

The IPKat

Tuesday, 17 November 2015

Plunging off the abyss -- or merely grinding to a halt? More bad news from Eponia

This moggy promised in her [earlier post today](#) on the European Patent Office (EPO), addressing the legal basis -- or rather the lack of it -- on which the EPO has lately been acting, that she would be following up on other matters very soon. While licking her pencil and preparing to write, she was distracted by an incoming email from a friend. While all her friends are special to her, this one happened to be senior patent counsel with a company that does a lot of patenting. To be fair, this company is not Microsoft **[which may or may not enjoy a special relationship with the EPO: see the IPKat [here](#) and Techrights [here](#), [here](#) and [here](#); to the contrary effect, see WIPR [here](#) and IAM [here](#)]**. However, this moggy's friend is an officer of a company that cherishes a portfolio of well over 10,000 patents and a market capitalisation that is healthily in excess of US\$ 120 billion. The email reads thus:



"Once upon a time, in the beautiful but sadly troubled land of Eponia ..."

We have a patent application which has been sitting untouched on an examiner's desk in the EPO for over 10 years **[this is ten; t-e-n. Not a typo]** prior to the initiation of examination - we just received the first office action. The glaring conflict of interest is astounding.

Has the EPO ever considered term-extensions, as in the US, for (significant) delays caused directly by the patent office? **[No. Only national patent systems can extend patents, and that's not for delays in the course of the application-to-grant process]** I would ask if they ever considered refunding annuities, or at least freezing them - but I am pretty sure I know the answer to that **[You do indeed. It's another "no".]**.

To add some irony I would point out that we had requested [accelerated examination](#) for this case. Sigh ...**[Sorry, friend. You have to understand. there are some things that money just can't buy]**.

While musing on this sad epistle, this moggy happened upon a pseudonymous reader's comment, posted in response to her [first post today](#) under the name "Concerned" at 8.46 am. She has since received the full document, this being a Communication of the Registry that reads as follows:

"The present case is classified according to the International Patent

Classification in the technical field of [a specific subject matter] which is attributed by the Business Distribution Scheme to Board of Appeal [No. XYZ].

The Board's specialist-rapporteurs in this field are [Person A] and [Person B].

[Person A] is retiring from [this Board] by [date]. **Since the Boards of Appeal are confronted with a complete stop on the recruitment of new members,** it is not foreseeable if and when a new member will take the place of [Person A].

Other specialists in this field are presently not available in the Boards of Appeal or are, due to the aforementioned circumstances, also in Boards with a limited capacity.

The result of the above is that for the time being the pendency times of the cases in this technical field will increase".

The bold text, by way of emphasis, was added by Concerned. The names of Persons A and B have been withheld in case its mention sparks off any repercussions or retribution from Eponia.

This moggy is an old-fashioned Kat, who believes that most people are good, most of the time, and that patent offices are places where patents should be examined. She is acutely depressed by the two items of correspondence which appear above and reiterates, for the benefit of any members and alternative members of the Administrative Council of the European Patent Organisation who may be reading, the following message:

The institution for the governance of which you are legally responsible is teetering between malfunction and dysfunction. From being a highly praised and much-admired organisation it has become a hotbed of suspicion, rumour, allegations of corruption and insurgency, accusation and counter-accusation.

It has lost the respect of a substantial number of users, employees and officers. Its public relations policy -- if indeed it has one -- has failed to engage with the issues that concern the intellectual property community and which form a large part of its current agenda. Its apparent inability to stem the exponential surge in staff disputes has all but brought the International Labour Organisation's mechanisms for dispute resolution to a grinding halt. Its integrity has been increasingly questioned and its image has become a laughing stock and a byword for a dictatorial management style that has no place in an open, democratic Europe.

You, as members of the Administrative Council, are responsible both for the approval and formation of EPO policy and for its execution. How many of you have sought and been given advice from your respective governments with regard to current events in Eponia? How many of you, in the light of your other commitments, have the time, the resources and the information to enable you to play an effective role within the Administrative Council? How many of you can honestly say that you are happy with the present state of affairs? And how many of you are simply too scared to be able to stand up to the EPO's management?

If you agree with this, please feel free to cut and paste the two paragraphs above and email them to your country's Administrative Council representatives, whose identities are listed [here](#).

There will be at least two further posts from Merpel this week, one of which will deal

with staff suspensions and another of which will address health and welfare issues.

Posted by Merpel at 10:56:00 p.m.



Labels: delay, epo, Eponia, European Patent Office , staff shortage