



Personalausschuss
Staff Committee
Le Comité du Personnel

Quality

*How and why were patent applications
arbitrarily reallocated?*

October 2024: EPO reaction to concerns on reallocation of files

- **24 September: First public [EPO reaction on LinkedIn](#)**

“the work to improve consistency is technology-specific, not applicant specific”

“peer-to-peer led, with divisions working together to see how the treatment of applications can be harmonised and improved for the benefit of all applicants in these technology areas”

- **1 October: Intervention of Mr Rowan (VP1) in the General Consultative Committee**

“initiatives are application-specific, not applicant-specific as you erroneously claim.”

Intranet [Communiqué](#) of 2 October

- **3 October: Intranet [Communiqué](#), “Protecting the achievements of EPO staff”**

“staff representation’s “open letters” to the President and the Council contained unverified statements that cast doubt over the quality of our staff’s work and their peers’ neutrality and integrity towards our users”

Links to [letter from Siemens IP Counsel](#)

September 2024: Siemens confirms CSC allegations

- 13 September: [Letter](#) of Mr Beat Weibel, Chief IP Counsel at Siemens AG, to Mr Rowan (VP1)

*“Unfortunately, we **can** confirm the allegations made in the publications [of the Central Staff Committee]. In particular, we found fifteen cases where the oral hearings were unexpectedly cancelled and where in some cases a communication according to [Rule] 71(3) [intention to grant] were issued.*

This procedure is extremely unusual and not understood at all.

Siemens explicitly rejects any type of special treatment of its applications. In addition, thoroughness should take precedence over speed here. Our industry needs more valid and internationally enforceable patents.”

What happened?

Industry Patent Quality Charter (IPQC)

- Who are they?



- What do they want?

“The granting of patents with a high chance of validity is crucial to consistent, predictable and efficient court decisions in patent lawsuits, and the good functioning of the patent system in general.”

“The outcome of the patenting process, from proper drafting by the applicant to thorough examination by the patent offices, including the European Patent Office, should be patents with reliable validity. If this is lacking, there are serious consequences.”

[Industry Patent Quality Charter \(IPQC\)](#)

Beginning of 2024: EPO staff resolution on objective setting

- Press coverage

- [Frankfurter Rundschau](#), “Europäisches Patentamt verweigert sich”
- [JUVE](#), “EPO staff petition Administrative Council to improve HR and patent quality”
- [Managing IP](#), “EPO staff vote through [resolution](#) urging quality control”, 8 February

“This message is loud and clear for the EPO management – they should first talk to their staff and then take our (industry members) help to improve targets, incentivisation, and in the end, the quality of the patents.”

“The EPO declined to comment”

Beginning of 2024: EPO staff resolution on objective setting

- **Mr Rowan (VP1) concedes interview**

- *“Examiner objectives are very clearly focused on quality”*
- *“The objectives are holistic. Every examiner has quality objectives”*
- *“The EPO is absolutely not focused on production”*
- *“The IPQC represents the commercial interests of 24 applicants [...] We have 40.000 applicants filing with us every year”*

[IAM Media](#), “EPO seeking to boost transparency and patent quality”, 13 March

- **Reaction of Mr Beat Weibel, Siemens AG on [LinkedIn](#)**

- *“Commercial interests of the IPQC members? Of course, because we are concerned about how our patent applications for our innovations are searched and examined.”*
- *“Only 24 members out of 40.000 applicants? True, but not only top-ranking applicants but also SMEs and Start-up companies that have serious concerns that are – just by the way - shared by the EPO staff itself!”*

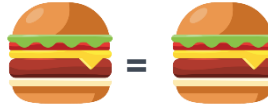
Spring 2024: EPO communication plan

- [Quality Action Plan 2024](#)

- “Quality is timeliness” (?)



- “Quality is consistency” (?)



BUT

- Quality should be about granting valid and internationally enforceable patents



- **“Customer journey user outreach”**

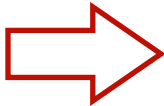
- High-level user meetings chaired by the President or Mr Rowan (VP1), operational part by Mr Menidjel (COO)
- From top applicants to patent attorneys and user associations (epi)

Spring 2024: EPO communication plan

- “Customer journey user outreach”

HIGH-LEVEL USER MEETINGS 2024

Company	Country	Date	Type	Chair
Fraunhofer Gesellschaft (hybrid)	DE	01.03.2024	High level	President/PD15
Philip Morris	CH	15.04.2024	High level	VP1/COO
Thales	FR	22.04.2024	High level	PD15/COO
Syngenta	CH	15.05.2024	High level	VP1/PD15
Canon	JP	22.05.2024	High level	VP1/COO
General Electrics Aerospace	US	28.05.2024	High level	VP1/COO
Abbott Laboratories (hybrid)	US	14.06.2024	High level	VP1
Boeing	US	18.06.2024	High level	VP1
Bayer	DE	02.07.2024	High level	PD15
Samsung SDI (hybrid)	KR	03.07.2024	High level	VP1
General <u>Electrics Vernova</u>	US	07.11.2024	High level	VP1
Ericsson	SE	Q3/Q4	High level	TBD
Nokia	FI	Q3/Q4	High level	TBD
Siemens	DE	Q3/Q4	TBD	TBD



Spring 2024: Quality concerns remain

- **Press coverage continues**

- [Patent Kluwer Blog](#), “EPO Patent Quality, Where do we come from, where do we stand and where we are going”
- [Managing IP](#), “Bullshit in is bullshit out: practitioners urge EPO quality drive”

“if what is submitted is not good then it [should] get refused. If you [receive] a poor application, the choice is simple – just refuse.”

Filip de Corte, Head of IP at Syngenta Crop Protection

- [Patent Kluwer Blog](#), “The EPO – Lost in Regard to Translations?”
- [Managing IP](#), “EPO v USPTO: In-house reveal patent quality concerns”

“businesses have to waste a lot of money on unnecessary litigation [...] must examine third-party patents to figure out whether they're valid and can only proceed with their own products and applications if they conclude that those patents aren't valid.”

Dr. Jörg Thomaier, Head of IP at Bayer Group

August 2024: Arbitrary reallocation of files

- **First week of August: Süddeutsche Zeitung [article](#), “Europa wird bei künstlicher Intelligenz von China abgehängt”**

severe critical statements from patent attorneys and Mr Beat Weibel, Siemens AG, are to be published

“it now takes a third longer to prepare a patent application at Siemens [...] This is due to the fact that technologies and software products have become more complex. At the same time, however, the EPO now spends 50 per cent less time searching and examining an application.”

“The EPO wants to be fast and efficient. However, it is much more important to have “valid and internationally enforceable patents”, especially in the field of AI and digital simulation. Siemens will therefore align itself more closely with the German Patent Office in the future”

- **According to professional journalistic standards, the author of the article must have asked the EPO for a comment**

August 2024: Arbitrary reallocation of files

- **6 August: Siemens files are reallocated**

DG1 director gives instruction on behalf of the COO:

Title: “**Siemens files**”

“From the list of the 31 scheduled for oral proceedings these should be transferred to D1218.”

“As soon as possible”

DG1 directorates whose files are taken away were never consulted in advance

August 2024: Arbitrary reallocation of files

- 7 August: Siemens files are reallocated

BRIEF COMMUNICATION

Oral Proceedings on [REDACTED] at 09:30 hrs (CET), by videoconference.

Subject: Changes instigated by the examining division

The summons to attend oral proceedings on the above date is cancelled.


The reasons are given below:

The oral proceedings are canceled for administrative reasons.

The next Office action will be issued in writing.

Please take note.

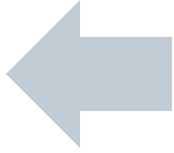
For the Examining Division



BUT

Which Examining Division?

«Repair Team»?



August 2024: Arbitrary reallocation of files

- 7 August: Siemens files are reallocated

Number	Applicant	Last ED action	OP cancellation	New Dir.	"Repair Team" action	Note
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	grant	decision on state of file requested before reallocation
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	grant	auxiliary request
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no attendance notified prior to reallocation
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	new comm	
EP_____	Siemens	summons OP	07.08.24	D1218	pending	
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	pending	
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	new comm	
EP_____	Siemens	summons OP	07.08.24	D1218	new comm	
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments
EP_____	Siemens	summons OP	07.08.24	D1218	new comm	
EP_____	Siemens	summons OP	07.08.24	D1218	grant	no amendments

August 2024: EPO staff astounded

- **Former Examining Divisions left facing arbitrariness and speculation**
 - notification of cancellation of oral proceedings via Outlook only,
 - no consultation on intention to reallocate,
 - no opportunity to bring corrections or to comment,
 - no explanation,
 - no feedback loop
- **Team Managers and Directors seeing files taken away from their unit**
 - try to analyse which criteria these summons for oral proceedings could not be fulfilling,
 - try to reassure (experienced) examiners, senior experts, etc
- **29 August: Open [letter](#) from the CSC to the President**
 - “No legal basis for setting up a specific unit in charge of scrutinizing files of a specific applicant nor for changing the outcome of the work of the Examining Division”
 - **“We urge you to put an end to this situation”**

September 2024: Reallocations continues without explanation

- **No reply from the President**
- **12 September 2024: CSC [paper](#), “Arbitrary reallocation of patent applications and cancellation of oral proceedings”**
- **DG1 Directors cascade down information**
 - DG1 Operations put in place specific units for checking summons to oral proceedings
 - put the focus on Siemens AG, Ericsson and Bayer, as a start, will be extended to others
 - in the absence of clear criteria from DG1 Operations, some Directors proactively check themselves summons to oral proceedings on other IPQC files e.g. Nokia and Qualcomm
- **Special units checks enlarged to other communications and trigger further reallocations**
- **New «Golden rules» circulating in some Directorates**
 - Explicit mention that they shall remain confidential
 - e.g. “Don’t start with clarity”, “Don’t cite new prior-art in the summons”, No “unclear thus not inventive ”

September 2024: Reallocations continues without explanation

- No reply from the President
- 19 September: CSC [letter](#) to the Council, “Serious interferences in the EPO PGP”

“We therefore urge the Administrative Council to exert its supervisory role and to put an end to the serious interferences in the EPO patent granting process.”

- 20 September: [IPQC Statement](#)

Here is the statement of companies involved:

- IPQC cannot comment on EPO internal proceedings.
- IPQC member companies explicitly reject and do not tolerate any form of special treatment of its European patent applications by the EPO.
- Rather, IPQC repeats its request for thorough and complete searches and examinations and points out that only valid and enforceable patents can contribute to innovation.
- IPQC member companies have requested from the EPO management an explanation of the allegations made by the Central Staff Committee of the EPO.

October 2024: Reallocations continues without explanation

- Can the reallocations be a quality action?

No!

- [ISO 9001](#) and [ISO quality management principles](#) require “*capturing and sharing [of] undocumented knowledge and experience [...] lessons learned from failures and success*”
There is none
- [EPO Patent Quality Charter](#) allegedly promotes “*open and transparent feedback*” and “*collaborative and interactive ways of working to [...] gain experience*” and fostering “*a culture of mutual learning*”
There is none
- [Quality Action Plan 2024](#) sets as priority to “*strengthen learning through feedback from peers, managers*”
There is none

October 2024: Reallocations continues without explanation

- Can the reallocations be a harmonisation exercise?

No!

- Harmonisation is about establishing a clear and transparent set of rules with training for all
There is none
- Taking from some to have it done by “Repair Teams” **cannot be** harmonisation

- Can the reallocations be a “peer review”?

No!

- the “peer” former Examining Division was never involved in the process
- reallocation solely labelled as “for administrative reasons”: no feedback loop
- already 3 pairs of eyes (Article 18 EPC) + Team Manager

October 2024: Management addresses the CSC

- **2 October: CSC receives from the President an invitation for a meeting with the President**
 - Meeting date: 7 October, 3 days before Council meeting
- **7 October**
 - Mr Ernst (VP5) chairs the meeting and announces the President will be absent
 - VP5 states that Mr Menidjel (COO) will join later to explain project of “harmonisation” but had technical issues when trying to connect
 - VP5 explains that the CSC communications are easy to confirm as ungrounded and false
 - VP1 explains that “two teams initiated this ‘peer review’ between themselves” (sic!)
 - Mr Menidjel (COO) never connected in the meeting
- **8 October: The Office publishes [their report](#) on the meeting**

Conclusion

- Staff representation works on feedback, knowledge and fact basis
- Siemens confirms our statements
- EPO management has still not brought an explanation
- Staff needs clear and transparent rules respecting the EPC's regulations on patent examination
- End to interferences and arbitrary reallocations
- [Resolution](#) to be adopted by staff
- Vote is anonymous and accessible until 17.00 hrs: <https://forms.office.com/e/Mqpt8BDbpg>

Thank you for your attention!