

European Patent Office | 80298 MUNICH | GERMANY

Administrative Council of the European  
Patent Office  
c/o Mr Jesper Kongstad, Chairman

ISAR R.217

European Patent Office  
80298 Munich  
Germany

Central Staff Committee  
Tel. +49 (0)89 2399 - 4355  
Fax +49 (0)89 2399 - 8470  
mnstcom@epo.org

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## Open letter

### **Re: Election of the President of the European Patent Office**

Dear Mr Kongstad,

After the President of the EPO, Ms Alison Brimelow, announced that she would not be seeking another term of office, the Administrative Council failed in two successive regular meetings to elect a new President from amongst the 4 qualified candidates. It is now planned for the procedure to continue at an extraordinary Council meeting on 2 and 3 February 2010.

The current election process is unique in the history of the EPO in that all four of the initial candidates are Members of the Council and Heads of their national delegations. In addition, 3 out of 4 were prominent members of the Council, namely its previous long-term Chairman (Mr Grossenbacher), his successor in that function (Mr Battistelli) or, in your case, Vice-Chairman of the Council.

You have since withdrawn your candidacy and have been reinstated as deputy Chairman of the Council. Given that Mr Battistelli is still a candidate, this means that you will be chairing the extraordinary meeting on 2 and 3 February.

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Grasserstr. 9  
80339 Munich  
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We note, however, that in the October 2009 Council meeting Mr

[www.epo.org](http://www.epo.org)

Battistelli and you submitted a statement to the Council delegations in which you proposed a joint presidency with Mr Battistelli as President of the EPO and yourself as Chairman of the Council, as well as a joint program for the next presidency (see annex).

To pre-empt any challenge to the outcome of the procedure, we see it as essential to observe the convention that anyone holding an election in which he or she is or was as a candidate, and / or closely associated with a candidate, cannot be involved as the judge. We would therefore be grateful if you would clarify the procedure and the composition of the selection board for the next President of the EPO.

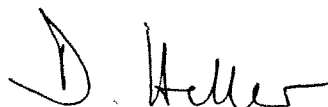
Yours sincerely,



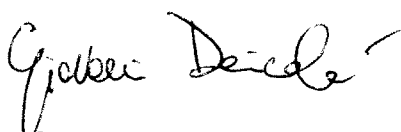
Edward Daintith  
Chairman Central Staff Committee



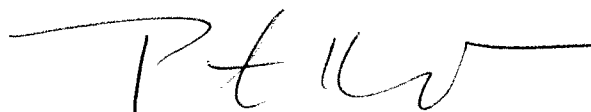
François Basty  
Chairman  
Staff Committee Vienna



Dorothee Heller  
Chairperson  
Staff Committee Munich



Giovanni Denicolai  
Chairman Staff Committee The Hague



Peter Kempen  
Chairman Staff Committee Berlin

cc.: Ms A. Brimelow, President of the EPO

Encl.

## **Joint statement by Benoit Battistelli and Jesper Kongstad**

**In this statement, we line up four elements: proposal for a new president, a new chairman, new deputy-chairman of the Administrative Council and a 5 year working programme for the EPO. All these components and only these components constitute the package which is proposed to the Administrative Council to decide upon.**

The joint presidency and chairmanship (5 years, 3 years) that is contained in this proposal will be based on a broad cooperation with the AC and the staff with the aim of strengthening the organisation, in every aspect, to the benefit of users and European innovation in general. The cooperation will be characterised by the fundamental principles of good governance, transparency and trust, a fully established and functional European Patent Network and a strong and enhanced social partnership, in full respect of the EPC.

More specifically:

1. Networking
  - Worksharing – implement and strengthen the Utilisation Scheme Project
  - To propose virtual clusters – pooling resources
  - Compat – to welcome the Compat while respecting the intergovernmental nature of the European Patent Organisation
  - Full support to IP5 projects in order to avoid duplication of work
  - Harmonised quality management systems - EPO and NPOs
2. PCT
  - Acceptance of new PCT authorities in Europe
  - Enhanced cooperation between PCT Authorities in Europe
  - EPO to progress towards full compliance with the PCT requirements
  - Full support of the improvement of the PCT system as proposed by WIPO DG
3. Staff matters
  - continuation of social partnership
  - active involvement of the Administrative Council
  - to improve the geographical and cultural representation of EPO staff
  - performance oriented management
4. Finance Issues
  - IFRS - uphold IFRS as an accounting standard
  - Fees
    - Look into new fee structure including harmonised and increased minimum renewal fees
    - Readiness to open discussion on the facilitation of access for SMEs to European patents
    - Maintain the 50/50 distribution key for renewal fees
    - Stabilisation of the overall amount of granting fees

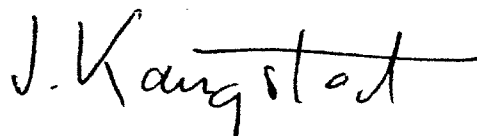
5. Cooperation Policy
  - Sharing best practices (for example within training and increased collaboration between NPOs with the EPO as a facilitator)
  - Enhancing the common IT infrastructure by the EPO and voluntary sharing of IT tools and technical expertise within the EPN
  - To clarify the respective competences of the TOSC and the Academy in defining and implementing the cooperation programmes
6. Continue to work on good governance

#### Commitment and conduct

1. The AC and the President working together
2. President : Benoit Battistelli
3. AC Chairmanship: chairman Jesper Kongstad and vice chair Miklos Bendzsel
4. Office providing assistance, from the secretariat to the chairmanship in the Organisation
5. Agreement on mutual consultation (monthly meetings) between president and chairmanship



B. Battistelli



J. Kongstad

Munich, 30.10.2009