



Institut der beim Europäischen Patentamt zugelassenen Vertreter
Institute of Professional Representatives before the European Patent Office
Institut des mandataires agréés près l'Office européen des brevets

e:EQE – Defining the essential skills of an EPA

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What does Fit-to-practise mean?

- Being capable of advising a client on matters before the EPO?
- Being capable of advising a client on matters before the WIPO
- Being capable of advising a client on matters before the national IPO?
- Being capable of advising a client on IP strategy?
- Being capable of advising a client on IP litigation?

Probably all of the above,
... but the real question is what should we test in the EQE and what is left to on the job training.

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Current EQE: activity based

Main activities of an EPA include:

- Drafting
- Amendments
- Opposition
- Complex (legal) advice

... but there is more, including:

- Freedom to operate ?
- Appeal procedures ?
- Litigation ?
- Ethics ?
- IP strategy ?

Papers:

- A
- B
- C
- D – part II

The current EQE is limited to the mainstream activities, defined in 1979

... and it still works, but that does not mean that there is no room to improve.

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Discussion paper: concept based – practical track

In no particular order:

Basic Practical modules (P1 and P2):

- Novelty
- Inventive step
- Added matter
- (extension of) Scope of the claims
- Two part form

Advanced module (P3):

- Complex analysis
- Claim drafting / amendment

Final:

- Dealing with an Art. 123(2) objection.
- Written submissions in response to a summons
- Amendments after receiving a Rule 71(3), while the client wants to change the claim scope.
- Art. 115 observations against a patent (application)
- Grounds of opposition against a competitor's patent.
- Written submission in opposition as a proprietor.
- Response to the proprietor's reply to a NoO, based on new input/prior art by the client.
- Grounds of appeal against a decision of the ED/OD (incl evidence and prior art).
- Response to an appeal
- Reply to a preliminary opinion of a board of appeal (examination or opposition, as appropriate)

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Discussion paper: concept based – legal track

In no particular order:

Basic Practical module (L1):

- common provisions, languages, representation, priority, time limits, remedies, fees, formal aspects, divisional applications, transfer, entitlement, limitation, opposition, intervention, appeal, conversion.

Advanced module (L2):

- exceptions to patentability, medical uses, state of the art, prior rights, non-prejudicial disclosures, unity of invention, disclosure, claims, interpretation of patent claims to assess infringement, analysing a scenario and identifying solutions.

Final:

- analyse a complex situation which includes a variety of topics, for example multiple missed deadlines or procedural steps, priority issues, multiple applications (both client and competitor), depending patent rights, and freedom to operate issues.
- advise the client on the situation and provide suggestions for improving the client's position (e.g. considering licence agreements and other commercial aspects)

In particular, the ability to provide clear advice to the client is considered key to being fit to practise as a European patent

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Alternative approach – Discussion Questions

- Do we need to include the “new aspects” of Fit-to-practise?
- How do the additional activities fit in the current exam?
 - Where did the evolution of the EQE result in exclusion of new EPA responsibilities?
- How can these activities be tested in other ways?
- What other aspects need to be tested?

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