

***Boards of Appeal Action Plan – 2021/2026***

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## I. Introduction

This Action Plan is an internal roadmap for the Boards of Appeal ('BoA') aimed at establishing the direction in which the BoA are headed in the next five years by identifying how they will tackle the challenges that lie ahead and, above all, how they will contribute to the strategic objectives of the Office, as defined in the SP2025.

In this sense, building upon the positive results achieved by the BoA, this Action Plan aims at further developing their operation by presenting a series of initiatives to be launched in the next five years towards the implementation of a renewed Vision for the BoA as a **high-quality, effective, efficient, coherent, and modern Intellectual Property Dispute Resolution Body**.

The Action Plan is the result of an all-inclusive and collective exercise, with both internal and external stakeholders of the EUIPO and their BoAs, that include individual meetings held by the President of the BoA with all staff of the BoA during the transition period, where direct feedback was received on a number of areas associated with the functioning of the BoA.

The whole staff of the BoA has been given the possibility to actively contribute and make their views known as regards this Action Plan on multiple occasions, through an extensive consultation process that took place between June and September 2021, including a number of meetings with the Presidium of the BoA, general staff meetings and Town Hall meetings with all BoA staff, as well as a written consultation. It has been shared and discussed with the Executive Director and with a number of stakeholders. After the MBBC meeting, a revised and final version of the Action Plan will be presented to the Presidium of the BoA, as the body responsible for the organisation of the BoA, for adoption.

Since this is the first time the BoA has established a comprehensive long term plan, in order to better frame the background in which these initiatives will be implemented, the document offers a short analysis of a number of associated elements that include the context in which the BoA operate, their original Mission, role and responsibilities; operational results and main achievements; capabilities and challenges ahead; external factors and trends as regards the protection of EU trade marks and registered Community designs.

It is expected that, with this Action Plan, the BoA will have a clear, sound, and comprehensive basis for moving forward in the next five years and will be poised to open a new chapter that will fully embrace change and innovation and above all upgrade their **Mission** in accordance with the wishes of the EU legislator.

It is important to note that in view of the long-term nature of this Action Plan, it is subject to changes and/or adjustments during the five-year period, motivated by upcoming internal or external events.

## **II. Mission, Role and Responsibilities – The dual system of legal review of EUIPO's decisions**

Having an independent, efficient, effective and professional means of dispute resolution is essential for delivering a high-quality trade mark and design service to users.

Over the last decades, the EU has increasingly relied on the creation of decentralised agencies in order to enhance the efficiency of its administrative activities. Today, the existing 44 Agencies, spread around the European continent and operating in different fields, are an indispensable feature of the EU's institutional structure, as rightly acknowledged by the study of the EP of 2016 on the 'Cost of no-Agencies'.

While most of these Agencies deliver, on a daily basis, valuable technical and scientific expertise in support of the decision-making process of EU institutions and Member States, a limited number of them were granted, from the outset, binding decision-making powers. The first of these Agencies to be granted such powers was the EUIPO, concerning the Registration of European Trade marks and Designs, with the overarching objective of promoting and supporting innovation within the Internal Market, contributing to a stronger and more competitive European economy.

Given the scope of such powers and abiding by the principle that the judicial review of administrative acts is a basic element of any system based on the rule of law, two key legal mechanisms were deployed to ensure the accountability of the EUIPO's actions.

The first legal mechanism was the creation of the Boards of Appeal, pursuant to Article 159(e), Articles 165 and 166 EUTMR and Articles 55-60 CDR, as an internal yet **independent appeal body**

that ensures that parties directly affected by administrative actions can resort to an independent, expeditious and cost-effective review, enabling natural or legal persons to challenge first-instance decisions.

The second mechanism, bearing in mind that the European Union is primarily a Community of Law, in which its Institutions and administrative bodies cannot be above, or escape judicial review, was the possibility of having the judicial control of these decisions carried out by the General Court ('GC') and, on appeal, by the Court of Justice ('CJEU').

These two legal mechanisms constitute the *dual system of legal review of EUIPO administrative activities* which ensure that citizens and businesses have at their disposal a complete set of remedies to redress any situation that could affect their sphere of interests.

Within this dual system of legal review, the BoA of the EUIPO are by nature an active part of the European public service aimed at ensuring that parties receive legal protection in a manner which is consistent with the special nature of trade mark and design law.

As regards their mission and core mandate, the BoA perform a double role. Firstly, they perform an **independent expert review** of first-instance decisions. The **independent status** assigned to the President, Chairpersons and Members of the Boards of Appeal, established in accordance with Article 166 EUTMR, Article 47 of the EU Charter of Fundamental Rights and Article 6 of the European Convention of Human Rights, aims at ensuring that parties who are affected by decisions of the Office are protected by the law in a manner which is suited to the special character of trade mark and design law.

Secondly, they perform a **filter role** through its gatekeeper function, by which they ensure that about 90 % of the appeals filed are settled at the level of the BoA without further action to the GC.

In this context, users rely on the BoA to guarantee **access to justice**, as well as an effective, efficient and impartial **dispute resolution**, through an **internal, independent and expert** review of first-instance decisions.

Moreover, the role of the BoA has been upgraded in the last legislative reform of 2016 particularly as regards their **guidance role** for Office practice, notably through the Grand Board's decisions on appeals or opinions on questions of law referred to it by the Executive Director which will be binding on the decision-making instances of the Office (Article 166(8) EUTMR).

Finally, the BoA have also been entrusted with the responsibility of further developing the offer of Alternative Dispute Resolution Mechanisms to make available to businesses a wider choice in effectively resolving their disputes, in particular solutions that are attractive and in an international and multilingual landscape, enabling them to diminish the side-effects on their businesses of the risks related to IP litigation in Courts such as time-consumption, uncertainty and costs. In that regard, the BoA are being called upon to design and set up the Mediation Centre of the EUIPO foreseen in Article 170 EUTMR.

### **III. Current situation**

Since their establishment in 1996 as an internal, yet independent and impartial, appeal instance of the EUIPO, the BoA have experienced exponential growth in terms of workload, competencies and staff. They have been able to improve their operational organisation, performance and output considerably, always having users' needs at the heart of everything they do.

The BoA started operating with two Chairpersons and two Members being responsible for taking decisions on appeals solely in trade mark cases. In 2003-2004, with the first revision of the EU Trade Mark Regulation and the entry into force of the Community Designs Regulation, the function of the President of the BoA was created and the BoA received two important new competencies: firstly, jurisdiction in registered Community design appeal cases and, secondly, the creation of the Grand Board as a significant tool for ensuring the uniformity, consistency and coherence of their decisions.

Furthermore, between 2011 and 2020, the BoA launched a number of Alternative Dispute Resolution Services, namely mediation, conciliation, assisted negotiation and expert determination, respectively. Their organisational structure grew with the creation of an Alternative Dispute Resolution Service ('ADRS') in 2019. Finally, in 2020, following the integration of the Litigation Service, the BoA were entrusted with additional competencies as regards the representation of the EUIPO in IP cases before the GC and the CJEU.

Today, the BoA count with a total workforce of some 150 staff members, including a President, four Chairpersons, 16 Members, one Director, four Heads of Service, a number of Legal and Administrative Assistants, Litigators, Legal Experts, ADR experts and members of the Registry, spread across the three areas that comprise the BoA – Decisional Area, Operational Area and Cooperation Area.

As regards workload, whilst in their first full year of operation the BoA only received 20 appeals, in subsequent years the workload at the BoA has grown exponentially, with some 45 000 appeals received in total from users all over the world.

Since starting their operations, the BoA have taken more than 40 000 decisions on appeals against first-instance decisions and have been able to settle around 90 % of the cases that they have received. This means that only 10 % of the decisions of the BoA were appealed before the GC and the CJEU.

As the decisions of the BoA are directly appealable to the GC and the CJEU, they become an ingrained part of EU trade mark and design jurisprudence and hold a unique position at the forefront of the development of trade mark and design practice, which potentially impact all industries and consumers in the EU.

Regarding the quality of the work of the BoA, whilst timeliness to deliver appeals has been gradually reduced, the confirmation rate by the GC of the BoA decisions appealed has constantly been in the region of 80 %.

As regards the Alternative Dispute Resolution Services, the BoA have proposed hundreds of cases for mediation and/or conciliation to parties and have handled some 500 cases with a success rate of 67 % for mediations and 96 % for conciliations.

In order to achieve these overall results, the **highly skilled staff working in the BoA** have been one of the major assets for the successes of the last 20 years. The BoA staff range from experts coming from the public sector, EU agencies, different departments within the EUIPO and/or national EU IP offices, national courts, as well as from the private practice sector, such as law firms and/or in-house

counsels in various different trade sectors. This vast diversity of expertise and knowledge amongst staff is what makes the BoA capable of taking into account the needs and perspectives of the different stakeholders in the EU IP system.

Notwithstanding their capabilities and positive overall results, there are a number of challenges ahead that are necessary to tackle and that require reform in order to ensure that the BoA are **fully supported and facilitated** by the proposed mechanisms, tools and projects so as to be able to consolidate the results achieved so far while continuing to perform their core functions in the medium term.

#### **IV. External factors and trends in the protection of Intellectual Property rights**

Despite the global pandemic generated by COVID-19, the total volume of EU trade mark and design applications at the Office continues to grow, not only as a result of initial economic recovery, but also through the steadily increasing interest of third-country industries in the European market, new trade agreements entering into force and the enlargement of the landscape regarding the Madrid and The Hague Protocols. As an example, in 2020, China became the country from which the highest number of EU trade mark applications were received, ahead of Germany and the United States of America.

As regards the particular **IP landscape in Europe**, the increasing pace of technological change, marked by the data economy and society, the role of AI, the growing importance of new technologies such as blockchain, 3D printing or 5G mobile technology, as well as climate change and other environmental concerns, are creating a new business environment.

Furthermore, it is unquestionable that the **COVID-19 crisis** not only poses unprecedented challenges to the global society as a whole but also offers a unique window of opportunity to modernise working methods of both public and private operators in the years to come towards higher levels of performance, efficiency and efficacy.

Moreover, bearing in mind the fact that IP is a key driver for economic growth where IP intensive industries account for 45 % of all GDP and 93 % of all European exports, the European Commission has recently launched an overhaul of the European IP system aimed at building on the strengths of the European IP framework, namely through the adoption of a new **Industrial Strategy** for a globally

competitive, green and digital Europe and an **Action Plan on IP** to strengthen the EU's resilience and speed-up recovery.

In this context, a number of initiatives aimed at reinforcing the European IP system are foreseen, particularly as regards the areas of Designs and Geographical Indications, with the expected upcoming reform of the Community Design Regulation and the Design Directive, as well as with the reform and modernisation of the three Agricultural Geographical Indication Regulations and the possible creation of a new EU unitary title concerning non-AGRI Geographical Indications.

While it is important that these upcoming legislative changes to the regulatory framework represent an opportunity for the EUIPO in the sense that they should contribute to improve the services provided, it is reasonable to expect that the EUIPO and its BoA may be affected by these changes with a subsequent increase in their competencies, responsibilities and workload.

In general terms, bearing in mind that, with the latest reform of the EUIPO regulatory framework, the legislator decided to rename the Office as the European Union Intellectual Property Office ('EUIPO'), it is fair to expect that the EUIPO will be entrusted, in the coming years, with further competencies in IP and innovation spheres.

Furthermore, given the global dimension of IP, international cooperation among IP offices, supranational organisations, jurisdictional bodies and User Associations will play a critical role in tackling the challenges ahead.

As regards **trends in Intellectual Property Rights (IPR) filings**, independently from the possible impact of the upcoming legislative changes, the use of IPR continues to grow worldwide, reflecting the importance of IP to the economy and the systematic and continuous increase of trade mark and design applications at the EUIPO in the last 10 years. This upward spiral reached a record high in 2020 with some 177 000 trade mark applications (and designations) and 110 000 designs.

In the coming years, increasing volumes of EU trade mark and design applications are expected, as well as increases in first-instance decisions on absolute grounds and oppositions, cancellations and design invalidities. Bearing in mind the historical appeal rate of first-instance decisions, it is expected

that appeals and litigation will increase substantially over the next five years. In this regard, the BoA will also be called upon to deal with a sustained volume of growth while continuing to enhance quality.

## V. Challenges ahead

As mentioned previously, by ensuring access to justice and effective dispute resolution, the BoA perform a very important role within the EU trade mark and design system in support of those who seek protection for the results of their investments in innovation.

Throughout these last 25 years, the BoA have performed these duties very effectively. However, in order to ensure that the BoA continue to improve further in the years to come, it is necessary that they efficiently adapt to the rapidly changing business environment in which we live and operate today.

In this context, in view of the overall expected increased demand for IPR, as well as of the upcoming legislative changes to the IP regulatory framework, it will be necessary to ensure that in subsequent years the BoA are able to cope with an increasing number of appeals, coupled with the growing complexity in their examination and ensure the delivery of high-quality decisions in a timely manner.

More concretely, it will be necessary for the BoA to ensure the delivery of high-quality decisions while being accountable to public scrutiny; ensure legal certainty and greater predictability for users; provide effective and clear guidance to Office practice at first instance; optimise the value of IP rights and offer parties from an early stage suitable mechanisms to find expert and rapid solutions for users, particularly SMEs.

Within the legal framework of the BoA, the challenge will be to **continue to upgrade the operation of the BoA**, by developing a more open, collaborative, and innovative organisational culture, that can boost positive change and ensure higher levels of engagement, performance, efficiency and efficacy.

This will contribute to ensuring that the BoA consolidate themselves as an **IP knowledge hub** providing high-quality public services that will assist European businesses to become more competitive in an ever more global and digital environment.

During the past years, the BoA have concentrated on improving their pendency times and reducing backlogs. With the quantitative aspects of their operations increasingly under control, the BoA will need to focus on further **improving quality**, particularly that which has a direct impact on how users perceive the quality of the services they receive.

Furthermore, bearing in mind that legal certainty is paramount for users and for the credibility of the system as a whole, the BoA will need to develop a **consistent and coherent decisional practice** further aligned with the case-law of the GC and CJEU that will contribute, not only to increase the predictability about their work, but also to provide clear guidance to Office practice at first instance, enhancing, on the one hand, further consistency among the decisions taken at first instance, as well as on the other, a better alignment between the first instance with BoA and GC and CJEU case-law, providing users with higher levels of predictability and legal certainty about the overall work of the EUIPO.

Although during the last years, the BoA have efficiently fulfilled two of their main functions: the independent review function as regards the EUIPO's first-instance decisions and the filtering function to limit the number of appeals before the GC/CJEU, the main future challenge in this regard concerns the development of the BoA's **guiding function** which is to provide direction to the EUIPO's practice, improving predictability for users about the overall work of the EUIPO. Coherent, consistent and high-quality decisions will ensure the BoA's guiding function and generate a positive impact on the GC, as well as on national administrations and jurisdictions, by increasing converged approaches throughout the European Union Intellectual Property Network ('EUIPN').

Furthermore, following the amendment of the Protocol on the Statute of the Court of Justice, as of 1 May 2019, trade mark and design cases proceed to the Court of Justice only in exceptional circumstances. This has further increased the importance, responsibility and accountability of the work of the BoA.

On the other hand, as part of the European public service, the BoA will also need to focus on delivering high-quality decisions while being accountable to **public scrutiny**. This will entail revamping the quality metrics and empowering the users of the IP system, so that they more accurately reflect how users experience the products and services provided to them by the BoA.

Another area that will require special attention is the further development of **Alternative Dispute Resolution**. With the introduction of mediation and conciliation as well as expert determination and assisted negotiation at the BoA, the parties are now offered the opportunity to use such mechanisms as an alternative to the classical appeal route. While such alternatives reinforce the BoA's filter function, by avoiding that further disputes arise and potentially reach the GC and the CJEU, the total number of mediations and conciliations carried out is still relatively low, particularly due to the late stage at which such mechanisms are available to users. In the years to come, the BoA should actively contribute with their expertise to enhancing and broadening the use of Alternative Dispute Resolution at the EUIPO, in order to offer the parties, at an early stage, suitable mechanisms and tools for finding expert and rapid solutions to their conflicts in order to support businesses, particularly SMEs.

Furthermore, the current globalisation process requests higher levels of **cooperation** amongst external partners within an International IP system characterised by an even stronger collaborative structure allowing for a continuous exchange of expertise, knowledge sharing and the provision of services at an operational level.

Building upon the positive results as regards the convergence of practices and being aligned with the EUIPO's objectives inscribed in the SP2025, the BoA will need to act as a reference point for IP Offices of the Member States and their appeal bodies, contributing significantly to the development and shaping of European Trade Mark and Design Common Practices by reinforcing cooperation with external stakeholders particularly with appeal instances of National Offices, National and EU Courts, EU Agencies and the appeal bodies of International Organisations, contributing actively towards the reinforcement of the European Union Intellectual Property Network.

## **VI. Looking forward – Boards of Appeal Action Plan**

In this context, whilst securing and consolidating past achievements, in the coming years the BoA will need to efficiently respond to the abovementioned challenges that lie ahead in order to adapt to the rapidly changing business environment, so as to continue to deliver a high-quality service which effectively meets users' needs.

With this double objective in mind, the renewed **Vision** for the BoA is to consolidate their role as a **high-quality, effective, coherent and modern Intellectual Property Dispute Resolution Body** that:

- understands the needs of worldwide businesses, offering users the highest standards of appeal resolution;
- provides a high-quality, coherent, consistent and predictable decisional practice;
- performs, on top of their traditional review and filter roles, a clear guidance role to the EUIPO at first instance;
- contributes to shaping European trade mark and design practices; and
- serves as a reference for appeal bodies of Member States, EU Agencies and International Organisations.

In order to address the challenges ahead and implement their renewed Vision, the BoA will pursue the following Goals:

GOAL 1 – Optimise operational Efficiency and Effectiveness towards organisational excellence.

GOAL 2 – Enhance the value of Dispute Resolution by expanding quality and transparency, increasing Consistency, Coherence and Predictability, and developing Alternative Dispute Resolution.

GOAL3 – Enable Cooperation with external stakeholders.

Within the context of these goals, this five-year Action Plan is structured around **5 Focus Areas** and **19 interconnected Key Initiatives** for actions to be implemented in close cooperation with internal and external partners.

As regards planning and implementation, based on the Focus Areas and Key initiatives, each year the draft **Annual Work Programme** of the EUIPO to be presented to the Management Board will include **priority actions** and identify detailed information on the different projects and actions to be implemented.

Furthermore, the respective **human and financial resources** associated with each year's actions and projects will be included in the draft **Annual Budget** of the EUIPO to be presented to the Budget Committee, following the forwarding, by the President of the Boards of Appeal, of the BoA expenditure requirements to the Executive Director, in accordance with Article 166(4)(d) EUTMR.

A monitoring dashboard of this Action Plan, including a summary of the different Key Initiatives, with their respective timelines and expected results can be found in annex.

<b>Focus Area 1 – Optimise operational efficiency and effectiveness towards organisational excellence</b>
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In this area, the aim is to ensure that the BoA deliver high-quality decisions in a timely manner whilst ensuring the long-term sustainability of efficiency as regards BoA operations.

For these purposes, a series of procedural, technical and organisational measures will be taken as regards the consolidation of timeliness standards, IT tools and databases, working methods at decision level, knowledge sharing and development and staff management policies.

Together these measures are expected to contribute in a significant way to support the work of the BoA by ensuring that they have at hand the best tools that will allow them to further optimise their operational efficiency, effectiveness and transparency to achieve organisational excellence as well as to provide the level of support needed for the whole BoA.

**Under Focus Area 1** the BoA will aim at upgrading the existing BoA IT tools and take advantage of new technologies to develop newer ones; enhancing the functionalities of the eSearch case-law database; modernising and simplifying working methods at decisional level; becoming a knowledge-based organisation and building together an attractive workplace. To attain these objectives, the following Key Initiatives will be implemented:

## **Key Initiative 1: Upgrade the existing BoA IT tools and take advantage of new technologies to develop new tools**

The automation of BoA operations is currently based on front- and back-office service tools such as e-appeals, BoA Single tool and DAS. The current level of automation as regards BoA operations is low and there is concern about the overall ability of the current systems to support BoA core operations over the medium-term in an efficient manner.

In this context and **in close cooperation with the Digital Transformation Department ('DTD')**, the BoA will focus on a number of projects to upgrade existing IT tools and to develop and implement new tools aimed at improving their operational efficiency and effectiveness. The introduction of newly developed tools will also need to be accompanied with measures concerning change management and staff training in order to obtain optimum results from them.

The first one is a brand-new **back-office** IT solution, called **IPTool BoA**, which should enter into production before the end of 2022. For the first time in the history of the Office, it will be possible to manage and follow up a trade mark application from its filing before the Office up to its litigation before the European GC and CJEU by means of one single tool. This will allow for a better monitoring of cases, a smoother communication within the Office and with users, including publication, as well as enhancing efficiency and effectiveness. The IPTool BoA will also need to embrace the ADR workflow. Clear guidance in a **user manual** for the new back-office IPTool BoA as well as the necessary adjustment to the Litigation Module of IP Tool will be necessary in order to incorporate all the new technical instructions to perform activities and tasks in accordance with the corresponding legal and administrative rules.

As regards the **front office**, the digital experience of users will be upgraded by further developing the electronic submission of arguments and evidence by the parties. At the level of the BoA, this would start with the rollout of an electronic statement of grounds ('eSoG'), allowing the parties to submit arguments, facts and evidence in a fully electronic manner. This has important efficiency gains for both the parties, their representatives and the BoA, as currently the vast majority of written submissions are scanned texts that cannot be processed easily.

Moreover, reusing and adapting Office tools, the BoA will look at the development and implementation of a **Drafting Editor tool**, enabling the automatic incorporation of data from IPTool, as well as easier access to the templates and standard paragraphs drafted by the Consistency Circles (see Key

Initiative 6). This tool could also be extended to the drafting of responses in litigation on the basis of templates prepared by the Litigation Service. In this regard, it should be clarified that the introduction of drafting tools seeks to **facilitate the work of the drafter but not to substitute it** and should enable drafters to tailor any standard paragraphs to the specific circumstances of each case.

**Other IT projects** which are initially included within this Key Initiative, subject to further analysis and also taking into account the availability of resources and DTD support, are the following:

- **Implementation in the Register** of the outcome of BoA's decisions and verification of the resulting lists of accepted and rejected goods and services;
- Development and implementation of an AI-based tool for the **automatic allocation of files** to the different BoA and for the re-allocation of cases after the annulment of a decision by the Courts;
- Implementation of **online oral hearings and mediation**, with either ad hoc or existing online videoconferencing tools, to substitute presential meetings when appropriate under the circumstances and provided that online oral hearings are agreed to by the parties;
- Following the completion of front-office functionalities, the creation of an **electronic case file**, allowing the BoA file for each case to be easily accessible, clearly structured and fully searchable, including the possibility of making available to the decision-drafter an electronic working copy of the file where annotations or cross-references can be made. This would further contribute to the reduction of BoA's paper footprint and is connected with the digitalisation of the front office through the expansion of the services under e-appeal;
- Development of other functionalities and tools to assist users and solve their queries, such as a chatbot (see Focus Area 3).

Finally, the BoA will closely follow and **participate in the reflection and work being carried out at Office level**, within the framework of SP2025, in the fields of **AI, big data and other new technologies**, which may result, in the near future, in the launching of **additional projects** to automatise our proceedings further and provide support to decision-takers.

## **Key Initiative 2: Ensure timeliness of all proceedings and enable a proactive management of cases**

The track record of BoA as regards ISO timeliness standards has been generally very good. In order to ensure that this continues to be the case, in the expected scenario of growing inflows of appeals, focus should be placed on ensuring that the BoA deal with higher volumes of appeals while maintaining their **pendency times and avoid the accumulation of backlogs**. This will be done, partly with the support of new tools for the procedures that currently do not have them and partly by ensuring that appropriate workflows are in place at the BoA, making the right resources available and taking advantage of synergies between different activities.

In order to reach this goal, measures will be taken to overcome work fragmentation and the ensuing need for coordination. In practical terms, this means that **tasks belonging to the same activity should be grouped as much as possible around one competent Service**, minimising switch costs, creating pools of expertise, avoiding multiple monitoring and endless exchanges of emails. For these purposes, a careful analysis of the current distribution of tasks will be carried out to determine which is the Service best suited to perform each activity in its entirety.

The **Service Charter** will be revisited with the **creation of new indicators** for different steps of the procedure aimed at optimising appeal processes and the **extension of already existing indicators**, such as the application of ISO indicators for the Grand Board, similar to those applied to cases before the individual Boards, but which also take into account the higher degree of complexity of the legal issues, deliberations and the need for translations into the languages of proceedings.

The review of the service charter with the introduction of several internal milestones identified for each step of the procedure, with the average time foreseen for each of them, monitored throughout the process, will allow for an **early identification of possible backlogs** and the adoption of measures to prevent or absorb them.

## **Key Initiative 3: Enhancing the functionalities of the e-Search Case-Law database**

In the context of the development of a consistent and coherent decisional practice, aligned with the case-law of the GC/CJ, and bearing in mind that legal certainty is paramount for users and for the credibility of the system as a whole, the BoA are responsible for leading the **SP2025 project, e-Search Case-Law Database: Improve Tool Project** for the re-engineering of this database, which

is among those that have strategic priority to start in 2022. In this regard, **four actions** related to the Case-Law Tool are initially foreseen, namely *enhance the publication and translation of decisions, implement data quality, develop a digital environment and raise awareness*.

The e-Search Case-Law tool was released in October 2015 as part of Strategic Plan 2011-2015. However, since the release of the Machine Translation Tool in 2018, the e-Search Case-Law tool has not been improved or updated further in relation to performance, search functionalities or search results output. Once IPTool BoA is fully deployed as a new back office for the BoA, there will be an opportunity to develop enhanced functionalities in a revamped or new Case-Law tool with a view to offering the best-in-class services to all our stakeholders, including professional representatives in line with the Strategic Plan of the Office.

The new tool should aim at directly **enhancing the customer experience** when searching for decisions of the EUIPO and EU and national judgments in an effective and efficient manner. The search for relevant case-law pertinent for the decision or the procedural document to be drafted, including the statement of grounds or the observations of the parties before the BoA, would be easily available, increasing the **quality** and consistency of the decisions and, simultaneously, saving the **time** necessary for these kind of searches.

Such a tool would not only be useful for the **decision-taking instances** of the Office, but also for legal **practitioners and self-represented parties**, as it would, on the one hand, support them in preparing actions or submitting documents before the Office and, on the other, would also help them to decide whether, based on coherent and consistent precedents, an action may be successful or whether it would be more advisable to desist or to seek an agreement with the other party, notably by having recourse to one of the alternative dispute resolution mechanisms proposed by the BoA (see Focus Area 4).

#### **Key Initiative 4: Modernise working methods by simplifying and harmonising processes and procedures**

In order to offer users global, cost and time effective solutions for their disputes, it is also important to introduce new and simplified working methods which can offer decision-takers better conditions to carry out their job, while fully respecting and taking into account the independence of the Members of the BoA in their decision-taking capacity.

**In this regard, a simplification programme will be launched, aimed at streamlining and consolidating** internal instructions, based on the ideas for continuous improvement from BoA staff and on the **best practices identified in the different Boards and Services**, in order to improve Operational Efficiency and Effectiveness by ensuring that the work instructions can be applied with clarity and consistency thus increasing staff satisfaction, motivation and engagement (in line with Key Initiative 5).

The **multiplicity of processes** existing in the treatment of the files as a result of the different interpretation/applications to various procedural rules could have an impact on external and internal stakeholders. **Externally**, this could mean an extra burden on users. While the substance of a case is only, to a limited extent, comparable to one of previous cases, the proceedings should be further harmonised to ensure higher levels of predictability. **Internally**, it is very time consuming for both the BoA and their services to 'invest' time in elaborating different approaches and adapting the internal processes to them. The BoA should especially focus their attention on streamlining procedures and ensuring that they are managed with maximum transparency, contributing to increasing efficiency in speed and cost-effectiveness.

On top of this, the expected entry into production in Q2 2022 of the **IPTool BoA** (see Key Initiative 1) will contribute, by means of technology, to the harmonisation and simplification of procedures. However, the tool itself will not suffice if it is not accompanied by other measures, such as the following:

- Revision of the **Registry Manual** (currently consisting of more than 700 pages) in order to simplify and harmonise internal processes;
- Adoption and amendment by the Presidium and/or the President of the BoA, when necessary, of **Instructions to the Registry** in line with the aforementioned procedural simplification and harmonisation (including, where needed, amendments to the Rules of Procedure);
- **Reorganisation of the Registry** in functional/linguistic teams, ensuring more flexibility in the management of Registry resources, greater efficiency in the Registry's operations and enhanced predictability for users.

Thirdly, as regards the simplification and harmonisation measures to be adopted by the Presidium or the President, it is proposed that a **Registry and Procedure Consistency Circle** (see Key

Initiative 6) be created as a technical body where experts from different areas in the BoA are represented.

This Consistency Circle will be responsible for issues concerning the practice related to appeal procedure and, when necessary, for preparing drafts on procedural issues and/or instructions for the Registry, to be submitted to the BoA management for advice. It will also support the Registry in the **implementation of the instructions** received by the Presidium or the President, ensuring full alignment between the two levels (decision and implementation).

As it will be responsible for both the upstream and the downstream parts of the process, it will guarantee, on the one hand, that the decisions taken are in full compliance with legal and case-law requirements and that they are taken with due consideration to operational consequences and constraints and, on the other, that those decisions are accurately implemented. All proposals will contain a **cost and benefit analysis**.

Finally, other actions which are contemplated within this Key Initiative may include measures to streamline cases in which **oral hearings** are held, for which a checklist will be developed to help the BoA decide on the suitability of holding an oral hearing in a specific case, as well as, provided that the number of design appeals continues to rise, the involvement of more Members and legal assistants in the **Third Board** (Design Board) allowing for an upgrade and refreshment of skills in the field of designs.

#### **Key Initiative 5: Create an expert knowledge hub by improving knowledge acquisition, management and sharing**

To fulfil their mission as the key source of substantive guidance within the EU trade mark and design systems, the BoA have to consolidate themselves as a **knowledge-based organisation**.

Additionally, the BoA need to ensure that they are an attractive workplace, which enables their staff to constantly develop and further their skills and knowledge. The cornerstone of this policy will be to offer a **continuous learning process**, by which staff will be prepared to take on new challenges.

**Structured training plans for newcomers**, in close cooperation with the Academy, based on clear working instructions and assorted coaching plans, will be prepared for every profile of the BoA's staff. **Internal and external trainings** to exchange best practices, reinforce skills, acquire new competencies and boost creativity will also be provided, including areas such as robust **case management techniques**, clear **legal drafting** styles (methodology, structuring) or **project management** (Prince2).

In the last years, many laudable actions have been launched by the individual Boards and the Services of the Operations Area, but in order to get the maximum results in terms of efficiency, efficacy, knowledge sharing and cross-fertilisation, it is necessary to reinforce further the organisational culture of the BoA.

The expected return is the development, in close cooperation with HRD, of the **personal career** of BoA staff and the possibility for all staff to learn on the job, see their skills recognised, expand their knowledge, become aware of the importance and the difficulties of other colleagues' work and, above all, acquire a 360° vision allowing for a holistic approach aimed at ensuring the highest quality at all stages of BoA processes. This will allow staff to feel part of the organisation and be proud of the personal and collective work that has led to the success of the operations carried out by the BoA.

This change will be supported by the creation of an **internal matrix organisation**, where the staff of the decisional and operational areas of the BoA are mutually involved in one another's activities, with, for example, some legal assistants taking up litigation cases or participating in the activities of the Consistency Circles or some litigators or IP experts assisting Members in drafting decisions or providing mediation services to users.

A matrix structure can only work in the presence of a well-structured organisation, where the tasks, both individual and of the Service, are clearly defined and stable. Changes should always follow a logic which is properly communicated to, and discussed beforehand with, staff and can be understood by them, thus becoming an active part of managing change.

To support the functioning of the internal matrix, **Litigation and an ADR tailor-made training** will be managed by the Litigation Service and the ADRS, respectively. They will be responsible for training

and preparing inexperienced staff in litigation or ADR activities so that all staff handling cases are able to engage in effective and robust case management. At the end of the training, a coaching system will be put in place, with the aim of supporting staff in their first real cases.

This internal matrix organisation will be completed with an **external matrix organisation** embracing other departments, such as participation in the Knowledge Circles of the Legal Department and, conversely, the participation of staff from Operations and from the Legal Department in litigation and mediation, in the Consistency Circles and in the BoA General Consistency Case-Law Meetings.

In addition, providing an enhanced **web-based functionality** integrating access to information (judgments, norms, documents) and internal guidance and knowledge development (guidelines, instructions notes, best practices, tutorials) will enable staff to handle cases more proactively, apply instructions more effectively and avoid the fragmentation of work time (having to switch between different tools and platforms) when searching for information.

In relation to knowledge development, the BoA Operation Area's **compilations of summaries of judgments and decisions**, namely the annual overview of GC/CJEU case-law and the bi-annual overview of BoA decisions, will also be improved in terms of both content and classification, reporting on the key points of law and flagging up selected decisions, including their frequency which should be done quarterly on the Office's website on the page dedicated to the dissemination of legal knowledge. Provided that the IT architecture of the new back office allows for further development, the overviews could be transformed into an electronic monthly case-law digest either in a *sui generis* platform or as part of a reporting tool in the new eSearch Case-Law Tool (see Key Initiative 3).

Another important learning area, in particular for decision-takers, is the **careful analysis of all judgments** rendered by the GC and CJEU. Taking into account that judgments may also vary as regards the depth of the reasoning provided, it is necessary to discern important judgments that may affect BoA practice and might call for a change from those whose effects cannot go beyond the specific case decided upon. In case of **annulments** based on procedural violations or a misapplication of the law, the respective CCs should provide a proposal to avoid their repetition. Moreover, as part of lessons learnt and to promote consistency, annulled cases will be analysed and discussed in a selected forum.

In this context, following the integration of the Litigation Service within the BoA, the Agents of the Litigation Service who are responsible for the defence of the BoA's Decisions before the General Court and/or the Court of Justice will work in close coordination with the BoA's decision-takers, namely through the **Litigation Strategy Board** where the strategy regarding the defence of the appealed decisions is discussed and decided. The outcome of these discussions shall also feed into the quality cycle in order to trigger the appropriate quality assessment and further actions, contributing to the Quality objectives of Key Initiative 6.

The **matrix organisation**, the **Consistency meetings** (see Key Initiative 9) and the **participation in activities led by other Departments** will also enable personal skills to be developed, and natural talents to emerge, increasing staff satisfaction and their preparedness to take up new tasks.

**Feedback** from staff will be part of the continuous training aimed at maximising lessons learned. Feedback can be given personally or through training sessions. An **Innovation Lab** will also be created as a testing ground, allowing staff to propose new ideas and brainstorm on improvements to our working methods.

With the support of HRD, effective **staff planning and management** will need to be developed further. Such a revamped plan will ensure that there are highly qualified people in all positions today and in the future. Succession planning will involve understanding the organisation's long-term goals and objectives, identifying the workforce's development needs and determining workforce trends and predictions. Staff will also be constantly developing so that competency gaps are filled.

Finally, these measures should contribute not only to improve knowledge management and sharing within the BoA but also to **increase staff motivation, engagement and satisfaction**.

**Focus Area 2 – Improve quality by promoting a consistent and coherent decisional practice, enhancing alignment, legal certainty and greater predictability for internal and external users**

In this area, the aim is to ensure that the BoA continue to deliver high-quality decisions, ensure legal certainty and greater predictability for users; provide effective and clear guidance on Office practice at first instance and to other EU appeal bodies and optimise the value of IP Rights.

A high-quality decision is a decision that is clear, easily understandable, well-structured, deals with all the relevant arguments raised and is taken in a transparent manner, within a reasonable timeframe, is consistent, legally solid and predictable. The quality of decisions in this context refers primarily to consistency between similar cases as well as contributing to foster alignment, as far as possible, of first-instance decisions with BoA and GC and CJEU case-law. Furthermore, quality also refers to the predictability of BoA decisions, in particular by giving the user all the necessary tools and information, so that the outcome of the proceedings can be reasonably predicted before submitting the appeal.

As the Guidelines of the Office reflect the leading case-law of the BoA and of the EU Courts, a systematic approach followed by the BoA will result in an even more coherent and consistent practice at the first-instance departments of the Office. Furthermore, the integration of the Litigation Service in the BoA ensures the consistent line of defence of their decisions.

The focus of the BoA's future direction, whilst fully maintaining their independent role, should therefore be the **development of their guiding function**. Doing so is not only complying with a legal obligation but also corresponds to the important institutional and organisational prerogatives that they have been granted by the legislator.

Laying emphasis on the BoA's guiding function has also clear strategic implications in terms of providing a significant contribution to shaping the practice and case-law of the EUIPO, and also indirectly of the EUIPN.

**Under Focus Area 2** the BoA will aim to develop a consistent and coherent decisional practice aligned with the case-law of the GC/CJEU, increase the predictability of the work of the BoA, provide clear guidance to the first instance, improve alignment of first-instance decisions with the BoA and GC/CJEU case-law, increase predictability and legal certainty of the work of the EUIPO for external users and create a collaborative and team culture at the BoA. In order to attain these goals, the BoA will launch the following Key Initiatives:

#### **Key Initiative 6: Develop a collaborative approach to consistency**

In order to develop a consistent decisional practice further that can guide the EUIPO practice, it is necessary to carry out a systematic analysis and identification of trends as regards BoA decisions

and GC and CJEU judgments; the further referral of cases on important legal matters or divergent case-law to the Grand Board and the further harmonisation of procedural matters. In this context it is necessary to establish a more collaborative and all-inclusive approach within the BoA.

Additionally, the guiding role on the definition and coherency assurance of the practice of the Office assigned to the BoA by the EUTMR and reinforced by the recent integration of the Litigation Service, require a revisiting of the structure, distribution of competences and definition of working methods within the BoA.

In this context, a pivotal role in this new matrix and inclusive organisation will be played by the Knowledge Information Support Service as a true knowledge and quality service. This will represent a change in its nature and objectives, with new competences developed and some of the existing ones transferred to other services in order to achieve the efficiency gains resulting from a reorganisation of operations.

A first initiative in this area refers to the creation of **Consistency Circles** ('CCs'). These are intra BoA teams, composed of different legal profiles working as Members of the BoA, legal assistants, litigators or legal experts from the Knowledge Information Support Service, whose primary task will be to analyse case-law, both at BoA and GC/CJEU levels, identify trends, gaps and elaborate Consistency Reports ('CRs'), covering all areas of trade mark and design law. This will be done by **fully respecting the independence** of the President, Chairpersons and Members of the BoA.

The aim, concerning the establishment of this collaborative fora within the BoA, is to enable the BoA to make significant progress as regards the emergence of common understanding in respect of a number of relevant legal matters and consequently have a more consistent approach overall. Furthermore, this initiative will also serve as a catalyst for active collaboration with other departments of the EUIPO, as well as with User Associations, National Offices and national jurisdictions.

The elaboration of CRs is one of the primary tasks of the CCs. Once the CRs are approved, they will serve as one of the primary sources of information for the BoA themselves, which will contribute to progressive coherence and consistency in all aspects of trade mark and design law. The CRs will also contribute to the Litigation Strategy Board in helping to define the position before the EU Courts, in

the Knowledge Circles ('KCs') managed by the Legal Department, in the Convergence Projects ('CPs') handled by the Institutional and Cooperation Department, as well as in the Networks created by the BoA, such as the Judges Quality Assurance and Legal Practice Panels ('J-QALPP' see Key Initiative 17) and the Inter Agency Appeal Proceedings Network ('IAAPN' see Key Initiative 17).

In order to make more efficient and effective the transfer of knowledge from the CCs to the Office Guidelines and to Convergence Projects, it is appropriate that BoA representatives in the KCs and the CPs participate in the relevant CCs.

Other actions which are contemplated within this Key Initiative include the preparation by the corresponding CCs of checklists and collections of standard paragraphs, which will streamline working methods and contribute to efficiency while merging with quality gains.

With a view to increasing transparency of BoA operations, once internally approved, the main elements of the CRs will be discussed internally in the BoA, as well as with other departments of the Office.

As they will contribute to the preparation of the positions to be taken in respect of preliminary ruling referrals from national jurisdictions on both the EUTMR and the Trade Marks Directive and for the CPs and the discussions in J-QALPP, it becomes manifest that the important investment that the BoA will have to put in place during the first years will pay back on multiple levels and will constitute the multiplier for a coherent and consistent approach.

This task needs to be managed by dedicated and highly professional staff from the Knowledge Information Support Service, the Litigation Service and the decisional area, who will also be involved in other horizontal tasks (such as assisting Members with drafting decisions and with litigation). The participation of Chairpersons and Members of the Boards in the CCs, although highly desirable, remains **voluntary**. Such a matrix organisation will ensure cross-fertilisation and the guarantee that the knowledge acquired in one or another task is spread and the input coming from different stakeholders is taken into account and profited from.

With the objective of supporting the development of a consistent and predictable decisional practice and providing support to the BoA, a second initiative refers to the establishment of an **Early Active Case Management System** ('EACMS') during the preparation of the *Final Procedural Check*. The aim of the EACMS is to provide additional preliminary non-binding elements to the BoA that will continue to act with complete independence. It will also serve as a pre-emptive action to identify potential cases that can be consolidated thus avoid issuing an unnecessary decision.

In this context, the **EACMS** will provide the new cases with a preliminary **informative** and **non-binding** high-level assessment from the first written exchange as regards the following questions:

- whether the case should be remitted to the Grand Board, in view of the fact that there is divergent case-law on a point of law which is relevant for the case, or of the legal difficulty or the importance of the case (Articles 165(3) EUTMR and 37(1) EUTMDR);
- the case could be suitable for an oral hearing;
- the case appears to be suitable for one of the ADR services, .e.g. mediation, conciliation;
- the case could justify a request for the opinion of the Executive Director on questions of general interest (Article 29 EUTMDR) or of an expert opinion in accordance with Article 97(1)(e) EUTMR;
- a decision on the case appears to be particularly urgent or, on the contrary, should be suspended, in view of the existence of parallel proceedings before the EUIPO, the Grand Board, the GC/CJEU, national offices or Courts;
- or finally, the case has relevant factual or legal elements in common with one or more other cases that would justify that they are allocated to the same Board.

As a first step towards the implementation of the EACMS, a **pilot** will be run with a selection of cases to ensure the feasibility and impact of said task.

Finally, a third pilot initiative in this area will encompass, in line with Key Initiative 1, the implementation of a **Decision Drafting tool**, enabling access by the different BoA to the templates and standard paragraphs drafted by the CCs and validated after their discussion in General Consistency and Case-Law meetings (see Key initiative 9). The introduction of this tool **seeks to facilitate the work of the drafter but not to substitute it** and should enable drafters to tailor any standard paragraphs to the specific circumstances of each case.

## **Key Initiative 7: Optimise the role and functioning of the Grand Board as an agent to promote consistency and coherence of BoA practice**

The Grand Board is an extremely important tool for solving complex and important legal issues, as well as for promoting uniformity and consistency since decisions taken by the Grand Board on appeals or opinions on questions of law referred to it by the Executive Director pursuant to Article 165 shall be binding on the decision-making instances of the Office (Article 166(8) EUTMR). This is **without prejudice** to the obligation, stemming from Article 37(1) EUTMDR, that the BoA have to remit a case to the Grand Board whenever they detect discrepancies in their case-law.

Since it was established, in 2004, until the end of 2020, the Grand Board has taken 33 decisions.

In order to promote further consistency and coherence of BoA practice, it is necessary, on the one hand, to gradually ensure the referral of more cases on important or divergent matters to the Grand Board, as well as on the other, to guarantee that the Grand Board takes decisions in a reasonable timeframe.

In this context, and as a consequence of the implementation of the Early Active Case Management System (Key Initiative 6), once potential divergences in the decisional practice of the BoA are detected, they will be identified and brought to the Presidium for possible referral to the Grand Board.

Additionally, as regards **novel issues** or matters on which there are apparent diverging decisions at the level of the **different instances of the Office** and on which no CR has been adopted yet, it is of the utmost importance that the corresponding cases are detected at the earliest possible stage through the Early Active Case Management System, allowing the Grand Board to ensure further consistency and coherency in the decision-making practice.

Finally, **whenever needed** the Grand Board will be supported by the CCs. As the cases remitted to the Grand Board deal with novel or legally complex issues, the CCs will support the Grand Board by submitting, upon request, **a non-binding Case-Law Research Report** aimed at furnishing the Grand Board with an informative analysis of the relevant GC/CJEU case-law, the precedents of the Grand Board, the trends in the BoA, the Office Guidelines and, where possible, the approach(es) taken in other jurisdictions. These reports, prepared by the staff specialised in the different areas, **aim at**

**supporting** the Grand Board and its Rapporteur as regards research and the collection and analyses of the relevant case-law.

### **Key Initiative 8: Enhance the level of legal debate across the whole BoA**

Although the level of legal expertise in the BoA is very high, the level of general legal debate within the BoA as a whole is still relatively low. This constitutes an obstacle to the development of a consistent and coherent practice at the BoA level.

In order to address this issue, **General Consistency Case-Law Meetings** ('GCCLM'), gathering all legal profiles from both the decisional and the operational areas of the BoA (President, Chairpersons, Members and IP Legal Experts), will be organised on a regular basis to present and discuss the recent and most relevant case-law from the GC and the CJEU, as well as the most recent case-law of the Grand Board and the latest CRs.

Aiming at being more effective, these meetings will be organised in two main parts. The first part will consist of a plenary to be followed by several parallel workshops with panels gathering staff from all areas of the BoA and discussing each of the CRs prepared by the CCs in more depth. The final result will be the fruit of a collective effort through which the opinion of everybody will be taken into consideration. The Consistency Meetings will also bring efficiency gains as it will be unnecessary for the same discussions to be prepared and held separately in each Board or Service. The draft CRs will finally be approved following their discussion in the General Consistency Meetings.

### **Key Initiative 9: Establish an Enhanced Quality Reading ('EQR') system**

As shown above, the coherence and consistency analysis will be useful in providing the necessary elements for the BoA to further increase the quality of their decisions.

However, there are other factors that play an equally important role in the delivery of high-quality decisions, such as the accuracy of both the factual part and the legal reasoning in the decisions, clear and plain drafting (which will also improve the quality of the translations of the decisions), taking into account previous or parallel appeal cases and the alignment with the Grand Board's decisions and the CRs.

The BoA have a Quality Reading system already in place, which is however limited to linguistic and formal aspects. The objective is to put in place an EQR system, similar to the one currently in operation at the GC/CJEU, that encompasses (a) checking formalities, (b) checking the appropriate use of language, and (c) checking the reasoning.

The introduction of a comparable system at the BoA (whereby the current quality reading will be extended to e.g. flagging the existence of Grand Board decisions, CRs and previous decisions or parallel cases having an impact on the case at hand), could substantially contribute to increase the quality of BoA decisions and communications to the parties, whilst fully respecting the independence of the BoA in their decision-making as enshrined in Article 166(7) EUTMR.

Synergies with the other linguistic services of the Office should be explored. This improvement would also respond to the need to further improve the translations of BoA decisions, as well as of procedural documents submitted to the Courts.

<b>Focus Area 3 – Increase transparency and ensure accountability and scrutiny of the work of the BoA</b>
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As part of the European public service, the BoA should focus on delivering high-quality decisions while being accountable to public scrutiny. Transparency and accountability are essential principles in public administration. In line with these principles, the EUIPO and its BoA should disclose, in greater detail, how they set priorities, how they plan, execute, monitor, implement and measure the results of their actions and their impact.

Currently, the BoA render an Annual Report of their activities, with facts and figures, which is an annex to the overall EUIPO Consolidated Annual Activity Report that is presented before the Management Board and the Budget Committee. Moreover, the daily work of the BoA is accessible through the eSearch Case-Law database on the EUIPO website, where BoA decisions can be easily located and downloaded.

In order to increase transparency and ensure accountability and scrutiny in the coming years, the BoA will establish systematic and clear communication channels with the public at large aimed at making the appeal process more effective, efficient and accessible for the benefit of users.

**Under Focus Area 3** the BoA will aim to expand transparency; ensure accountability and scrutiny; improve the quality of their services as perceived by users and empower the stakeholders of the trade mark and design system.

In order to attain these goals, the BoA will launch the following Key Initiatives:

**Key Initiative 10: Further the transparency of the quality model of the BoA to individual appeals**

As explained under Key Initiative 2, the current quality indicators will be revisited with the creation of new indicators aimed at better monitoring the appeal processes.

In order to further increase transparency and accountability on the level of individual appeals, basic information regarding the status of the file should be made visible to the parties. In recognition of the inevitable variance in the time taken at each stage of the proceedings from case to case, as well as of the independence of the individual Boards, each milestone will be presented in the form of an interval, ideally taking into account a number of different case-specific factors affecting the average time of a case.

Furthermore, in order to receive data to improve that milestone system, the possibility to answer an **online survey** (see Key Initiative 13) **about user satisfaction with the service provided** (and not with the outcome of the decision) following the notification of the decision will be put in place.

**Key Initiative 11: Establish systematic and clear communication channels with the public at large**

A cornerstone of the future BoA policy will be to improve the quality as perceived by users by further **integrating the user perspective** in the work of the BoA.

The conferences and events organised by the BoA will continue to be an important channel for communication. The extremely successful **IP Case-Law Conference**, covering complex legal issues, will now be offered on a yearly basis in order to address and discuss the latest developments and issues of substantive trade mark and design law. Also, workshops will be organised to present and discuss specific legal matters identified in the CRs.

In day-to-day activities, the BoA should foster the **publication of their important decisions** on a more frequent basis, for example in the form of a recurring digest and also in the future an IP Repository to be developed under ECP7, increasing awareness of the BoA's practice and latest developments.

As regards ease of access however, the Web documentation related to the organisation and the activities of the BoA is complex and consists of numerous pages. In order to make sure that the relevant information, in particular the BoA composition, the Rules of Procedure, pending and closed Grand Board cases, pages on ADRS, CRs, is more easily accessible, up-to-date and user friendly, it is envisaged to improve the public BoA webpage to enhance user experience. This will additionally contribute to transparency and provide useful assistance and guidance for users as regards their cases.

The revamped webpage should also include **an email alert system** (e.g. RSS feed) of important cases, updates of recent BoA news and ongoing consultations, in order to enable users to access up-to-date information related to the BoA.

For standard inquiries and most frequently asked questions regarding common technical issues, such as extensions, suspensions, restrictions, etc. where a clear practice is offered by the BoA, a **chatbot and videoclips** will be offered to give real-time answers.

A transparent, easily navigable webpage will minimise the need for managing questions from users and will enhance the transparency and predictably of decision-making at the BoA.

#### **Key Initiative 12: Involve the stakeholders in regular and structured discussions on relevant case-law matters**

For the purpose of improving the perceived quality of our services, the BoA will require feedback on aspects of the quality criteria such as compliance with procedures, format, clarity, reasoning of the decision, ease of understanding, timeliness and other factors (other than the substance of the decision itself), using the various mechanisms available.

A **wide range of stakeholders should be involved in the regularly organised structured discussion** of relevant case-law matters, as well as in important and impactful decisions and new procedures. This will be achieved, inter alia, by the following means:

- Users Satisfaction Surveys;
- Feedback survey following the notification of a decision;
- Annual Case-Law Conference;
- User Focus Groups ('UFG');
- Network of Appeal Bodies of IPOs (see Key Initiative 19);
- Judges Quality Assurance and Legal Practice Panels ('J-QALPP').

**User Focus Group meetings** ('UFG') will be organised every six months on specific themes. Moreover, the framework of the UFG will also be used for discussions or consultations on specific topics where the views of users should be taken into account, e.g. consultation on amendments of the Rules of Procedure, quality management strategy etc.

The main elements of the CRs will also serve as a basis of discussions within the **J-QALPP**, and the **Network of Appeal Bodies of IPOs** (see Key Initiatives 17 and 18).

In parallel with the UFG meetings, the BoA will conduct written **User consultations** on impactful administrative decisions and changes of practice at the BoA, such as intended amendments to the **Rules of Procedure** (see below). The consultations should be done utilising the existing interactive functionalities used for consultations of the Guidelines, which are familiar to users.

An account of the comments and feedback received via the aforementioned forums will be taken into consideration in their next revision.

All feedback collected through the various channels described above will be used for evaluating BoA performance and for considering potential changes to templates, the Rules of Procedure, instructions, tools and practice where warranted.

The BoA will conduct a regular and systematic analysis of this feedback and devise actions for implementation under two categories. First, upon the recognition of an **urgent need for action the**

**implementation process must start immediately.** Such urgent needs may arise for example as a consequence of changes in regulations or case-law. Second, the feedback received will also be used to define the scope of a **yearly improvement project** designed to implement the recommendations resulting from the analysis. Within the framework of the project, the actions to implement the resulting recommendations will be managed.

On a procedural plane, the main tool for implementing the feedback received will be amendments to the Rules of Procedure. In order to increase the predictability of the updates from the user perspective, **the Rules of Procedure should be subjected to a predefined revision cycle** resulting in amendments being implemented once per year.

Amendments will be proposed considering, on the one hand, the feedback received through the external channels mentioned above, and on the other, internally noted needs e.g. due to developments in case-law. In this regard, priority should be given to the findings of CCs, including procedural questions. All relevant stakeholders should be systematically invited to **submit their comments on the intended yearly amendments of the Rules of Procedure** before their adoption by the BoA Presidium. Following approval, the cycle will end with the further implementation of amendments, in particular by updating the Instructions to the Registry and the instructions to the parties. Additionally, for full transparency and in order to aid the parties, working instructions, such as manuals, aligned with the Rules of Procedures, will be publicly available on the Boards of Appeal section of the EUIPO's website, setting out all the relevant information on how to proceed in each stage of the appeal proceedings.

#### **Focus Area 4 - Expand and broaden the use of Alternative Dispute Resolution at the EUIPO**

The priority in this area is to optimise the value of IPR and offer parties suitable mechanisms and tools for finding expert and swift solutions to their potential conflicts as from the earliest stages of the proceedings, with a view to supporting EU businesses and, in particular, SMEs.

The determination of the BoA to provide neutral, confidential, cost-effective and user-friendly mechanisms for conflict resolution to users has led to the development of a wide range of Alternative Dispute Resolution ('ADR') services that include mediation, conciliation, assisted negotiation, expert determination and a specific service for SMEs which reflect the multifaceted nature of the disputes they face.

Currently there are some 30 certified ADR experts in the Office, covering 12 languages of the EU.

In the years to come, the BoA should actively contribute with their expertise to enhancing and broadening the use of ADR at the EUIPO in order to expand the mediation culture.

In line with Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the EU Mediation Directive), Article 170 EUTMR contemplates the establishment of a **Mediation Centre** with the aim of promoting the friendly settlement of disputes relating to EU trade marks and Community designs by mutual agreement.

**Under Focus Area 4** the BoA will aim at offering parties, from an early stage of the proceedings, suitable mechanisms and tools to find expert and swift solutions to their conflicts, increase the use of ADR at the level of the BoA, expand the scope of ADR to all instances of the EUIPO and create the EUIPO Mediation Centre. In order to reach these goals, the BoA will launch the following Key Initiatives:

#### **Key Initiative 13: Establish the EUIPO Mediation Centre**

The BoA will actively contribute with their expertise to enhancing and broadening the culture and the scope of ADR at the EUIPO by transforming the ADRS into a fully functional Mediation Centre to provide voluntary ADR services for the purpose of assisting parties in reaching a friendly settlement.

Building on the accumulated experience gathered in past years in the BoA and the positive outcome of the cases settled, the establishment of a Mediation Centre will take place in several phases, in order to adequately consolidate each process and all the necessary supportive tools.

In practice, this will mean designing an overarching amicable dispute resolution system to cover all proceedings before the Office, which will even be able to deal with cases before a conflict is declared. The execution will be phased by area or proceeding taking into account the specific needs of users, through a flexible project management methodology.

Phase 0 of the project would include, among others, the identification of best practices, the analysis of user needs in collaboration with the IPOs and the description of IT tool requirements, culminating in the delivery of a project brief.

Phase 1 of the project would include the formalisation of the ADR procedures within the BoA. The main innovation in this context is the inclusion of a proposal to consider ADR already in the form for filing an appeal. The milestone for this Phase is the roll-out of integrated ADR services, accompanied by a promotional campaign addressing all stakeholders.

The next phases – 2-3-4 – respectively, concerning ADR services activated during Opposition, Cancellation or Design Invalidity proceedings – will follow the approach of Phase 1 as well as the common guidelines for the project, in a consistent, coherent and flexible manner. Such phases will be duly coordinated with the Departments involved.

As common guidelines for all phases and proceedings, it will be necessary to include ADR as the first option during case dispatch, in all instances. This will increase the visibility of such mechanisms and promote their use before reverting to the traditional case handling and subsequent decision-taking.

Moreover, a key principle for the development of supporting tools will be to consider automation to increase efficiency of case allocation, dispatch handling and monitoring, throughout the mediation procedure.

For all phases, a clear process definition, including the roles of each department and a **mediator engagement plan**, developed as part of the ADR capacity building initiative (KI 16) will ensure that mediators are adequately trained, kept updated and informed about their duties, maintaining quality and production at the highest level.

In order to facilitate the smooth appointment of mediators across the EUIPO, a system will be devised to inform about the language profiles, experience and availability of the mediators over the following months. The parties would then be able to 'book' a mediator to handle their case and the mediator's hierarchy would immediately be informed of the dedication of their staff member to this activity.

In addition, the mediation procedure and the different stages in which it stands must remain fully transparent for the parties, their representatives and the mediator, as well as for the relevant internal services of the EUIPO dealing with the workflow of the specific file. For the latter, the information would only be disclosed on a need-to-know basis as per the defined roles and would exclude any confidential information on the file. In this way, the parties would be able to ‘track’ the situation of the mediation procedure in real time, through the user area or from the back office. The relevant KPIs on the services offered by the Mediation Centre will be defined and published. The corresponding decisions on charges to be applied for ADR services will be taken pursuant to Article 178(1) EUTMR.

In this context, as a first step, a comprehensive Programme Brief aiming at setting the EUIPO Mediation Centre will be completed in the first half of 2022.

#### **Key Initiative 14: Make the ADR services effective by ensuring timeliness and streamlined management**

In order to streamline the management of ADR processes and in view of the transformation of ADRS into a Mediation Centre, the design and support of IT tools, technical solutions and data analysis capacities, that is, a fully reliable, easy-to-use digital environment for offering services is essential in that regard. The ADRS should therefore maximise the availability of online tools and the automation of internal processes.

Hence, the relevant technical requirements for completing the IP tool with a specific part for handling Mediation cases will be developed. Bearing in mind that the ADR case management module will evolve from covering only appeals to encompassing also first-instance proceedings, the centralisation of all information, data and documents in one tool will facilitate the handling of these cases. The status of the mediation file should at all stages be transparent to the parties, their representatives and the mediator.

The requirements to be drawn up for the ADR case management module must take into consideration the potential automation of the front and back offices for all phases, including e-comm features between the Office and the parties, as well as communications between the parties.

The IP Tool should also ensure that the 'booking' system regarding mediators, as described under Key Initiative 13 is efficiently set up in order to make optimal use of the Office's resources and be satisfactory for the parties to a mediation procedure.

The access to the mediation mechanism for users must be easy to understand and user-friendly. The module must support the need for the immediacy of communications and guarantee that the mediation file is kept confidential, for whichever procedure. As part of the filing procedure for EUTMs/RCDs, the applicants would be invited to declare that they would, in principle, favour solving any dispute through ADR mechanisms. Such an approach could increase the number of mediation proposals significantly.

Finally, the requirements for the ADR case management module will take into consideration the need for reporting, data analytics and statistics generation in the most automated manner. KPIs will be defined in accordance with the elements contained in the EUTMR and the ADR process card and their inclusion in the Office's Service Charter will be proposed.

Furthermore, other digital solutions which are necessary to support the ADR process will be identified for implementation.

### **Key Initiative 15: Expand the mediation culture through stakeholder engagement and communication strategy**

The ADR journey for users and other actors in the process should be designed so as to increase public trust and confidence in the effectiveness of ADR within the field of IP. This key initiative focuses on creating, expanding and promoting a mediation culture, obtaining internal support and buy-in from the different Departments servicing our users, while also reaching out to external stakeholders.

The roles of all these actors must be clearly defined and communicated. In this regard, it is especially important to raise awareness among EUIPO staff members using all relevant communication channels, as well as to close the gap between the attorney and the use of mediation.

Moreover, in order to enhance stakeholder engagement in ADR, additional tangible incentives will be offered through schemes such as the future SME Fund, the ECP6 or other similar initiatives. The

possibility of reimbursing the appeal fee in cases where the parties settle following mediation will be explored. Supporting studies and expert opinions will be commissioned wherever needed with a view to understanding how ADR is deployed globally and a mediation culture expanded.

A 360° stakeholder analysis will identify the main stakeholders thus enabling ADR mechanisms to be geared towards achieving the optimal benefits for users of the EU IP system.

Cooperation with external stakeholders, such as MS IPOs in the EU and beyond, EU institutions, international organisations, Chambers of Commerce and ADR centres, will be strengthened by completing, consolidating and expanding the existing networks. For each of the networks, their terms of reference will be updated and adjusted to evolving needs.

Furthermore, it is important to maintain and expand the Stakeholders Advisory Board ('SAB') as an essential supportive body for the ADRS, through its work of coordinated lines of action in furthering dispute prevention, de-escalation and resolution with the aim of ensuring that the services offered are first-rate and meet real commercial needs and interests.

In the same line, Chambers of Commerce, mainly regional and national, play an important role in helping companies to make their voices heard. Ensuring that ADR services meet the particular needs of SMEs is essential, since SMEs are one of the main focuses of the EUIPO's Strategic Plan 2025. Within the framework of the present Action Plan, the BoA will seek and facilitate the engagement of Chambers of Commerce in setting up an **IP Mediation Ambassadors** scheme. Each chamber participating in this network will promote the use of ADR mechanisms in IP disputes and provide basic training and information in the respective local language.

The Network of IP Judges of the EUTM and RCD Courts on mediation brings together judges from the EU and national Courts that have jurisdiction in intellectual and industrial property matters. Among the goals of this network is to increase the use and impact of mediation in IP, to encourage sustainable global settlements by raising awareness among IPR owners, to achieve better and more durable agreements than the ones reached just through negotiation and to draw in new members of the judiciary.

Bilateral and multilateral cooperation will focus essentially on cooperation in ADR activities such as communication, dissemination, training, meetings and events, including webinars and *tertulias*.

For User Associations, as already highlighted, the main focus will be on bridging the gap between the attorney and mediation practice while specifying the important role of representatives in the mediation procedure. Again, common activities in this sense may be envisaged for the benefit and information of the IPR owner. Seeking the UAs' feed-back and recommendations on the best way to facilitate and promote ADR, through questionnaires, consultations or meetings, will also be planned.

EU Institutions are yet another key stakeholder, as they represent an invaluable platform for the promotion of ADR (e.g. posting key information in EU portals). Contact and relationships with the corresponding partners will be developed.

In addition, synergies may be developed through the IAAPN network. In this regard, the BoA will investigate the interest of other appeal bodies in EU Agencies or National Offices in using the Mediation Centre to offer ADR activities within the framework of their proceedings.

Considering that work programmes are developed each year with both WIPO and EPO, a special chapter dedicated to mediation and similar ADR services should be included. Many aspects could be shared, from training to exchange of peer experience and best practices.

In EU-funded programmes and bilateral agreements with non-EU offices, activities around ADR should be systematically included for mutual benefit, in order to favour exchanges, compare experiences and mutual participation in studies and surveys.

ADR could be included in the bilateral cooperation with TM5/ID5 partners and other Appeal Bodies. In this sense, and as the EUIPO will take over the secretariat of TM5/ID5 for 2022, a project such as a comparative study of the different ADR tools, mechanisms and instruments available could be proposed for adoption by partners.

Moreover, liaison with EU and international Mediation Centres, as derived from the stakeholder analysis, should be built up to share best practices and, where relevant, set up cooperation agreements in order to ensure the outmost benefit to users.

**Key Initiative 16: ADR awareness and capacity building through optimal and tailored environment for ADR**

ADR services should be tailored to arrive at the scope of proceedings and the working methodology that are most suitable and efficient for each of the different user segments in the EU IP system, in order to adequately focus on raising awareness on ADR and build the necessary ADR capacity through learning paths and training.

As a starting point for tailoring its services, and in order to become better acquainted with its segments of users, the BoA will propose the inclusion of questions in the Office's **User Satisfaction Survey** to start monitoring users' awareness and satisfaction with the ADR services. The feedback results will constitute the baseline that will allow follow-up by planning the relevant actions in order to improve user perception and use of the ADR mediation toolkit proposed by the Office.

Moreover, the data extracted from the IT systems such as the IP tool ADR case management module and specific post-mediation surveys will also contribute to the definition of user needs, to the analysis of user segmentation, as well as for forecasting volumes and trends. Such information and data will be feeding the setting up of the ADR awareness-raising campaigns, notably in support of the creation of the Mediation Centre through its different phases.

In complement, the portal of the IP Mediation Centre must be fully integrated in the new Office website, in a customer-friendly manner to provide all information for optimal awareness. Meanwhile, the content of the current website will be constantly updated and adjusted with the latest information, documents and tools, and adjusted to user segments, where possible.

In order to support the offering of ADR services, the ADR capacity building initiative will also ensure that EUIPO mediators are adequately trained, kept updated and informed about their duties, maintaining quality and production at the highest level. Focus will be put on professional training and accreditation requirements necessary to perform and deliver the mediation processes in order to grow

the number of cases suitable for mediation and successfully settled. A mediator learning community and network will be set up to support the ADR services and the Mediation Centre. Such training courses or learning paths may also be shared, totally or partially with stakeholders to raise awareness as regards the process and promotion of a mediation culture.

#### **Focus Area 5 – Enable Network Engagement**

The BoA should not only provide guidance for Office practice at first instance, but also act as a reference point for Intellectual Property Offices of the Member States and their appeal bodies, contributing significantly to the development of their practice in the area of trade marks and designs. Part of the mission of the BoA is to offer their comprehensive knowledge and experience to all cooperation activities with IP stakeholders, including the resolution of IP disputes, convergence of practices, fostering consistency, identifying trends in the case-law, raising awareness on complex issues, providing support in appeal proceedings and enhancing visibility amongst the public.

The European trade mark and design system is based on the solid principle of the coexistence of different options available to economic actors. For this principle to be effective, the election of one or other system should depend solely on strategic decisions made by operators and not be conditioned by potential divergences in practices or tools that may hamper those decisions.

In close cooperation with the Institutional and Cooperation Department ('ICD'), the BoA will act as a prime driver of convergence by enabling cooperation with external stakeholders, in particular with:

- Appeal instances of National IP Offices within the EU and beyond;
- National IP Courts;
- the General Court and the Court of Justice;
- Appeal Bodies of EU Agencies and International Organisations;
- Users of the IP system.

This area is dedicated to cooperation with external stakeholders in the area of decisional practice of the BoA, procedural aspects of appeals and quality management of appeal proceedings. Cooperation with external partners in the field of ADR is elaborated under Focus Area 4. Nevertheless, various cooperation activities and networks established under both Focus Areas will work and be developed in reciprocal synergies and collaborative efforts will be coordinated and combined.

Cooperation with users, mainly their involvement in broader discussions on case law and collection of their valuable feedback on quality management of appeal proceedings are described under Focus Area 3 of this paper (Key initiative 13).

**Under Focus Area 5** the BoA will aim at supporting and strengthening cooperative networks for greater convergence, consolidating cooperation with appeal bodies of National EU Offices and Appeal Bodies of non-EU Offices, particularly TM5/ID5 offices, establishing systematic cooperation with National and European IP Courts, contributing to the development and shaping of European trade mark and design practices, contributing to the implementation of collaborative services in the area of appeals, reinforcing cooperation with appeal bodies of EU Agencies and International Organisations and cooperating with appeal bodies in third countries. In order to attain these objectives, the BoA will launch the following initiatives:

#### **Key Initiative 17: Support and strengthen EU cooperative networks for greater convergence**

##### ***European Union Intellectual Property Network – EUIPN (European Cooperation and Convergence projects)***

The BoA's guiding role when it comes to IP practice is clearly recognised by external stakeholders and should be widely reflected in cooperation initiatives launched in various networks. The BoA should act as a reference point for Intellectual Property Offices of the Member States and their appeal bodies, contributing significantly to the development and shaping of European Trade Mark and Design Common Practices. Through many years of resolving complex trade mark and design appeal cases, the BoA have gained extensive knowledge and experience in the IP field which should be shared with the broader IP community of the European Trade Mark and Design Network, in close cooperation with the ICD.

The BoA will actively participate in European Cooperation Projects focused on the development of common practices, such as the new convergence projects launched under the ECP4 within the context of SP2025, namely:

- CP13: Trade mark applications made in bad faith;
- CP14: Trade marks contrary to public policy or to accepted principles of morality;
- CP15: Comparison of goods/services: Common interpretation of 'Canon' criteria and treatment of terms lacking clarity and precision;
- CP16: Notion of 'subject matter';
- CP17: Designs (topic to be decided at a later date).

The expertise built over the years will allow the BoA to make valuable contributions in the highly specialised and technical discussions that will take place.

The BoA will also cooperate closely with legal experts from National IPOs and their Appeal Bodies particularly as regards the application and scope of the rule of national law relied upon in support of an opposition or invalidity request based on an earlier right protected by national law (Article 8(4) EUTMR). In exercising such powers of verification, the GC and CJEU require the BoA to use all the available means to carry out further detailed research into the wording and scope of the provisions of national law relied upon, including the national jurisprudence when this question is raised in appeal proceedings.

In order to ensure a flexible and effective exchange of expertise between the Office and the national authorities, a special National IP Rights Network will be established under ECP8. In this project, the BoA will play a crucial role in developing a methodology and also in launching pilot consultations on appeal cases where national rights are involved. This initiative is also interconnected with ECP7 which will develop an IP legislative and practice repository.

### ***Appeal Bodies of EU Intellectual Property Offices***

Following the positive experience with CP12, the BoA will commit to expand cooperation with the Appeal Bodies of EU national IP Offices, both internal and external, with the objective of promoting the sharing of knowledge and the exchange of best practices, as well as further advancing the harmonisation of IP practice across the EU. Besides bilateral cooperation, a network of Appeal Bodies of EU IPOs should be established as a forum for sharing experience, knowledge and best practices in a structured manner.

This Network will also be used for broader discussions on findings from the BoA CRs and for monitoring and exploring further the practices of the different Appeal Bodies. Another item would be the reciprocal consultation on points of national law and fact. This is partially covered by ECP8 as far as internal Appeal Bodies are concerned (that is, independent bodies established under the structure of a given national IP office). However, extending the exercise to external Appeal Bodies brings additional benefits and holistic results.

### ***EU National and European Courts***

The BoA do not operate in isolation and should be open to broader horizontal discussions on trends in resolving IP disputes with other stakeholders possessing a high level of IP knowledge and experience. EU National and European Courts are naturally key cooperation partners in this context and the sharing of knowledge and the exchange of best practices should be promoted. The BoA have already launched two initiatives in that regard and have established the respective networks.

The first initiative, namely the Network of IP Judges of the EUTM and RCD Courts on mediation, is mentioned under Focus Area 4. The second initiative is the J-QALPP. This network of judges from European Union Trade Mark and Community Design Courts ('EUTM/CD Courts') was established in 2020 and aims to put in place a mechanism to review EUTM and RCD legal and decision-making practice.

The J-QALPP will focus on a problem-driven analysis where selected BoA decisions serve as a basis to discuss selected topics. This framework will also allow national IP judges to share experiences and learn from each other, thus contributing to improve quality and promoting convergence and harmonisation of judicial and legal practices on trade marks and designs throughout the EU. In addition, the project offers a perfect opportunity to collect national decisions in a database that would complement existing case-law databases.

Alongside BoA decisions, CRs will be brought to the J-QALPP for discussion, exchange of views and expertise and for the valuable recommendations of the judges on the various topics. The national case-law on these topics could also be collected and discussed within this network. One of the main objectives of this network is to approximate the perception of quality between BoA decisions and practice and the EUTM/RCD Courts' practice. It is envisaged that the Panels meet two to three times per year and the J-QALPP Plenary is held once or twice per year, according to needs.

### ***Inter-Agency Appeal Proceedings Network (IAAPN)***

Some of the decentralised EU Agencies take decisions which can be appealed by the affected person before an internal BoA or an equivalent appeal body. The decisions of these BoA or equivalent appeal bodies are, in turn, liable to actions before the EU Courts. Harmonisation of the manner in which general procedural principles (e.g. the right to be heard) are applied in appeal proceedings of EU Agencies should be at the core of the cooperation activities between these Appeal Bodies. A clear

example is the **Community Plant Variety Office** ('CPVO'), which is, together with the EUIPO, an EU Agency that also operates in the Intellectual Property field.

The IAAPN was established in 2018 and currently has six active members and six observers. The IAAPN is a sub-network of the broader EU Agencies Network. The network was created with the aim to promote the cooperation, coordination, sharing of knowledge and best practices on common appeal proceedings' issues.

The Network should focus on activities which foster quality of appeal proceedings by applying a harmonised set of quality measures and standards by Appeal Bodies of EU Agencies. Taking into account the extent of sources and workload of Appeal Bodies participating in the network, the BoA plays quite an active role in the IAAPN and would offer extensive knowledge and experience from which smaller Appeal Bodies could benefit.

Each year, the IAAPN adopts a Work Programme which is submitted to the Heads of Agencies for approval. Subsequently, Working Groups ('WG') for each selected activity are created for a particular year. The WG present the results of the Work Programme in the IAAPN Annual meeting which is organised once per year by the Chair appointed for that particular year. The Annual Report and the Work Programme for the following year are submitted for approval during the Annual Meeting.

### **Key Initiative 18: Establish cooperation with international organisations**

Both the **EPO and WIPO are International Organisations** (not part of the EU system), in charge of managing and administering industrial property rights. They are currently working on a number of projects designed to enhance efficiency in the appeal and ADR procedures they manage. Similar to the BoA of the EUIPO, their appeal bodies are continuously looking for innovative solutions enabling them to be more productive while at the same time offering a better service to their users.

An enhanced cooperation with both WIPO and EPO would also permit their joint participation in common projects in the interest of their respective users, preventing the unnecessary duplication of effort and resources. For all these reasons, ties with WIPO and EPO should be reinforced.

## ***EPO and its Boards of Appeal***

The BoA have built a close relationship with the EPO and its BoA in recent years. Despite the fact that the EPO BoA and the EUIPO BoA have a different authority concerning particular IP rights, they share a number of common aspects as far as appeal procedures are concerned. The EPO participated as an observer in CP12 Project regarding 'Evidence in Appeal Proceedings: Filing, structure, presentation and treatment of confidential evidence' and also participates in the IAAPN as an observer. Participation of the EPO BoA in the EUIPO BoA networks and projects would enrich discussions, bring valuable insights and benefit these bodies and their users alike.

Hence, cooperation with the EPO BoA should continue and expand further. Regular annual meetings should be held for sharing knowledge and experiences in the quality management of appeal procedures. The mutual participation in various cooperation projects also achieves this end and can help identify whether some processes could be approximated.

## ***WIPO / WIPO Judicial Institute***

The WIPO Judicial Institute supports judiciaries in dealing with specific legal questions that arise from intellectual property disputes. The Judicial Institute has established a forum of judges from around the world (IP Judges Forum) for dialogue, the exchange of information and practices and to increase the availability of information about IP and Courts. Potential participation of the BoA in this network would represent a good opportunity to contribute to worldwide discussions on specific IP topics amongst judges and experts of international renown.

## **Key Initiative 19: Consolidate cooperation with Appeal Bodies of non-EU IPOs**

Looking beyond Europe, the BoA should contribute to the EUIPO cooperation efforts aimed at supporting European companies that operate in third countries, so that they will be able to benefit from a sound, robust and predictable IP protection system in those regions.

In this context, the BoA should contribute to the EUIPO cooperation efforts aimed at helping the trade mark and design offices of the EU candidate countries to prepare themselves for becoming full members of the European Trade Mark and Design Network. Specific activities carried out by the BoA will include holding high-level seminars with national offices of candidate countries, preparation of

Trade Mark and Design Appeal Guidelines, training activities and participation in BoA conferences and events.

Additionally, in recent years, the BoA have developed close cooperation relationships with the Trial and Appeal Department ('TAD') of the Japan Patent Office, IP Trial and Appeal Boards ('IPTAB') of the Korean Intellectual Property Office, and the Trademark Trial and Appeal Board ('TTAB') of the USPTO. In China, the BoA have cooperated with the Shanghai Intellectual Property Court and Shanghai Intellectual Property Administration. These cooperation activities should be developed further and eventually brought from the bilateral level to a multilateral framework under this umbrella.

In this context, the BoA should collaborate with TM5/ID5 Appeal Bodies with a view to providing EU IP users with more information about appeal procedures before these Appeal Bodies, their structure and working methods and trends in the development of their decisional practice. This can help EU users to better plan their global IP dispute strategy. Workshops, seminars for IP experts on specific EU case-law or topics of common interest could be organised. Furthermore, sharing of experience, knowledge and practices will allow for identifying areas where a harmonised approach can bring benefits to users. Cooperation with appeal bodies of other fast-growing countries entails similar benefits.

The aim is to organise two cooperation activities per year (such as a videoconference, seminar, workshop or participation in the event organised by TM5/ID5 stakeholders or IP Courts from these countries). Where possible, these activities should be framed within the context of the EU Funded programmes implemented by the EUIPO.

## **VII. Working together**

Successful implementation of this Action Plan and its specific initiatives will require an all-inclusive approach, built upon the core values of respect, transparency, integrity, accountability, sustainable development and service quality.

This, of course, cannot be done without the active contribution and full commitment and dedication of all staff working at the BoA; regular and systematic input from the users of the IP systems; close collaboration with the Executive Director and all the Departments of the Office under the supervision

of the EUIPO's Management Board that will receive regular updates on the progress of the implementation of the BoA Action Plan.

In this context, by applying a project methodology approach, implementation of the Action Plan and its specific initiatives rest with the BoA and their respective administrative units, as established in annex to this document. The Presidium of the BoA and the Management and Planning Advisory Committee ('MPAC') of the BoA, supported by the BoA President's Cabinet, will be responsible for the monitoring and evaluation of the implementation of the Action Plan.

As a final note, in view of its long-term nature, this Action Plan and the initiatives here proposed **are** subject to changes and/or adjustments during the five-year period, motivated by eventual upcoming internal or external events and should therefore be understood as something **not written in stone**.

## **Annexes**

1 Boards of Appeal Action Plan Timeline

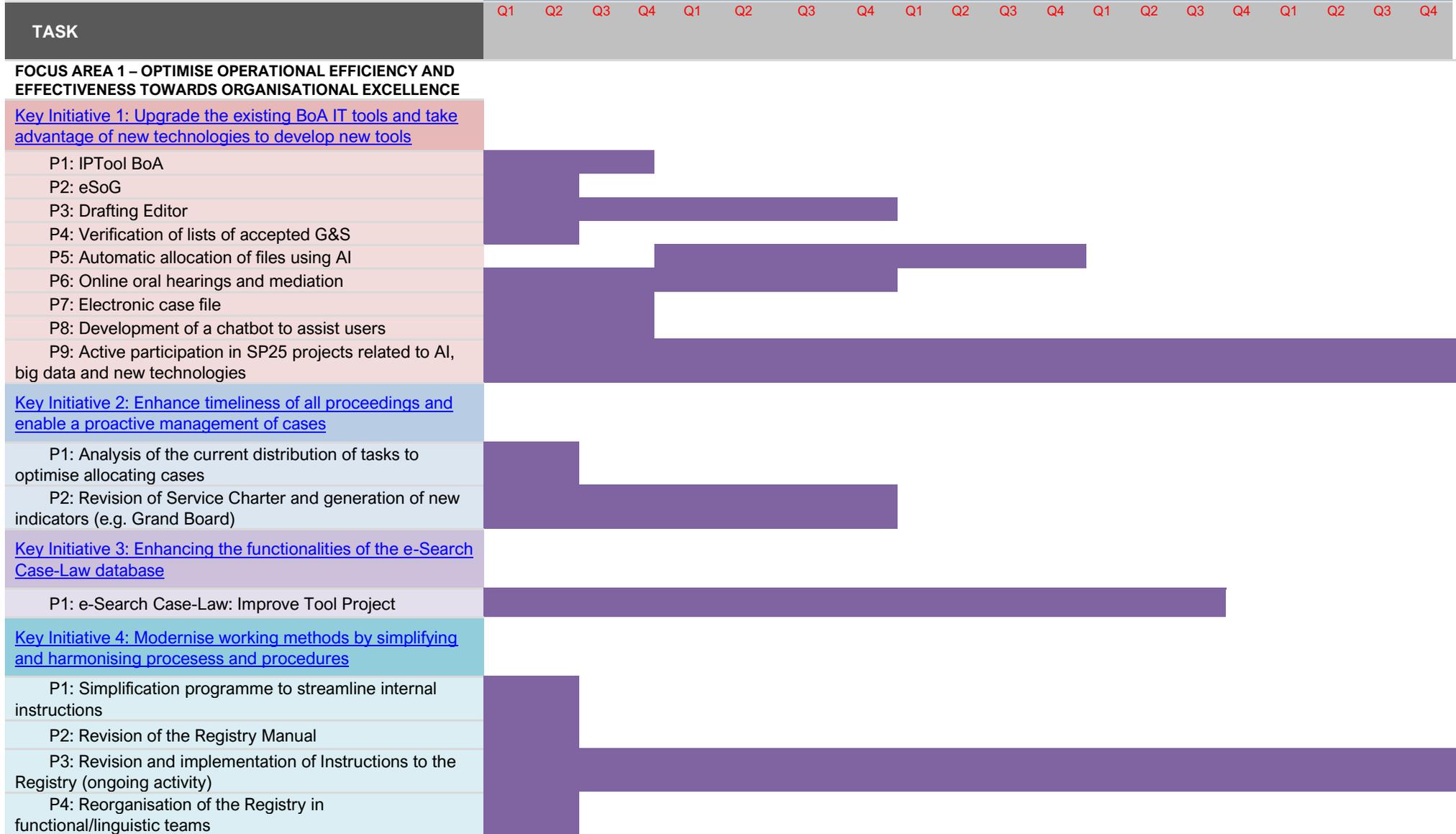
2 Boards of Appeal Action Plan Dashboard

3 High Level Balanced Scorecard

## List of Abbreviations

AAPN	Agencies Appeal Procedures Network
ADR	Alternative Dispute Resolution
ADRM	Alternative Dispute Resolution Mechanisms
ADRS	Alternative Dispute Resolution Service
AI	Artificial Intelligence
BoA	Boards of Appeal
BOIP	Benelux Office for Intellectual Property
CC	Consistency Circle
CJEU	Court of Justice of the European Union
CP	Convergence Project
CR	Consistency Reports
DTD	Digital Transformation Department
EACMS	Early Active Case Management System
ECP	European Cooperation Project
EDR	Effective Dispute Resolution
EQR	Enhanced Quality Reading
EPO	European Patent Office
EP	European Parliament
eSoG	electronic Statement of Grounds
ECP	European Cooperation Project
EUIPN	European Union Intellectual Property Network
FPCC	Final Procedural and Consistency Check
GB	Grand Board
GC	General Court
GCM	General Consistency Meeting
GDP	Gross Domestic Product
HRD	Human Resources Department
IAAPN	Inter-Agency Appeal Proceedings Network
IPTAB	IP Trial and Appeal Boards of the Korean Intellectual Property Office
ICD	Institutional and Cooperation Department
IPO	Intellectual Property Office
ISO	International Organisation for Standardisation
J-QALP	Judges Quality and Assurance Legal Practice
J-QALPP	Judges Quality and Assurance Legal Practice Panels
KC	Knowledge Circle
KQS	Knowledge Quality Service
KI	Key Initiative
KPI	Key Performance Indicator
LD	Legal Department
MBBC	Management Board and Budget Committee
MoUs	Memorandums of Understanding
MPAC	Management and Planification Advisory Committee
MS	Member State
OD	Operations Department
SAB	Stakeholders Advisory Board
SCMC	Shanghai Commercial Mediation Center
SMEs	Small and medium-sized enterprises
SP2025	Strategic Plan 2020-2025
TAD	Trial and Appeal Department of Japanese IPO
TTAB	Trial and Appeal Board
UA	Users Associations
UFG	Users Focus Groups
USPTO	United States Patent and Trademark Office
WG	Working Group
WIPO	World Intellectual Property Organisation

## Annex 1: BoA Action Plan Timeline



P5: Creation of a Registry and Procedure Consistency Circle	
P6: Measures to streamline oral proceedings	
<a href="#">Key Initiative 5: Create an expert knowledge hub by improving knowledge acquisition, management and sharing</a>	
P1: Establish a continuous learning process	
P2: Structured training plans for newcomers	
P3: Development of the personal career of BoA staff	
P4: Creation of an internal matrix organisation	
P5: Establish a litigation and an ADR tailor-made training	
P6: Creation of an enhanced web-based functionality integrating information and internal guidance	
P7: Improve knowledge management and sharing - compilation of summaries of judgments and decisions	
P8: Creation of an innovation lab to propose new ideas.	
<b>FOCUS AREA 2: IMPROVE QUALITY BY PROMOTING A CONSISTENT AND COHERENT DECISIONAL PRACTICE, ENHANCING ALIGNMENT, LEGAL CERTAINTY AND GREATER PREDICTABILITY FOR INTERNAL AND EXTERNAL USERS</b>	
<a href="#">Key Initiative 6: Develop a collaborative approach to consistency</a>	
P1: Creation of Consistency circles	
P2: Early Active Case Management System (EACMS)	
P3: Judges Quality Assurance and Legal Practice Programme	
P4: Decision Drafting Tool templates and standard paragraphs	
<a href="#">Key Initiative 7: Optimise the role and functioning of the Grand Board as an agent to promote consistency and coherence of BoA practice</a>	
P1: Monitoring cases suitable for being referred to the Grand Board	
P2: Non-binding Consistency Reports on case-law (upon request)	
P3: Refer a case to the Grand Board by interim decision when potential divergences are detected in EACMS	
<a href="#">Key Initiative 8: Enhance the level of legal debate across the whole BoA</a>	
P1: Organisation of General consistency meetings	
<a href="#">Key Initiative 9: Establish an enhanced Quality Reading (EQR) system</a>	
P1: Enhanced Quality Reading	

**FOCUS AREA 3: INCREASE TRANSPARENCY AND ENSURE ACCOUNTABILITY AND SCRUTINY OF THE WORK OF THE BOA**

[Key Initiative 10: Further the transparency of the quality model of the BoA to individual appeals](#)

P1: Access to real-time information as regards the status of their proceedings

P2: Online survey about user's satisfaction with the service provided following the notification of a decision

[Key Initiative 11: Establish systematic and clear communication channels with the public at large](#)

P1: Annual IP Case-Law conference

P2: Create communication of important decisions by the BoA

P3: Improve the public BoA webpage

P4: Modernisation of FAQ using chatbot and videoclips

[Key Initiative 12: Involve stakeholders in regular and structured discussions on relevant case-law matters](#)

P1: Organisation every semester of User Group Meetings on specific issues and consultations on impactful administrative decisions and changes of practice

P2: Define a revision cycle for the Rules of Procedure

**FOCUS AREA 4: EXPAND AND BROADEN THE USE OF ADR AT THE EUIPO**

[Key Initiative 13: Establish the EUIPO mediation centre](#)

P1: Establish the EUIPO mediation centre

[Key Initiative 14: Make the ADR services effective by ensuring timeliness and streamlined management](#)

P1: ADR digital environment

[Key Initiative 15: Expand the mediation culture through stakeholder engagement and communication strategy](#)

P1: Generate communication material

P2: Cooperation with stakeholders (MS-IPOs, EU institutions, Chambers of Commerce, Int. Organisations)

[Key Initiative 16: ADR awareness and capacity building through optimal and tailored environment for ADR](#)

P1: Create the portal of the Mediation centre

P2: ADR awareness and capacity building

**FOCUS AREA 5: ENABLE NETWORK ENGAGEMENT**

[Key Initiative 17: Support and strengthen EU cooperative networks for greater convergence](#)

P1: Cooperation in EUIPN activities (ongoing activities)

P2: Establish a Network of Appeal Bodies of EU IPOs

P3: Creation of a Network of IP Judges of the EUTM and RCD Courts on mediation	
P4: J-QALPP: Judges Quality Assurance and Legal Practice Panels	
P5: IAAPN: Inter-Agency Appeal Proceedings Network	
<a href="#">Key Initiative 18: Establish cooperation with international organisations</a>	
Bilateral Cooperation between the EPO and BoA	
Bilateral Cooperation between the WIPO and BoA	
<a href="#">Key Initiative 19: Consolidate cooperation with Appeal Bodies of non-EU IPOs</a>	
Appeal Bodies of TM5 Offices	
Non-EU Offices	
EU Founded Projects	

**Annex 2: BoA ACTION PLAN DASHBOARD**

TASK	ASSIGNED TO	PROGRESS	START	END	2022				2023				2024				2025				2026			
					Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
<b>Focus Area 1 – Optimise operational efficiency and effectiveness towards organisational excellence</b>																								
<u>Key Initiative 1: Upgrade the existing BoA IT tools and take advantage of new technologies to develop new tools</u>																								
P1: IPTool BoA	TBC	0%	01/01/22	31/12/22	[Gantt bar: Q1-Q2 2022]																			
P2: eSoG	TBC	0%	01/01/22	01/05/22	[Gantt bar: Q1 2022]																			
P3: Drafting Editor	TBC	0%	01/01/22	31/12/23	[Gantt bar: Q1-Q4 2022]																			
P4: Verification of lists of accepted G&S	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P5: Automatic allocation of files using AI	TBC	0%	01/01/23	31/12/24	[Gantt bar: Q3 2022 - Q4 2023]																			
P6: Online oral hearings and mediation	TBC	0%	01/01/22	31/12/23	[Gantt bar: Q1-Q4 2022]																			
P7: Electronic case file	TBC	0%	01/01/22	31/12/22	[Gantt bar: Q1-Q2 2022]																			
P8: Development of a chatbot to assist users	TBC	0%	01/01/22	31/12/22	[Gantt bar: Q1-Q2 2022]																			
P9: Active participation in SP25 projects related to AI, big data and new technologies	TBC	On going activity	01/01/22	31/12/26	[Gantt bar: Q1-Q4 2022]																			
<u>Key Initiative 2: Enhance timeliness of all proceedings and enable a proactive management of cases</u>																								
P1: Analysis of the current distribution of tasks to optimise allocating cases	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P2: Revision of Service Charter and generation of new indicators (e.g. Grand Board)	TBC	0%	01/01/22	31/12/23	[Gantt bar: Q1-Q4 2022]																			
<u>Key Initiative 3: Enhancing the functionalities of the e-Search Case Law database</u>																								
P1: e-Search Case-Law: Improve Tool Project	TBC	0%	01/01/22	30/09/25	[Gantt bar: Q1-Q4 2022]																			
<u>Key Initiative 4: Modernise working methods by simplifying and harmonising processes and procedures</u>																								
P1: Simplification programme to streamline internal instructions	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P2: Revision of the Registry Manual	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P3: Revision and implementation of Instructions to the Registry	TBC	On going activity	01/01/22	31/12/26	[Gantt bar: Q1-Q4 2022]																			
P4: Reorganisation of the Registry in functional/linguistic teams	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P5: Creation of a Registry and Procedure Consistency Circle	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P6: Measures to streamline oral proceedings	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
<u>Key Initiative 5: Create an expert knowledge hub by improving knowledge acquisition, management and sharing</u>																								
P1: Establish a continuous learning process	TBC	On going activity	01/01/22	31/12/25	[Gantt bar: Q1-Q4 2022]																			
P2: Structured training plans for newcomers	TBC	0%	01/01/22	30/03/22	[Gantt bar: Q1 2022]																			
P3: Development of the personal career of BoA staff	TBC	On going activity	01/01/22	31/12/26	[Gantt bar: Q1-Q4 2022]																			
P4: Creation of an internal matrix organisation	TBC	0%	01/01/22	30/03/22	[Gantt bar: Q1 2022]																			
P5: Establish tailor-made training for litigation and ADR	TBC	0%	01/01/22	31/03/22	[Gantt bar: Q1 2022]																			
P6: Creation of an enhanced web-based functionality integrating information and internal c	TBC	0%	01/01/22	31/12/23	[Gantt bar: Q1-Q4 2022]																			
P7: Improve knowledge management and sharing - compilation of summaries of judgment	TBC	0%	01/01/22	30/06/22	[Gantt bar: Q1-Q2 2022]																			
P8: Creation of an innovation lab to propose new ideas.	TBC	On going activity	01/01/22	31/12/26	[Gantt bar: Q1-Q4 2022]																			
<b>FOCUS AREA 2: IMPROVE QUALITY BY PROMOTING A CONSISTENT AND COHERENT DECISIONAL PRACTICE, ENHANCING ALIGNMENT, LEGAL CERTAINTY AND GREATER PREDICTABILITY FOR INTERNAL AND EXTERNAL USERS</b>																								
<u>Key Initiative 6: Develop a collaborative approach to consistency</u>																								
P1: Creation of Consistency circles	TBC	0%	01/01/22	30/03/22	[Gantt bar: Q1 2022]																			
P2: Early Active Case Management System (EACMS)	TBC	0%	01/07/22	30/03/23	[Gantt bar: Q3 2022]																			
P3: Judges Quality Assurance and Legal Practice Programme	TBC	On going activity	01/01/22	31/12/25	[Gantt bar: Q1-Q4 2022]																			
P4: Decision Drafting Tool templates and standard paragraphs	TBC	0%	01/01/22	31/12/23	[Gantt bar: Q1-Q4 2022]																			
<u>Key Initiative 7: Optimise the role and functioning of the Grand Board as an agent to promote consistency and coherence of BoA practice</u>																								
P1: Monitoring cases suitable for being referred to the Grand Board	TBC	On going activity	01/01/22	31/12/26	[Gantt bar: Q1-Q4 2022]																			
P2: Non-binding Consistency Reports on case-law (upon request)	TBC	0%	01/01/22	30/06/26	[Gantt bar: Q1-Q2 2022]																			

P3: Refer a case to the Grand Board by interim decision when potential divergences are d	TBC	On going activity	01/01/22	31/12/26	
<a href="#">Key Initiative 8: Enhance the level of legal debate across the whole BoA</a>					
P1: Organisation of general consistency meetings	TBC	On going activity	01/01/22	31/12/26	
<a href="#">Key Initiative 9: Establish an enhanced Quality Reading (EQR) system</a>					
P1: Enhanced Quality Reading	TBC	0%	01/01/22	31/12/23	
FOCUS AREA 3: INCREASE TRANSPARENCY AND ENSURE ACCOUNTABILITY AND SCRUTINY OF THE WORK OF THE BOA					
<a href="#">Key Initiative 10: Further the transparency of the quality model of the BoA to individual appeals</a>					
P1: Access to real-time information as regards the status of the proceedings	TBC	0%	01/07/23	31/12/25	
P2: Online survey about user's satisfaction with the service following notification of decision	TBC	0%	01/07/23	31/12/25	
<a href="#">Key Initiative 11: Establish systematic and clear communication channels with the public at large</a>					
P1: Annual IP Case-Law conference	TBC	On going activity	01/01/22	31/12/25	
P2: Create communication of important decisions by the BoA	TBC	On going activity	01/01/22	31/12/25	
P3: Improve the public BoA webpage	TBC	On going activity	01/01/22	31/12/22	
P4: Modernisation of FAQ using chatbot and videoclips	TBC	0%	01/07/23	31/12/25	
<a href="#">Key Initiative 12: Involve the stakeholders in regular and structured discussions on relevant case-law matters</a>					
P1: Organisation every semester of User Group Meetings on specific issues and consultations on impactful administrative decisions and changes of practice	TBC	On going activity	30/06/22	31/12/25	
P2: Define a revision cycle for the Rules of Procedure	TBC	0%	01/01/23	30/06/23	
FOCUS AREA 4: EXPAND AND BROADEN THE USE OF ADR AT THE EUIPO					
<a href="#">Key Initiative 13: Establish the EUIPO mediation centre</a>					
P1: establish the EUIPO Mediation Centre	TBC	0%	01/01/22	#####	
<a href="#">Key Initiative 14: Make the ADR services effective by ensuring timeliness and streamlined management</a>					
P1: ADR digital environment	TBC	0%	01/01/22	30/09/25	
<a href="#">Key Initiative 15: Expand the mediation culture through stakeholder engagement and communication strategy</a>					
P1: Generate communications materials	TBC	0%	01/01/22	31/03/24	
P2: Cooperation with stakeholders (MS-IPOs, EU institutions, Chambers of Commerce, Int	TBC	0%	01/01/22	30/06/25	
<a href="#">Key Initiative 16: ADR awareness and capacity building through optimal and tailored environment for ADR</a>					
P1: Create the portal of the Mediation Centre	TBC	0%	01/01/22	31/03/24	
P2: ADR awareness and capacity building	TBC	0%	01/01/22	31/03/26	
FOCUS AREA 5: ENABLE NETWORK ENGAGEMENT					
<a href="#">Key Initiative 17: support and strengthen EU cooperative networks for greater convergence</a>					
P1: Cooperation in EUIPN activities (ongoing activities)	TBC	0%	01/01/22	31/12/26	
P2: Establish a Network of Appeal Bodies of EU IPOs	TBC	0%	01/11/22	31/12/26	
P3: Creation of a Network of IP Judges of the EUTM and RCD Courts on mediation	TBC	0%	01/01/22	31/03/24	
P4: J-QALPP: Judges Quality Assurance and Legal Practice Panels	TBC	0%	01/01/22	31/12/26	
P5: IAAPN: Inter-Agency Appeal Proceedings Network	TBC	0%	01/01/22	31/12/26	
<a href="#">Key Initiative 18: Establish cooperation with international organisations</a>					
Bilateral Cooperation between the EPO and BoA	TBC	0%	01/03/22	1-Jan-2027	
Bilateral Cooperation between the WIPO and BoA	TBC	0%	01/01/22	31/12/26	
<a href="#">Key Initiative 19: consolidate cooperation with Appeal Bodies of non-EU IPOs</a>					
Appeal Bodies of TM5 Offices	TBC	0%	01/01/22	31/12/26	
Non-EU Offices	TBC	0%	01/01/22	31/12/26	
EU Founded Projects	TBC	0%	01/01/22	31/12/26	

### Annex 3: High Level Balanced Scorecard

FOCUS AREA 1– OPTIMISE OPERATIONAL EFFICIENCY AND EFFECTIVENESS TOWARDS ORGANISATIONAL EXCELLENCE				
Expected results	INDICATORS	KPIS	DEFINITION	RISKS
Ensure that the BoA delivers high quality decisions in a timely manner whilst ensuring the sustainability of the efficiency of the Boards.	Timeliness Index	<i>Ex parte</i> Appeal decision timeliness	Proportion of cases within timeliness target from ready-for-decision date to notification of decision	IT Tools development delays; Increase in the workload; New tasks assigned; Uncertainty in the demand for new services (e.g. ADRS); Budgetary or financial restrictions
		<i>Inter partes</i> Appeal decision timeliness	Proportion of cases within timeliness target from ready-for-decision date to notification of decision	
FOCUS AREA 2: IMPROVE QUALITY BY PROMOTING A CONSISTENT AND COHERENT DECISIONAL PRACTICE, ENHANCING ALIGNMENT, LEGAL CERTAINTY AND GREATER PREDICTABILITY FOR INTERNAL AND EXTERNAL USERS				
Ensure that the BoA delivers high quality decisions, ensure legal certainty and greater predictability for users; provide effective and clear guidance to the Office practice at first instance and to other appeal bodies and optimise the value of IP rights in a timely manner whilst ensuring the sustainability of the efficiency of the Boards.	Predictability index	Formality check deficiency rate	Proportion of cases having at least one admissibility deficiency	IT Tools development delays; Lack of HR; Budgetary or financial restrictions
		Level of predictability as perceived by users	Proportion of users expressing high or very high predictability	
	Consistency index	Consistency reports	Number of generated CRs	
		European Courts confirmation rate	Proportion of cases fully or partially confirmed (measured against total including reversed in full, giving half weight to reversed in part)	
	Process quality index	BoA proceedings	Proportion of cases complying with agreed quality objectives	
		Grand Board proceedings	Proportion of cases complying with agreed quality objectives	
FOCUS AREA 3: INCREASE TRANSPARENCY AND ENSURE ACCOUNTABILITY AND SCRUTINY OF THE WORK OF THE BOA				

Ensure that the BoA delivers high quality decisions while being accountable to public scrutiny	Transparency index	% of selected tools/services made public	Proportion of selected tools/services made accessible online to the public/users	IT tools development delays; Budgetary or financial restrictions
		Rate of usage of above tools	Unique visitors to relevant website	
FOCUS AREA 4: EXPAND AND BROADEN THE USE OF ALTERNATIVE DISPUTE RESOLUTION AT THE EUIPO				
Optimise the value of IP rights and offer suitable mechanisms and tools for finding expert and swift solutions to their potential conflicts	Usage index	Number of users of EUIPO mediation centre	Number of applicants who use the mediation centre	IT Tools development delays; Lack of HR; Budgetary or financial restrictions
FOCUS AREA 5: ENABLE NETWORK ENGAGEMENT				
Offer experience and knowledge to all cooperation activities with IP stakeholders, including resolution of IP disputes and harmonisation of practices.	Practice convergence index	Number of ECPs in which BoA actively participate in the meetings, provide expertise and contribute to elaboration of project documents (such as Analysis Papers, questionnaires, Common Practices, Reports etc.)	Total amount of office participations in ECPs	Lack of HR for follow up; Budgetary or financial restrictions
		Number of judges of the EUTM and RCD Courts participating in the Network	Total amount of judges participating in the Network	
		Number of Consistency Reports discussed in the J-QALP Panels	Total amount of CRs discussed in the panels	
	Cooperation index	Number of EU appeal bodies participating in the Network	Total amount of EU-offices participating in the Network	
		Number of projects approved by the IAAPN	Total amount of projects set up under the Network	
		Number of activities carried out with Non-EU Appeal bodies	Total amount of activities carried out	