

The European Patent Office's Commitment to Quality

Recently, it was my pleasure to share with NGB news about the EPO's on-going recognition of the importance of quality. Quality ensures trust in the patent system, encourages use of the system, and motivates research and innovation.

The quality of a patent is critical if it is to be an effective business asset. There are two aspects to patent quality. The first aspect is the application **process**. A good quality process avoids unnecessary complications. Good quality also means efficiency and a positive user experience. The second aspect is the **product** itself, that is, the granted patent. This should be granted with a '*presumption of validity*.'

Requirements of a quality process and product include timely delivery, legal certainty, predictability and consistency. Good quality defines a clear and unambiguous scope of protection. Good quality also means robust examination so as to meet the standards of the European Patent Convention (EPC) regarding novelty, inventive step, support and added matter.

The EPO has a history of improving and maintaining quality. For example, the 'Raising the Bar' project from 2011. More recently, the EPO is to be applauded in committing in 2023 to its [Quality Charter](#) and associated package of quality monitoring and measuring mechanisms. These include:

- ISO 9001 for management systems and ISO 27001 for information security,
- internal Directorate Quality Audits,
- [Stakeholder Quality Assurance Panels](#) (SQAP's),
- a [Quality Dashboard](#) to assist examiners and users, and
- User Satisfaction Surveys.

The SQAP's are of particular benefit, allowing attorneys and examiners to work together and share views. This year's SQAP's were held in October with 61 assessors (36 European Attorneys and 25 EPO specialists). Working in 18 panels, the assessors evaluated the quality of 108 patent files covering: digital technologies; electronics and physics; health and agri-food; infrastructure and mechanics; energy, mobility and space technologies as well as materials and production.

This year the SQAP's evaluated: Search and Written Opinions, Grants (examination and allowance), and Refusals. (Next year it is intended to include Oppositions).

The Quality Dashboard is also a useful tool. It allows Examiner's to view Key Performance Indicators (KPI's) and benchmark themselves against their colleagues. KPI's include:

- For Search and Written Opinions, the percentage of cases where an incorrect assessment of novelty or inventive step was made by the Search Examiner.
- For Searches, more relevant prior art later found.
- For Examination, the percentage of cases where an incorrect assessment of novelty or inventive step was made by the Substantive Examiner.
- For Grants: new matter had been added after filing.

The '*inputs*' from each of the monitoring and measuring mechanisms lead to '*outputs*' in the form of the EPO's [Annual Quality Report](#) and the [Quality Action Plan](#). Specifically, the findings of the 2024 SQAP's will feed into the EPO's 2025 Quality Action Plan.

Of course, patent quality is not just up to the EPO. Everyone involved in the patenting process has a part to play. Quality is a shared journey for the applicant, the Japanese attorney, the European attorney, and the EPO examiner and Examining Division.

When preparing any patent application, there are a number of steps that can help the quality of future processing by the EPO. Differences in language rules, national patent rules, and drafting styles, can all lead to possible difficulties if not properly considered in advance. Also, the EPO's strict understanding of added subject matter, and well-documented test for inventive step (using the problem/solution approach), differ from many other jurisdictions.

To avoid possible problems in the European patent process, we have well-developed patent drafting practices and response techniques. We have formed these into foreign attorney/patent engineer training programs. These programs are geared towards making the process more efficient, so saving the applicant costs. The programs also help in obtaining a quality patent product. Therefore, the applicant hopefully gets the protection that they want and deserve.



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David has a wealth of understanding in Patent work, having over 30 years of experience in private practice. He has been named as Representative in over 1,700 EP applications. He has extensive experience of filing, prosecuting and defending patents in Europe and the UK for a wide range of applicants.

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