

# European Patent Office backlog causing concern for France

An industrial dispute weighing down the European Patent Office (EPO) is increasingly causing concern for its contracting states, particularly France, where delays in reviewing applications submitted to the institution are worsening.

According to several sources, for the last year, some applications sent to the European Patent Office (EPO) by the French National Institute for Industrial Property (INPI) are being returned with delays of one to two months compared with the usual turnaround time, which could have consequences for patent applicants.

The EPO carries out the "prior art search" for French companies: a comprehensive review of the state of knowledge and technology to assess whether something is a genuine invention, Alain Michelet, President of the French Patent and Trademark Attorneys Institute (CNCPI) told AFP.

Companies have one year from the start of the search to initiate protection procedures abroad. So, the longer the research takes — lately, up to 11 months, compared with the usual nine — the less time the company has to decide, which especially penalizes small entities that do not have the same financial footing and expertise in industrial property as large corporate groups.

What is causing the delays? "Last year the EPO completely overhauled its working procedures", it says, which "may have caused delays for specific user groups." "We are working to put this right and we foresee the delay will be gone in a few months' time."

## Reprisal

But for Yves Le Borgn, the Socialist Party MP for French nationals living abroad, whose constituency includes Germany where the EPO has its headquarters, "it is not ruled out that this could be retaliation" on the part of the institution's President, the Frenchman Benoît Battistelli, against France, critical of his methods as the head of an institution with a poisonous social climate. Other sources interviewed have the same interpretation.

Does this mean that Mr. Battistelli has given the express instruction to let the French applications slip? "I have no evidence as such, but putting together everything that I have heard, I cannot rule out the idea of a causal link," says Mr. Le Borgn.

Michelet refuses to speak of deliberate delays.

He argues that France is one of the few among the 38 member countries to have the EPO carry out the "prior art search". This is subcontracting work which understandably does not have the same priority for the EPO as reviewing its own files.

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Occupying the post since 2010, Mr Battistelli, formerly of the Ministry of Finance and the former INPI chief executive, has been working to reform the institution with its 7,000 highly qualified, well paid employees, who enjoy many benefits including generous welfare and pension schemes.

Battistelli has launched a series of reforms of, for example, career management or sick leave rules.

## **Demonstrations and strikes**

"I don't want to raise the charges. So the only solution (to stay competitive) is to increase efficiency, which implies reforms", he told AFP recently. "My policy is not to reduce the package of social benefits. It is a policy of developing activities, of cost control and improved efficiency to pay for our social system in the long term."

It is, though, a difficult pill to swallow. The Office has for several years been the arena for social tension punctuated with strikes, demonstrations and alleged smear campaigns. The workers' union Suepo condemns the "dictatorial" methods.

"There is a small group of people with Suepo at the centre, who resist change", is Mr Battistelli's analysis.

His successor at INPI, Yves Lapierre, who represents France on the EPO's Administrative Council, says: "the reforms are necessary, it is important to put them in place, but I do wonder about the methods used".

In mid-March, the Administrative Council of the EPO, which had reappointed Mr. Battistelli in June, asked the two sides to "work to find a solution."

Michelet seeks to reassure. "I have a commitment from Mr Battistelli that by autumn the problem will be resolved."

However, Mr Le Borgn sees a much deeper problem of governance in an organization "which is not sufficiently controlled by its member states."