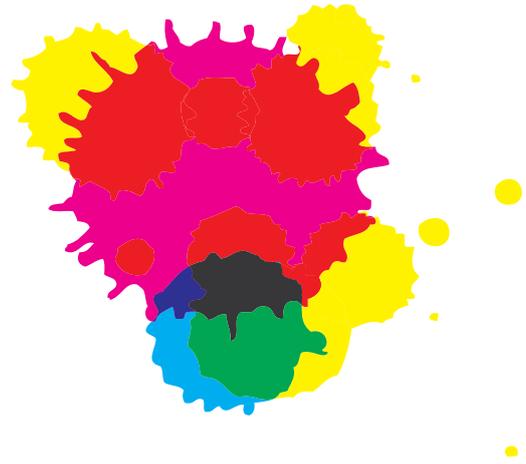
A few weeks ago the President of the EPO (Mr Benoît Battistelli) was in Cape Town, South Africa at the World Congress of the International Federation of Patent Attorneys (FICPI) to give a presentation on the Congress theme “Adapt to Advance”. In a recent [blog](#), the President reported on that meeting, emphasising the importance of listening to the global users of the EPO and hearing “their experienced voice concerning the pressing issues and challenges that affect the patent system”.

Consultation with users is indeed an essential requirement of a non-governmental organisation such as the EPO and it is hoped that the EPO and its President will continue to pursue consultation as the EPO develops and expands in terms of territory and of filings.

The EPO Boards of Appeal have been in the news in recent months following decision R19/12 which put in question the independence of the Boards, and the Administrative Council of the

EPO (constituted of the heads of the national patent offices) has [resolved](#) to ensure that the Boards of Appeal are truly autonomous. Although the “orientation document” considered by the Administrative Council, which sets an ambitious target for completion of a management reform, does not provide for consultation, the Administrative Council has emphasised that the reforms will “take due account of contributions received as a result of a broad consultation of stakeholders” and indeed an [online consultation](#) has been launched.

Internally, the EPO has been experiencing what it calls “social tension”, visible to users perhaps most clearly as staff strikes and other human resources issues. This has resulted in a [joint communication](#) from the President and the Administrative Council calling for a “social dialogue” and perhaps recognition of the trade unions at the EPO. Also, defensively, the EPO has issued a [statement](#) denying certain rumours that the EPO has



violated human rights in its attempts to modernise its structures and management in order to simultaneously improve capacity and quality.

Neither the independence of the Boards of Appeal nor “social tension” are however new issues for the EPO.

Mrs Alison Brimelow was interviewed at the start of her term as President of the EPO by [Managing Intellectual Property \(July 2007\)](#) and is quoted as saying:

“The intention is that DG3 would become organisationally independent. I think that all judicial systems get quite a lot of nonsense chucked at them. Yes I know people talk about consistency and timeliness, but I do think that you need to reflect on precisely what you are trying to achieve from an appeal system. It is to get the right answer, it seems to me. I am very, very respectful of their independence. I have to be”

Mrs Brimelow understood perfectly the need for the Boards to remain (as they have been in fact, of course) independent of the granting body and to produce decisions which command respect.

She is also quoted as saying:

“I have never yet worked anywhere where introducing ways of looking at productivity and performance management were greeted with rapturous acclaim”

Mrs Brimelow was perfectly aware of the tensions caused by increased numbers of patent filings and the desire to drive for increased efficiency whilst controlling costs and maintaining quality. It was as true in 2007 as it is today.

Maybe now, somehow, the President of the EPO is in a position to grasp these issues and deal with them, fairly maintaining social dialogue whilst maintaining efficiency, quality and legal certainty. Listening to the user community in general is essential to that process.

The opinions expressed are those of the author and do not necessarily represent the view of Carpmaels & Ransford LLP.

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