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Recent developments at the Boards of Appeal of the EPO

Presentation at the Japan Symposium on IP / TOKYO 2022



Boards
of Appeal

Executive Summary



Substantial reduction in the number of pending appeals



Enhancement of videoconferencing technology in oral proceedings and successful large-scale use of it in general emergency situations



Digitalisation and development of paperless-working solutions

Five-year objectives set by the PBoA

Objectives

- To reduce the number of pending cases to **below 7 000** by 2023
- To settle **90%** of all cases **within 30 months** of receipt by 2023



Stock and pendency time on 3 June 2022

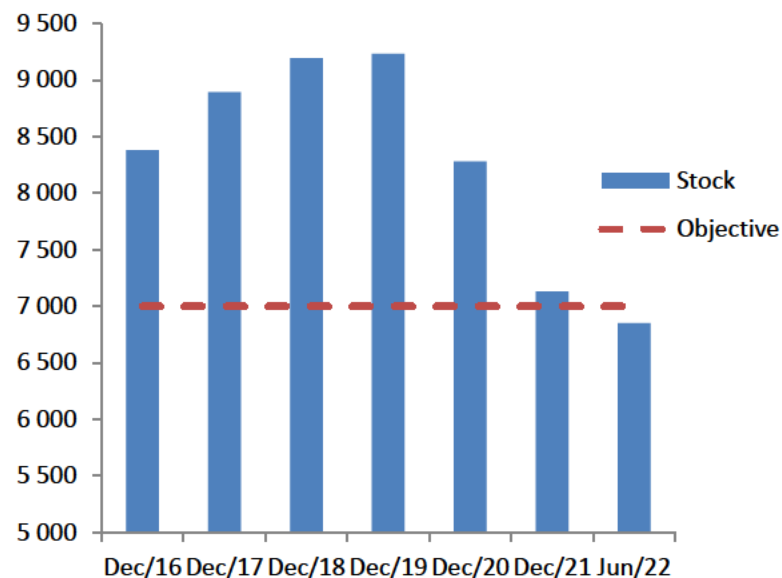
- 6 786 cases were pending (**345 cases less** than on 31 December 2021)
- 90% of all cases were settled within 58 months of receipt (**1 month less** than on 31 December 2021)



Workload and production

- In the first 6 months of 2022, 1626 technical appeal cases received, ~66% more than over the same period in 2021.
- Stock has been reduced to 6786 pending cases.
- Production surpassed pre-pandemic levels.

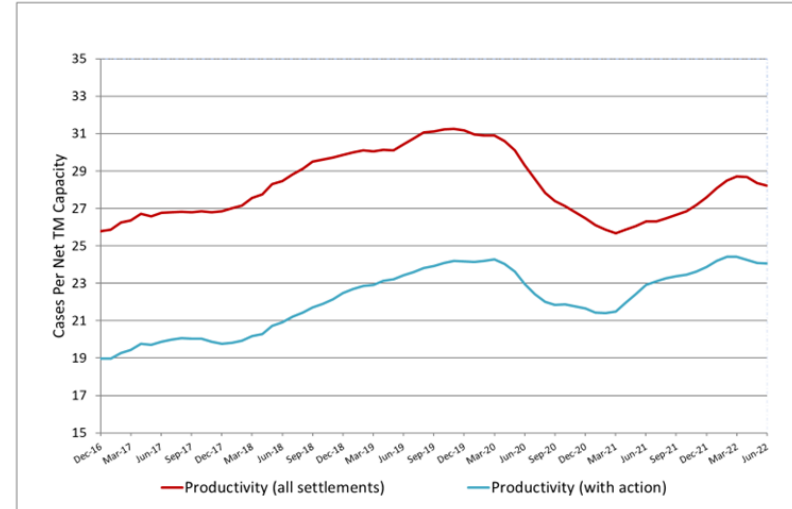
Number of pending cases



Productivity

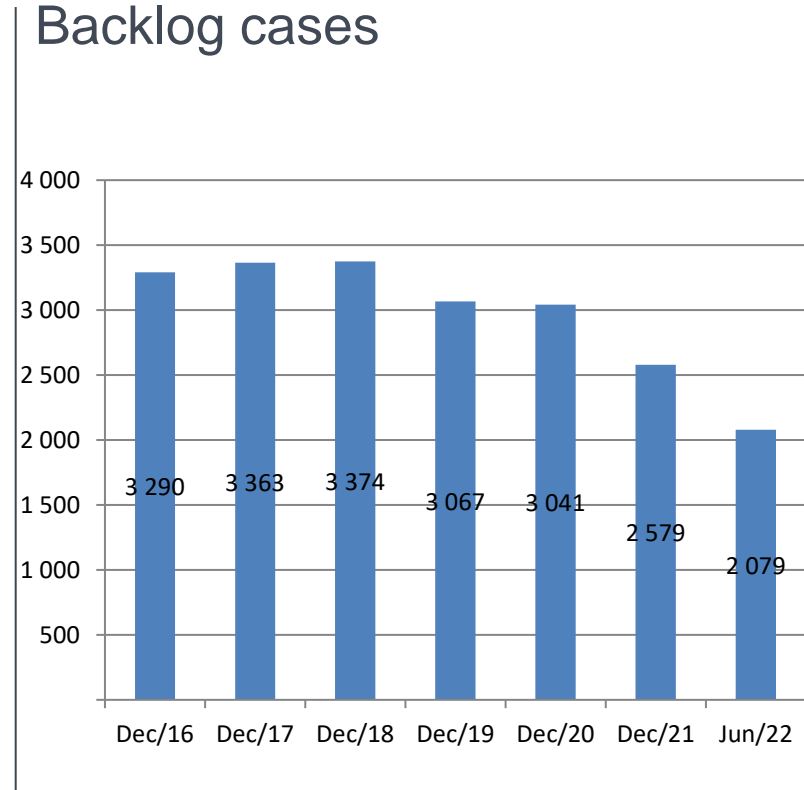
- Productivity is calculated on the basis of cases settled “with action”:
 - In about 90% of cases, the action involves oral proceedings.
 - Productivity thus highly dependant on the ability to hold oral proceedings.
- Productivity increase of 0.5% in first half of 2022 compared with December 2021.

Productivity (12 months rolling)



Development of backlog cases

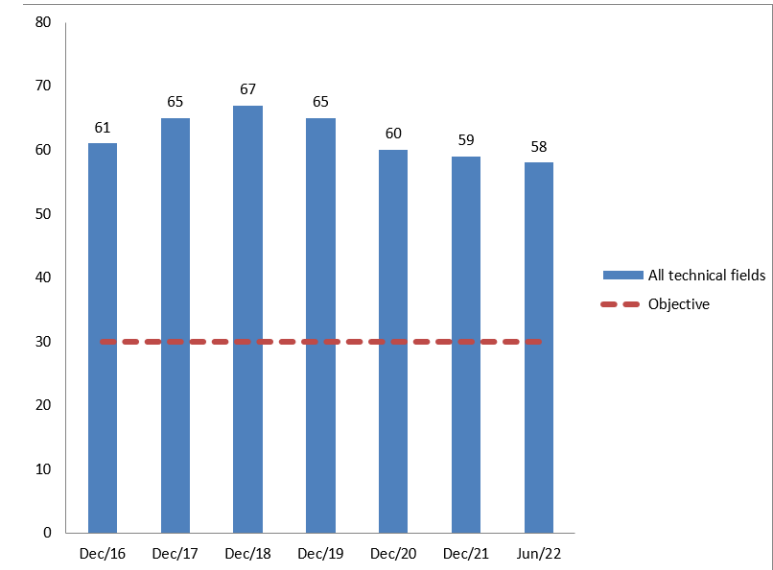
- In the first six months of 2022, backlog cases decreased to 2079.
- This is 19.4% fewer than on 31 December 2021.
- Amendments to the Business Distribution Scheme are expected to lead to further significant decrease in overall stock.



Pendency time

- The BoA has successfully reduced pendency times since peak levels in 2018
 - In comparison to the peak levels in 2018, a reduction of 9 months (13.4%) was achieved
- The pandemic has hindered a more substantial reduction in pendency times

Timeliness results (90% of cases settled in months)



Further topics



Quality



Diversity and Inclusion



Code of Conduct

Forecast of post-pandemic practice



Teleworking



Digitalisation



Oral proceedings

Teleworking



The EPO enacted new internal regulations enhancing the teleworking modalities; board members are subject to additional rules



Overarching importance of oral proceedings for the functioning of the BoA



The BoA internal regulations clarified that the scheduling and conduct of oral proceedings before the BoA takes precedence over teleworking of board members

Digitalisation



Introduction and further development of VICO OPs



Paperless working enabled through the iPad project and the digital file constitution



Networks of volunteering pioneers key to progress



Excellent technical support by the European Patent Office

Legal framework on VICO oral proceedings



New Article 15a RPBA 2020 was approved by the Council on 23 March 2021 and entered into force on 1 April 2021.

Order of the decision of the EBoA in G 1/21 issued on 16 July 2021:



"During a general emergency impairing the parties' possibilities to attend in-person oral proceedings at the EPO premises, the conduct of oral proceedings before the boards of appeal in the form of a videoconference is compatible with the EPC even if not all of the parties to the proceedings have given their consent to the conduct of oral proceedings in the form of a videoconference."



N.B.: the order does not cover situations outside a general emergency, nor does it rule on oral proceedings by videoconference in examination and opposition proceedings.

Technical measures concerning VICO oral proceedings



Different options fully implemented since the start of 2021.



"Fully distributed" set-up enabled.



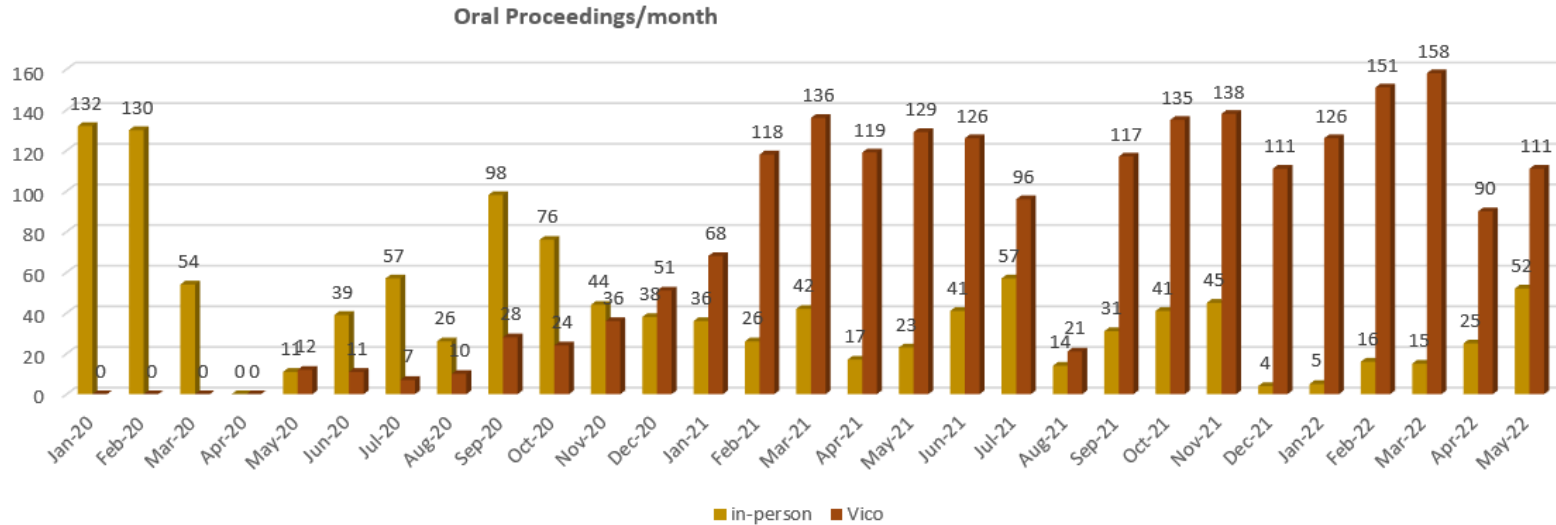
Use of Zoom and facilitation of oral proceeding with interpretation enabling the conduct of VICO oral proceedings in the majority of inter partes cases.



A tremendous training effort was performed by volunteer members (peer-to-peer training).

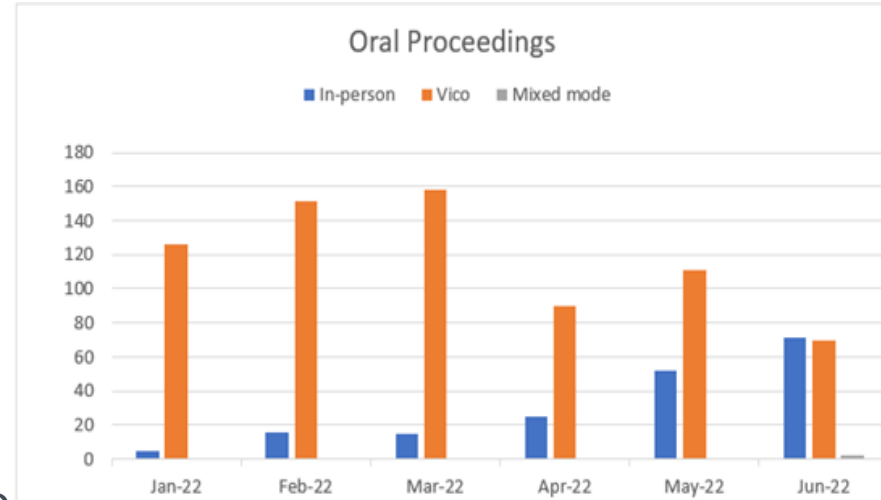
Oral proceedings

- As a reaction to the pandemic VICO and mixed-mode OPs were enabled



Measures concerning oral proceedings

- Oral proceedings under the new Article 15a(1) RPBA 2020
 - In the first 6 months of 2021, oral proceedings by videoconferencing accounted for ~79% of all oral proceedings.
- In-person oral proceedings
 - In-person oral proceedings continue to remain an important element for the BoA.



Conclusions



The BoA has substantially reduced the stock levels and accomplished the first general five-year objective



The BoA succeeded in conducting oral proceedings with a large-scale use of VICO technology; exact extent of the use of VICO technology in a post-pandemic scenario is still unknown



The COVID-19 pandemic contributed to accelerating digitalisation in the BoA; developed solutions will remain post-pandemic



Quality-focused decision making remains central priority for the BoA

Thank you very much for your attention!

Ingo Beckedorf

Chair, Technical Board of Appeal 3.2.07