

29th November 2004

Mr J Allen
Intellectual Property & Innovation Directorate
Patent Office
Harmsworth House
13-15 Bouverie Street
London EC4Y 8DP

Dear Jeremy,

**Re: IPAC Review
My file TMPDF Box**

1. We met on 12 November 2004, and you asked me to confirm the TMPDF view in writing, which I am now doing.
2. I apologise for the delay in writing; one point came up at our meeting for which the preceding TMPDF Council discussion had not fully prepared me and I have asked for views from others. Other than on this point (my 7 below), I think that most of the following was covered at our meeting.
3. I think that at the beginning of the meeting you yourself made several of the points that Council had expected me to make, i.e. that there had been a lack of output from IPAC, perhaps through inadequate resource, and that its operations had not been transparent. Rather than criticise the present IPAC, I have tried below to identify the role that an independent committee could fulfil, possibly with a very different remit and membership.
4. Even though SACIP and IPAC were both "advisory" in name, SACIP in practice also fulfilled a consultative role which has been sorely missed. Since the abolition of SACIP, numerous issues have arisen on which consultation has been too late¹ and/or on which the importance of representations made² had not been appreciated by the Office. Peter Lawrence is well aware of our concerns from the Council meeting in the morning of 12 November.
5. Consultation should take advantage of TMPDF, CIPA, and ITMA and sometimes other more specialist bodies. Focus groups are inappropriate for this.

¹ Recent examples: Hague and disclosure of genetic resources.

² Recent examples: disclosure of genetic resources and the TTBER.

6. In many cases, conventional consultation will in practice allow officials to give balanced advice to ministers. However, if some "independent" validation of advice thus generated is needed, then a small committee could be set up. If, however, that committee challenged the position arrived at by consultation, then there should be an open discussion reinvolving the representative bodies.

7. On "horizon scanning", I think that the Patent Office should not underestimate the value of suggestions from representative bodies like TMPDF. For instance, TMPDF had the TTBER "on its radar screen" before the Patent Office, and has been proactive on London Agreement ratification. However, there is, we believe, a Patent Office research role that should be resourced, perhaps under the supervision of a suitable independent committee. Especially when (for instance) anti-patent assertions are made by specialised NGOs or Lobby groups - or, for that matter, pro-utility model assertions are made by others - some evidence collected under the instructions of independent paymasters could be very useful. In some cases, it might endorse (for instance) on TMPDF "gut feel", or in others it might encourage industry to alter its views.

8. I hope the above is helpful.

Yours sincerely,

Mike Jewess
President TMPDF