





The EPO received 2,5 mill. machine translated full text records from Japan, and will upload 700 000 Chinese utility model specifications.

On the personnel side, the EPO has now a staff close to 7000 of which 4000 are examiners. EPO has to fund pensions previously paid by member states, which adds to the cost side.

Another matter that may affect the finances is that the more effective the EPO is on granting patents, the lower the income from annuities will be. National offices report reduced number of filings.

We were also given an interesting chart showing the timeliness of the different ISAs. See the attached "**Timeliness of ISAs**".

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Before attending to the agenda there was a brief discussion on the backlog problem, as this is one of the topics of the FICPI congress in Washington DC.

And now to the agenda:

### **1. Divisional applications:**

Although FICPI tried hard to argue against a new 24 months deadline for filing divisionals after the issue of the first examination report or non-unity objection, the EPO was determined to go forward with the proposal.

The EPO presented graphics of divisionals. These showed that 5% of all applications are divisionals, and this ratio has increased. In some areas, like pharmaceuticals the figure is 10%.

### **2. Utilisation pilot project:**

FICPI expressed support of utilisation of search results. We want a good search, especially a good first search. FICPI also supports measures to ensure that the EPO standards are met by the Examiners in the other offices.

The EPO pointed out various problems by having Examiners located in different places and not being employed by the EPO.

### **3. Patent prosecution highway (PPH)**

FICPI expressed preference to one system, namely the PCT. When we heard about the PPH we could not understand how it could work in conjunction with the PCT. We do not believe in a large number of bilateral agreements. It has limited value for users, except for a few big ones. FICPI advocates building on the PCT and to promote stronger co-ordination between offices of first filing and the PCT authorities and the national/regional entry office. FICPI also supports involving supplementary searches in a more systematic way.

The EPO agreed with the FICPI views.

FICPI also stated that to be effective the searches should be sequential, not parallel.

### **EQE:**

FICPI raised the question of why it is proposed that graduates with three years degrees practice, rather than four year degrees, should have to have four years of practice rather than three before they can take the EQE. The EPO said that this will be changed. This proposal will not be pursued and the Advisory Board hopefully agrees that three years degrees will be sufficient as at present. The decision may be published by the end of March.



### **Raising the bar:**

FICPI expressed that the current level of inventive step is appropriate, but the examination has to be more consistent. The EPO seemed to be determined to raise the bar and used the increased refusal rate as a yardstick to show that the bar has been raised.

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## **7. Complaint procedure**

The EPO explained how the complaint procedure works in the EPO.

Any written communication about a service will be treated as a complaint. There is a central complaint handling department as a part of Directorate Quality Management Support (DQMS). They examine incoming complaints for underlying procedural flaws, but do not decide on procedural requests, as this is reserved for EPO department in charge of a particular file at a specific procedural stage.

He outlined a detailed 7 point procedure. The reply time to a complaint should not exceed 1 month, and was in most cases substantially shorter.

The complaint handling contained a quality loop with a root cause analysis, preventive actions and monitoring of implementation by Quality Board.

Where to send complaints? There is no link on the EPO website yet, but it can be sent to [dqms@epo.org](mailto:dqms@epo.org).

The mandate of the DQMS covers only the first instance. DQMS checks if the correct procedure has been followed, but they cannot address the decision as such.

See also the attached presentation “**Management of Complaints from External Users**”.

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## **4. Claim fees**

The EPO expressed that they foresee a decrease in income from claims fee.

FICPI expressed that the fees are a bit too high, and that the new regime justifies compacting several claims into one. However, the raise in claims fee has effectively removed one of the top five complaints the EPO had about applicant behaviour.

FICPI also indicated that the attorneys face a major problem with applications to be filed in last minute from outside Europe. We cannot effectively file new claims within one month without paying for the claims. This is due to the fact that there is a long communication line from the European Patent Attorney to the applicant, usually involving a foreign attorney. FICPI asked if there would be a problem to give the applicant a month from filing to decide on the number of claims?

The EPO was not sympathetic. Also it was pointed out (from the FICPI side, the EPO agreeing) that on Euro-PCT cases there is the chance to amend in response to the communication under rule 162 and claims fees are payable on the basis of the amended claims. This effectively gives the applicant one month extra time to reduce the number of claims. This seems to solve the problem with PCT regional entries filed in the last minute.

## **8. EPO involvement in India symposium:**

FICPI informed about the planned symposium. The central topic is examination procedures. There are many difficulties with the Indian system. We would like to have one EPO officer to give some input on examination procedures.

The EPO would like to hear the user’s side. EPO is supporting the Indian PTO to become a functioning ISA.



FICPI stressed that this is an opportunity to train Indian practitioners who are likely to file more applications abroad.

A suitable person from the EPO would participate in the symposium, but they would like to combine the participation with other functions/meetings.

FICPI also mentioned the assistance the EPO had provided to the SEAD course, and that there would be a change in the FICPI person who is responsible for this course.

It was agreed that we share the same goal both in respect of the Symposium and the SEAD course and that further assistance from the EPO was to be expected.

### **5. Supplementary search reports (of Euro-PCT and non-unity)**

FICPI asked what kind of supplementary searches the EPO would do, and the reply was that the supplementary search the EPO would provide was a full European search. The costs for such a search was a political issue, but it was likely that it would be the same fee as for the current EP supplementary search. The only difference is that the applicant does not get a 20% fee reduction in the regional phase.

The EPO stressed that they see it as a single patent procedure, meaning that in the future the search will be treated search the same way no matter how the search comes about (i.e. no matter if it is search of a French application, PCT application, European application, etc.).

FICPI asked if it would be possible to request a further supplementary search for a second invention in the case of non-unity, without having to file a divisional application in the case of a Euro-PCT. The EPO replied that they need some more experience with EPC2000. We will then reflect upon such rule changes (Rule 164).

FICPI suggested that perhaps there should be a different programme for supplementary searches than for main searches. If a full PCT search has been done already there should be no need for a full search. However, the EPO did not seem to be ready to consider this option.

### **6. Appointments for oral proceedings.**

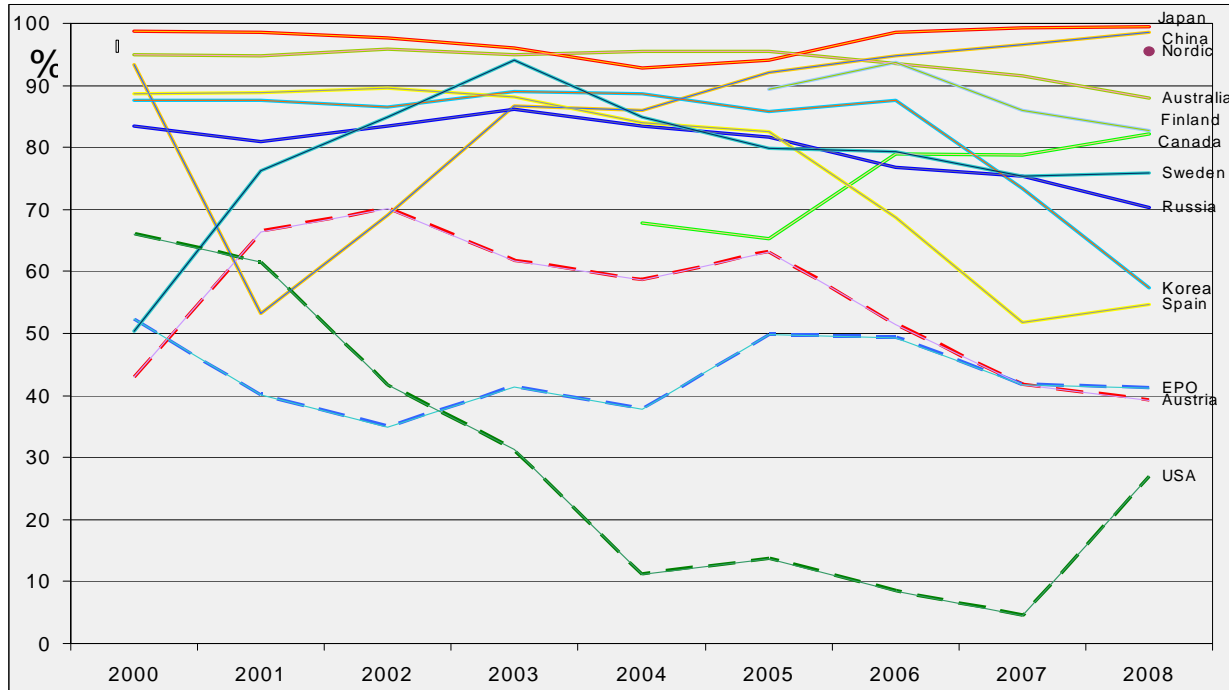
The EPO gave a summary of the history of this issue; It used to be that the examiner rang the attorney and fixed the date. But then came the backlog problem, and with it a system in which the date was set the attorney had to take it or leave it. Now the date can be changed on the basis of certain grounds. Although, the examiners are worried that a request for change of date will be filed on short notice, the requirements are being relaxed so that further grounds and weaker grounds will be accepted. (See OJ Jan. 09)

FICPI thanked the EPO for understanding our concerns.

As the last issue we were informed that the EPOQUE search database is now used by many other patent offices, also outside Europe, e.g. CN, AU, CA, BR. On a question from FICPI the EPO said that there are plans to open the system to the public, but it was not yet decided how this would be done. The Espacenet is going to be improved too.

-----End of minutes-----

# Timeliness of ISAs



(share of ISRs received not more than 16 months after priority date)

# Management of Complaints from External Users

Jürgen Jochheim

Directorate Quality Management Support

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# What is a complaint?

- Any written communication about a service or product delivered by the EPO and purported to be deficient in some way by an external user

# Who is responsible? What is the Task?

- The central complaint handling department (CHD) is part of Directorate Quality Management Support (DQMS)
- Task of DQMS is to examine incoming complaints for underlying procedural flaws, however not to decide on procedural requests, as this competence is reserved for the EPO department in charge of a specific file at a specific procedural stage
- DQMS makes proposals for procedural improvements to avoid recurrence of complaint causes (preventive actions) within the framework of the EPO's quality management system

# Procedure

1. Assessment whether written communication relates to at least one complaint
2. Registration in complaint database
3. Information to department concerned and request for comments
4. Analysis of comments and decision whether involvement of legal department is necessary
5. Decision on justification of complaint
6. Drafting reply and proposals for actions and forwarding them to department concerned for comments/actions
7. Signing and despatching reply

Reply time after registration of a complaint by DQMS should not exceed 1 month

# Follow-up (Quality Loop)

- For each justified complaint a detailed root cause analysis is carried out
- Based on the analysis DQMS drafts proposals for preventive actions and forwards them to the Quality Board
- The Quality Board decides on the proposals and monitors their implementation

# Where can I send a complaint?

- no link on the EPO's website yet
- **[dqms@epo.org](mailto:dqms@epo.org)**

***Thank you for your kind attention***