Europäisches Patentamt
European Patent Office
Office européen des brevets

Quality Action Plan
2024

Introduction

For almost fifty years, the EPO has consistently delivered high-quality products and services, legally robust patents that give users the confidence they need to bring breakthrough technologies to market. The legal certainty and predictability provided by the European Patent Convention (EPC) is at the very heart of the EPO's patents. But legal foundations are not enough: as an institution with a mission to support innovation in Europe, the EPO has invested on multiple fronts to ensure the quality of its products continues to meet the needs of users. As a public organisation, we are also committed to providing all of society with legally robust patents that meet the highest standards of validity and support sustainable economies.

The brightest minds – experts in their technical fields – have been recruited from across Europe. Databases containing 2.2 billion records have been placed at the disposal of over 4 000 examiners for search and examination. Increasingly powerful tools have been developed to power the patent granting process. Digital processes have been implemented for applicants, serving to provide them with increased quality, timeliness and efficiency when interacting with the Office. At the same time, training has been delivered to users to help ensure quality at source, as high-quality patent applications that are carefully and appropriately drafted remain a significant factor in achieving high-quality patents. These are just a few of the many ways that the EPO has maintained its commitment to excellence in the last five decades, and geared itself to a culture of continuous quality improvement.

The results of those investments in quality are clear. Over the years, the European patent system has expanded and now comprises 39 EPC contracting states, as well as one extension state and five validation states. The EPO has also been entrusted by EU institutions to deliver the European patent with unitary effect – an endorsement of the EPO's high-quality patent granting process. Over the last decade, the EPO has continually

been ranked first among the five largest IP offices in the world for the quality of its products and services. We are now at a point where only a small fraction of users – just 6% – express dissatisfaction with final actions and publications, according to our latest User Satisfaction Survey.

Despite this success, quality remains a complex topic. Opinions on even the very definition of quality can vary. Accordingly, the EPO has enhanced efforts to ensure quality is a shared journey, and that products and services are aligned with user expectations. In 2022, the EPO developed the very first Patent Quality Charter together with users, staff and EPC contracting states, setting out ambitions on quality and how we intend to meet them. Complaints and feedback are tracked, including those submitted to the new Ombuds service. Exchanges with our users take place regularly. Results from our biennial independent User Satisfaction Survey and the findings of our Stakeholder Quality Assurance Panels (SQAPs) are analysed in order to implement improvements. Quality audits are undertaken by Directorate Quality Audit (DQA), which is a dedicated, internal unit, independent of the operational area. The data provided is increasingly granular. The outcomes of Boards of Appeal (BoA) decisions are monitored continuously.

In sum, quality is assessed at every stage of the patent granting process, helping us to secure some key quality achievements in 2023 and enabling us to continue making improvements in 2024 – supported by this publicly available Quality Action Plan and a newly introduced public dashboard presenting our key performance indicators (KPIs) on quality.

Progress in 2023

We have learnt from the wealth of information and data gathered from users, enabling us to take several further steps in our quality journey in 2023.

Recruitment and development of staff

— 138 highly motivated and skilled people recruited, including 100 examiners
— Continuous training kept our examiners up to date with the latest developments in technology, tools and the law – for example, two days of training for 200 examiners on the latest 6G technology; six hours of training on our search tool ANSERA delivered to 1 500 examiners, resulting in an increase from 63% to 93% of searches being completed in ANSERA; and talks by Unified Patent Court (UPC) and national judges as well as BoA members

Improved tools and databases for examiners and users

— 5% increase in the amount of prior art in our databases, from 146 million (April 2023) to 153 million patent publications (January 2024)
— Our enhanced state-of-the-art search tool improves the functionalities and ergonomics of the Viewer; plus the first AI component was successfully added to the Pre-search function
— New digital file allocation tool deployed to route every application to the right examiner and division
— New shared area in MyEPO Portfolio allows the division and the representative to work collaboratively on files

Focused on complete and accurate search, thorough and consistent examination

— From 1 November 2023, all searches and written opinions now involve the full three-person division and team manager
— Our enhanced approach to consistency included the launch of our Practice Harmonisation Dashboard, allowing us to pinpoint issues and track progress across our examiner communities
— Across our eight technology communities, a review was conducted of our approach to consistency of practice on bringing the description into line with the claims — and action taken where necessary with training and guidance
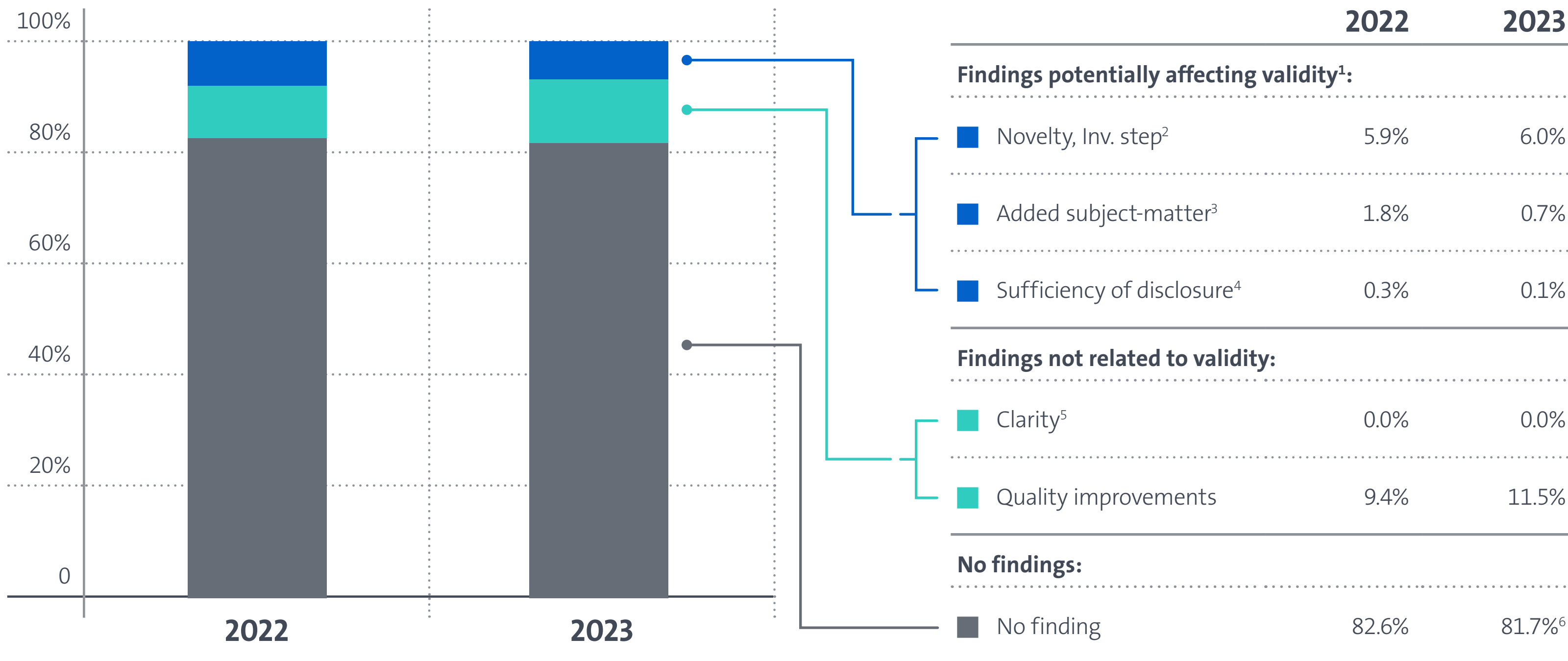
Deepened dialogue with our users

— Some 50 meetings with top applicants and user associations
— Our expanded Stakeholder Quality Assurance Panel (SQAP) concept saw us working with European patent attorneys to assess the quality of randomly selected searches, intermediate communications, and grants
— Our record-breaking User Day reached over 10 000 people

Independent product quality audits for 2022-23

— Positive trends in findings (down from 9.5% to 7.9%) related to novelty or inventive step for audited grants
— Stable high level of quality on search and written opinion — with audits finding just 4% of cases where more relevant prior art was found
— While we do not audit opposition files every year, the 2022 audit showed that the auditor disagreed with the opposition decision in just 4 out of 100 cases

Search QUALITY AUDIT

	2022	2023
Findings potentially affecting validity[1]:		
■ Novelty, Inv. step[2]	5.9%	6.0%
■ Added subject-matter[3]	1.8%	0.7%
■ Sufficiency of disclosure[4]	0.3%	0.1%
Findings not related to validity:		
■ Clarity[5]	0.0%	0.0%
■ Quality improvements	9.4%	11.5%
No findings:		
No finding	82.6%	81.7%[6]

Number of files audited:

2022	891
2023	802

1 e.g. Art. 138 EPC, Art. 65 UPCA
2 audit criteria includes e.g. R. 61, 62, Art. 54, 56 EPC
3   audit criteria: "added subject-matter": new information introduced in the application after filing date which impacts scope of claims, e.g. Art. 76, 123 EPC
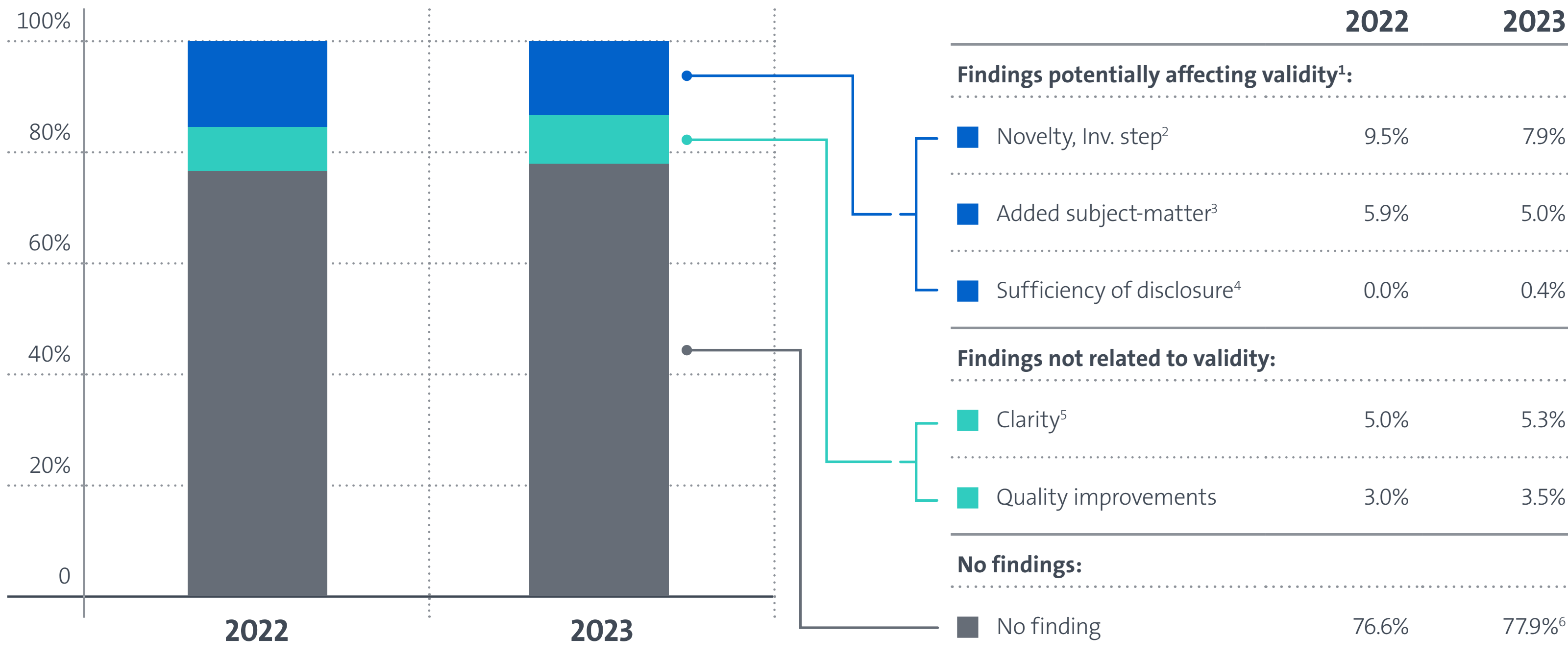4 audit criteria includes e.g. Art. 83 EPC objection missing
5 audit criteria includes e.g. Art. 84 EPC objection missing for independent claim
6 Confidence interval (no findings): +/-2.7%.
Note: Files with multiple findings are only counted in the category of the highest-ranked finding

Grant QUALITY AUDIT

	2022	2023
Findings potentially affecting validity[1]:		
■ Novelty, Inv. step[2]	9.5%	7.9%
■ Added subject-matter[3]	5.9%	5.0%
■ Sufficiency of disclosure[4]	0.0%	0.4%
Findings not related to validity:		
■ Clarity[5]	5.0%	5.3%
■ Quality improvements	3.0%	3.5%
No findings:		
No finding	76.6%	77.9%[6]

Number of files audited:

2022	832
2023	1 050

1 e.g. Art. 138 EPC, Art. 65 UPCA

2 audit criteria: Art. 52-57 EPC; majority of findings in this category relate to Art. 54, 56 EPC

3 audit criteria: "added subject-matter": new information introduced in the application after filing date which impacts scope of independent claims; Art. 76, 123 EPC

4 audit criteria: Art. 83 EPC

5 audit criteria: Art. 84 EPC

6 Confidence interval (no findings): +/-2.5%.

Note: Files with multiple findings are only counted in the category of the highest-ranked finding

Our quality ambitions for 2024: transparent and measurable

In recent years, the quality measures taken by the EPO have become increasingly transparent. Annual Quality Reports are now compiled and published as an annex to the EPO's Annual Review every June in our transparency portal. The outcomes of SACEPO meetings are published regularly. The publication of our Patent Quality Charter in 2022 was the first of its kind, transparently setting out the expectations of users and the Office alike. Progress is discussed and overseen by the EPO's supervisory bodies: the Administrative Council and its subsidiary, the Technical and Operational Support Committee (TOSC).

2024 marks another significant step in transparency for the EPO's quality initiatives. Previously reserved for internal distribution, the EPO's Quality Action Plan is for the first time being made available to the public, setting out our objectives and actions on quality for the coming year. It provides an overview of defined actions to improve further the quality of our products and services at every stage of the patent granting process, enhance learning from Boards of Appeal outcomes and further strengthen dialogue with users. By publishing this plan, users will be able to see how their feedback across various channels has been considered and implemented.

But our transparency does not stop at being open about our ambitions in 2024. This year the EPO has also published a new KPI performance dashboard, so all stakeholders can monitor our progress. The dashboard brings together our key performance indicators (KPIs) on quality. In addition, the KPIs on quality brought together in this action plan can also be found on the quality pages of our website. Together, they provide a complete and transparent picture of quality in the patent granting process at the EPO, starting with our searches and written opinions.

Search and written opinion

Thanks to the increased granularity of the EPO quality audits, audit reports for searches and written opinions now pinpoint areas for improvement, so we can target our actions accordingly.

For 2024, we have set a clear KPI to track incorrect assessment of novelty or inventive step in our searches and written opinions. To complement this, there is also a KPI for audited searches and written opinions where more relevant prior art was found by the auditor. Results are reported as a percentage of audited files with findings – audits carried out by our Directorate Quality Audit (DQA) on a random sample of search products delivered by the operational teams. More than one finding can apply to each audited product.

We will also track the satisfaction of our users with our search products through our User Satisfaction Survey (USS), which is carried out every two years by an independent contractor. The 2022/2023 survey was expansive, involving 7 000 users, and the next USS results will be made available in 2025.

By focusing on these KPIs, we will be able to provide more comprehensive written opinions that strike the right balance between ensuring the fulfilment of legal requirements and accurately identifying the full potential of the application. Furthermore, the newly introduced Active Search Divisions will continue to ensure all search actions are routed through the three members of the division that will subsequently examine the corresponding file.

Key Performance Indicators (KPIs)
Search and Written Opinion

We will achieve these KPIs by enhancing our tools, developing our people, and strengthening and further harmonising our work.

Directorate Quality Audit, DQA

Search and Written Opinion: Incorrect assessment of novelty or inventive step
■ Result 2023: **6%** ▶ Goal 2024: **< 5%**

Search: More relevant prior art found
■ Result 2023: **4%** ▶ Goal 2024: **< 4%**

User Satisfaction Survey, USS

Users rating our search products as good or very good:
■ Achievement 2022/23: **80%** ▶ Goal 2024/25: **≥ 80%**

Definitions:
— "Incorrect assessment of novelty or inventive step": all findings where the assessment of whether claimed invention is new or inventive was incorrect (e.g. Rule 61, 62, Article 54, 56 EPC).
— "More relevant prior art found": auditor found a prior art document with greater impact on considerations of novelty and inventive step than the documents found by the examiner (e.g. Rule 61, Article 54, 56 EPC); subsection of the KPI "Incorrect assessment of novelty or inventive step".

Enhancing our tools
— Further develop AI pre-classification
— Achieve 90% accuracy of our AI-based file allocation (digital file allocation)
— Increase the accuracy of AI classification to 90% to assist in achieving an overall classification accuracy of 95%
— Enhance examiner access to and citation of Asian documentation

Developing our people
— Identify and address individual training needs
— Update technical skills via academia, industry and trade fairs
— Provide targeted ANSERA training to fully leverage the tool's functionality and reach 100% usage (currently at 93%)

Strengthening and further harmonising our work
— Further enhance assessment of novelty and inventive step, as well as other requirements such as clarity
— Address fall-back positions
— Propose ways to overcome objections
— Monitor the impact of active search divisions

Together, our KPIs and targeted actions will drive measurable improvements in substantive quality, both at the search stage and at subsequent stages of the process, and address the areas we have identified for improvement.

Examination

Our DQA audits on grant show there is room to improve the quality of the assessment of novelty and inventive step and added subject-matter. Using the more granular DQA reports, we have set a KPI on incorrect assessment of novelty or inventive step. We have also set a KPI on added subject-matter to capture findings recorded when the subject-matter of the proposed grant extends beyond that of the originally filed application or parent application. Results are reported as percentage of audited files with findings. More than one finding can apply to each audited product.

User satisfaction with the quality of our examination products will also be monitored through the USS. In addition to our DQA results and USS, further insights into the quality of our work can be obtained from the decisions of the Boards of Appeal, so a new KPI will be developed in the course of 2024 on Boards of Appeal decisions on ex parte refusals.

Introduction | Progress in 2023 | Our quality ambitions for 2024 | Search and written opinion | **Examination** | Opposition | Dialogue with users

epo.org | 10

KPIs Examination

Directorate Quality Audit, DQA

Grants: Incorrect assessment of novelty or inventive step
■ Result 2023: **7.9%** ► Goal 2024: **< 5%**

Grants: Findings on added subject-matter
■ Result 2023: **5%** ► Goal 2024: **< 5%**

User Satisfaction Survey, USS

Users rating our examination products as good or very good:
■ Achievement 2022/23: **78%** ► Goal 2024/25: **≥ 80%**

BoA Outcomes

Boards of Appeal decisions on ex parte refusals:
New KPI to be developed by end of 2024

Definitions:
— "Incorrect examination of novelty or inventive step": the examiner (i) assessed the technical features or the technical effect of either the claimed invention or the prior art document(s) on file incorrectly, or (ii) the auditor found a prior art document which was more relevant to the considerations of novelty or inventive step than the prior art on file (e.g. Articles 54, 56 EPC).
— "Findings on added subject-matter": The auditor found that new information has been added to the application after its filing date which impacts the scope of the independent claims (Article 76 EPC, Article 123 EPC).

To achieve these goals, we will strengthen our focus on developing our people, strengthening and further harmonising our work, particularly for emerging technologies, and strengthening our partnerships.

Developing our people
— Discuss examples to illustrate best practice and areas to improve
— Strengthen learning through feedback from peers, managers, DQA, opposition, Boards of Appeal, Unified Patent Court, national courts, users and SQAPs
— Involve team manager in quality audit dialogue

Strengthen and further harmonise our work
— Engage experts on computer-implemented inventions (CII) and AI to ensure harmonised approach to emerging technologies
— Allocate mixed divisions for applications spanning different fields
— Embed use of structured communications
— Conduct internal study on consistency of practice in handling third party observations
— Monitor impact of harmonisation using harmonisation dashboard

Strengthening our partnerships
— Hold workshop with users on clarity and shared responsibility
— Track usage and impact of the shared area in MyEPO Portfolio

Opposition

To drive improvement in legal certainty and the robustness of our examination and opposition decisions, we will build on initiatives implemented in our Strategic Plan 2023 (SP2023) to strengthen learning from Boards of Appeal (BoA) outcomes. Over the course of 2024, we will develop a more systematic analysis of BoA outcomes and review decisions in appeal to identify quality improvement and learning points.

To monitor our progress, we will define a new KPI to identify trends in appeal outcomes from opposition decisions. In 2024, we will pilot a new format of opposition audit, continuing the development of our audit processes based on insights gained from the new granularity of search and grant audits. Our 2024 opposition objectives will be achieved by actions to:

— identify areas of learning from decisions of the Boards of Appeal (BoA) and raise awareness e.g. via the case law community of practice (CoP), iLearn events
— analyse decisions which set aside decision of first instance
— introduce structured communications in opposition, standardise "Facts and Submissions", allocate mixed divisions
— explain in decisions how the division has interpreted unclear claims
— consolidate the framework for quality dialogue with BoA
— further clarify Guidelines for Examination in close consultation with users

Introduction | Progress in 2023 | Our quality ambitions for 2024 | Search and written opinion | Examination | **Opposition** | Dialogue with users

epo.org | 12

Dialogue with users

In 2024, we will continue our collaborative approach in which EPO management, patent examiners and industry stakeholders engage in active, open and constructive dialogue to enhance the already high quality of the patent grant process at the EPO. Specifically, we will:

— deliver a programme of institutional and applicant-level meetings, both high-level and technical
— meet with newly appointed members of SACEPO to optimise engagement between members, the users they represent and the EPO
— explain transparently to stakeholders the quality actions being taken and the improvements anticipated
— develop a SQAPs concept incorporating feedback from epi, the SACEPO Working Party on Quality (WP/Q), BusinessEurope
— incorporate feedback from the SACEPO WP/Q when preparing next USS
— continue developing online tools and support users in learning to use them e.g. MyEPO
— modernise professional development, European qualifying examination (EQE), European patent administration certification (EPAC)

Quality is an ongoing, shared journey. By working together with all users of the European patent system — and drawing on our combined expertise and commitment to excellence — we can aspire to reach new heights and set new global standards in patent quality. Throughout the year, we will update the KPI dashboard so that our performance can be tracked. We will report on the outcome of our actions, together with other quality-related activities, in our annual Quality Report 2024, to be published in June 2025.

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