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Corporations voice sharp criticism

## **Quarrel about the European Patent Office: Is examination becoming increasingly lax?**

The authority puts mass before class and increasingly examines patent applications sloppily. An industry initiative criticises this. A patent examiner at the office unpacks anonymously.

Munich. The European Patent Office (EPO) in Munich is presenting a record balance sheet. Exactly 193,460 applications for inventions were received there in 2022, an increase of 2.5 percent and thus [more than ever before](#). Green technologies in particular are being registered, says Antonio Campinos. "The continuing upswing in this field is helping to advance the energy transition," explains the EPO boss.

At the national level, China stands out with a good 15 per cent increase to 19,041 applications, making it the number four patent power. German inventors, in second place globally behind the USA, on the other hand, are weakening statistically with a drop of almost 5 per cent to 24,684 applications for protection. That could cause concern - or you have a view of things like Beat Weibel.

He is head of patents at Siemens. His company ranks sixth worldwide in last year's EPO company statistics with 1,735 applications and is thus Germany's most active. "It's not about applying for as many patents as possible, but as good ones as possible," he explains his philosophy. EPO's is a different one. "Everything there seems to be geared towards granting a patent quickly and as efficiently as possible," Weibel criticises.

### **Initiative calls for more quality and transparency in patent granting**

It is not an isolated view. Last autumn, the Industry Patent Quality Charter (IPQC) was founded, to which 19 other signatories such as Bayer and Deutsche Telekom or Nokia, Vodafone and Qualcomm belong. They demand a change of course from the EPO and a return to quality and transparency in patent research and patent granting. Many patent attorneys, as evidenced by blog entries, as well as the Federation of German Industries (BDI) have joined the concentrated industry criticism. "Excellent initiative, much appreciated," says BDI head Siegfried Russwurm in praise of the IPQC. The quality of patents is decisive for their value and legal validity.

EPO critics see evidence of declining examination quality at the office. From 2015 to 2021, the grant rate for patent applications rose from 61.5 to over 70 per cent, the IPQC determined with the help of the BDI. This means that examiners are granting more and more patents than they are rejecting them. What is growing in parallel is the revocation rate, from 41 to 46 percent. Those who challenge a granted EPA patent are increasingly successful, which often jeopardises investments based on these patents.

"Together with their own experience, this seems to the IPQC members to be a good indication that a comprehensive examination of patents is apparently no longer sufficiently possible," concludes Weibel and sees this as the result of a practice that emphasises throughput. It does not fit in with Siemens' own experience with patent specifications. "Especially in the digital world, it is becoming increasingly difficult to understand and patent inventions," says Weibel. That's why in-house patent attorneys are taking longer and longer to draft patents, while EPO examiners have less and less time. "A gap is opening up," criticises the manager.

### **Auditor unpacks: "There is pressure for us to produce more and more".**

There is pressure for us to produce more and more, so the quality goes down," he says, wishing to remain anonymous. Criticism from the staff is not welcome at the office and has so far been "completely ignored". In 2015, he had three days to examine a patent. "Now it's less than two days," he reveals. A points system, which is decisive for promotion and thus better pay, promotes the granting of patents. Rejections have to be justified in detail and those affected have to be invited for a discussion. This costs time in which one cannot examine and collect points. "We have to close our eyes and grant patents in case of doubt," complains the patent examiner.

In February, representatives of Epa and IPQC met for the first time to talk. The EPO has denied the accusations, reports Weibel, and believes he knows why the office is relying on more and more patents in a shorter time. It can cost up to 10,000 euros for an applicant to turn an invention into a patent. More patents increase the Office's income, which benefits the 39 European countries that support it financially.

### **Patent statistics**

As in previous years, the USA leads the European Patent Office's national ranking of applications in 2022, ahead of Germany, Japan and China. But the trends are very different. Inventors from the USA filed a good 48,000 patents, 3 percent more than their German colleagues, who filed 24,684, almost 5 percent fewer. Japanese inventors stagnated at a good 21,500 applications. The largest increase came from China, with a rise of over 15 per cent to a good 19,000 IP applications. Among the 25 largest patent nations, the decline was strongest in Germany. At the company level, Siemens is the most innovative German corporation with 1,735 applications in the previous year, ahead of BASF with 1,401 patent applications and Bosch with 1,214. On a global scale, however, the controversial Chinese corporation Huawei dominates with over 4,500 patent applications, followed by LG from South Korea and Qualcomm from the USA. On a global scale, Siemens is in sixth place, BASF in eighth and Bosch in eleventh. The fields of technology with the highest number of applications are digital communication and medical technology, each with around 16,000 requests for protection.

"But it is also about innovation in European industry," says Weibel. This is especially true for the European Unitary Patent, which will come into force in June.

Maximising revenues should not be the main focus, the Siemens patent chief warns. If the EPO does not change course, his company will increasingly apply to national patent offices such as the German or the US patent office. They are more responsive to their own needs. The EPO, on the other hand, served more Asian companies that rely on mass instead of class.

Particularly applications from the patent boom country China are not of a noticeably lower quality than those of Western companies, counters the EPO. Fewer applications from Germany are due to the fact that typical German inventor domains such as mechanical engineering or combustion technology are generally no longer growth areas and German inventors do not have as much to offer in highly innovative areas such as digital communication. For the time being, EPO does not want to comment on the IPQC's accusations and refers to ongoing talks. A new meeting between industry and the office is planned for April or May. It could redefine the relationship between the Office and its Western customers.