

Communications With Clients¹

by
Leo Jessen

General introduction:

Communication with clients and agents is essential in a proper practice. By effective communication we can ensure the best service to our clients, prevent misunderstandings, prevent mistakes and liability and get the best protection for our clients of their interests in IP rights. FICPI shall provide its members with a number of templates for letters to be used in such communication.

Communication is one of the more difficult aspects of our profession. Form often prevails over substance, everything we write appears to be open for interpretation and therefore misinterpretation, and legal consequences can be connected to the form and content of our letters. Moreover, choice of the medium may be important in the way we communicate.

Legal aspects

Each letter we send to a client or agent will possibly have legal consequences. Based on local laws and jurisprudence letters may be subject to formal requirements, such as e.g. proper presentation of the firm, registration number with the chamber of commerce and mentioning of the firms attorneys. Moreover, some items may be included in a template to limit possible legal consequences, such as Terms and Conditions and limited liability.

Layout

A clear, recognizable and reproducible layout of letters is important, for commercial reasons but also for the purpose of transferring the information. A clear layout will allow the reader to readily spot and interpret the information, preferably presented in subsequent letters in the same or a similar way. Simple things as page numbering and clear indications of enclosures may help in such lay out. Use a fixed position for particulars such as references to the case at hand, date and place of origin of the letter.

Form over substance

An important piece of information may be lost in a letter which is for example ill presented, unappealing or even badly printed. By providing an appealing, well thought through template for letters, presenting the information in an orderly and preferably similar way in each communication, it may be best ensured that the information you want to transfer is picked up by the reader.

Misinterpretation

A person's state of mind when reading a piece of information will influence his or her understanding of the information transferred. Moreover, when dealing with clients or agents, especially in foreign countries, language may also be a barrier. By presenting the information to be transferred in an orderly and easily recognizable form and format, in "simple" language, it may be best ensured that the information is understood properly.

¹ This is an outline that will be expanded upon during the presentation.

Type of communication

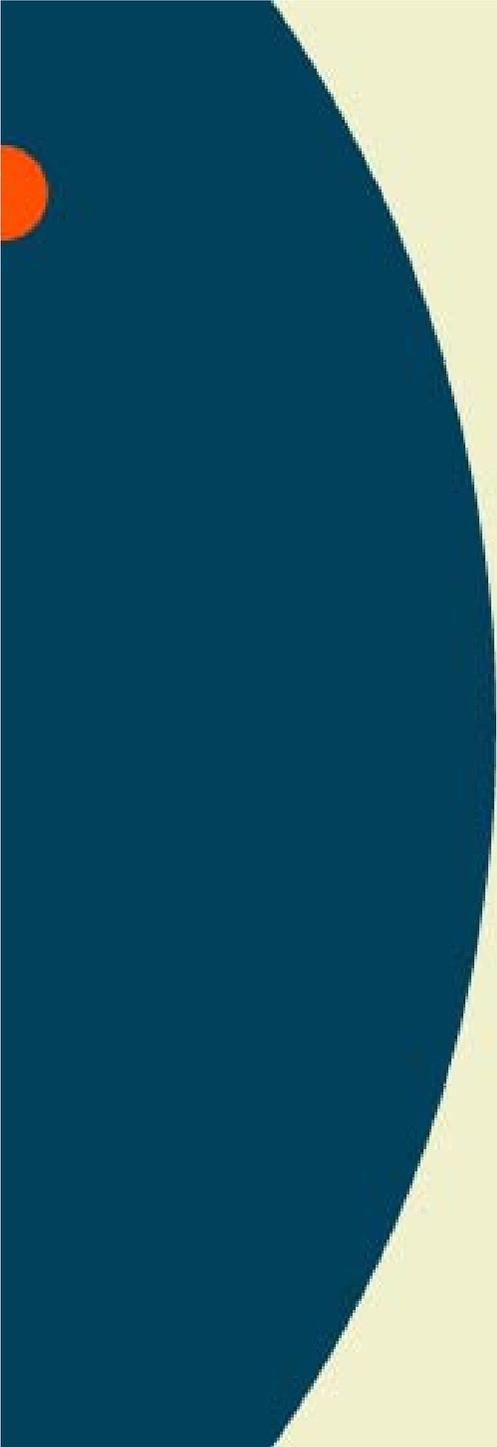
In different countries different rules may apply to the choice of medium, such as the receiving or sending theory, defining which party is responsible for any failure in the communication. When communicating by e-mail it is important to pay the same attention as in a formal letter. Preferably use a similar template for the e-mails and letters and indicate what means of communication is/are used.

Content

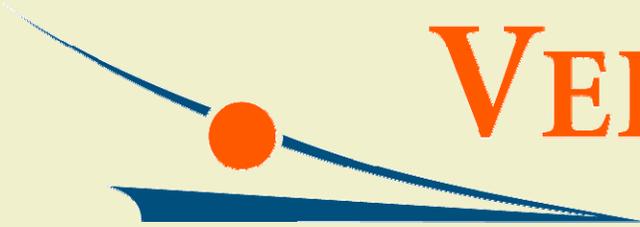
Obviously the content of a letter should be to the point, comprehensible and informative. Depending on the relation with the client or agent and any common understanding or agreement the content of the letter may be brief or extensive, ranging e.g. from only mentioning a new office action or communication and the time limits to a full discussion of the content of the communication and providing a draft response. Whichever form is chosen, keep in mind the “form over substance” and “misinterpretation” issues.

Format

In the presentation a template will be built up and shown for one or more letters, discussing the various issues as discussed here above.



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Effective Communication

Leo Jessen

Munich, 10 September 2010

Introduction

- Communication is one of the toughest parts of our profession
- Effective communication with your clients and agents is essential in providing optimal service to your clients
- Effective communication is essential in optimizing your client-attorney relationship and at the same time minimizes the risk of liabilities

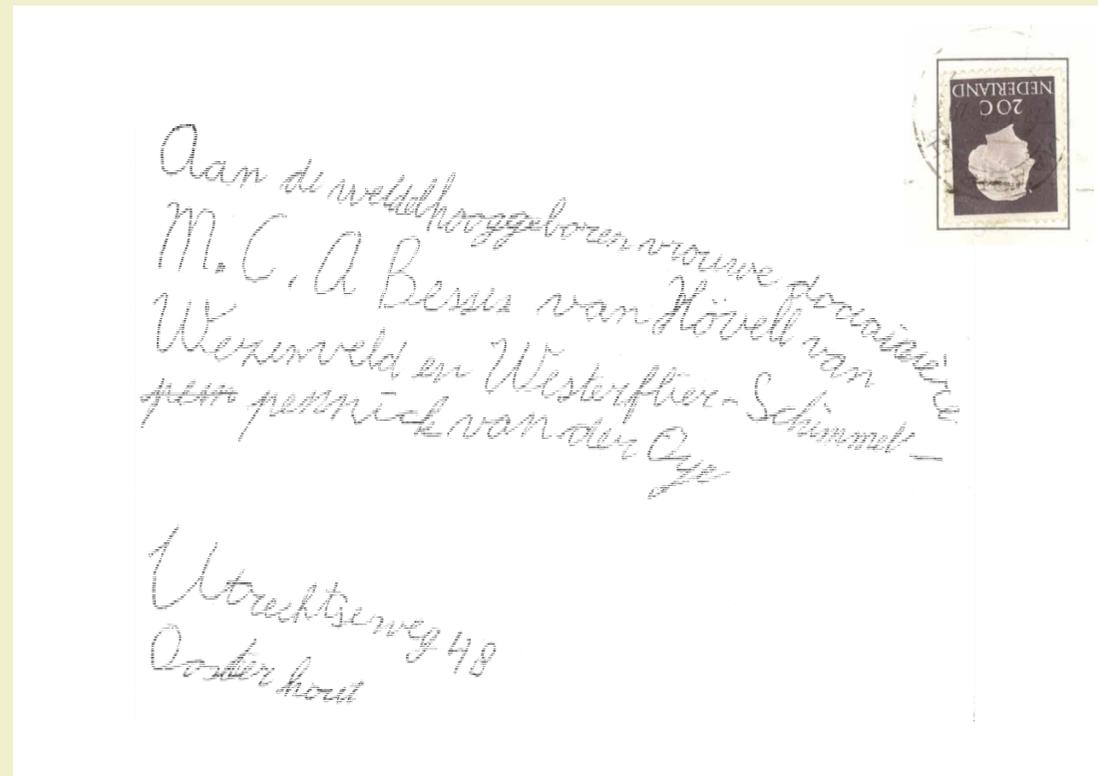
Introduction: topics

- Presentation
- State of mind
- Formal requirements
- Substantive requirements
- E-mails
- Summary

Presentation

- Form over matter??
- Do pay attention to the layout of your letters and e-mails
- The information to be conveyed may be compromised by the form of the communication

Presentation: an example



State of mind

- A message may not always be understood as intended
- Try to imagine what information the receiver might expect or hope to get from you
- Be absolutely clear in your information and if necessary present the important facts more than once

State of mind: an example

	Europäisches Patentamt Direktion 5.1.1 Prüfungskommission für die europäische Eignungsprüfung Der Vorsitzende	European Patent Office Directorate 5.1.1 Examination Board for the European Qualifying Examination The Chairman	Office européen des brevets Direction 5.1.1 Jury d'examen pour l'examen européen de qualification Le président
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Ligne directe:

Zeichen / Reference / Référence
53.1.3.4

Datum / Date / Date
25.09.1995

Dear Mr Jessen

European qualifying examination 1995 - communication of results

I am pleased to inform you that after consideration of your answer papers, the Examination Board has decided that you have been successful in passing the European qualifying examination held from 29 to 31 March 1995.

You will receive no further information regarding your performance in the examination.

Please find enclosed the certificate for successful candidates in the European qualifying examination.

May I congratulate you and wish you every success for the future.

Yours sincerely



M.F. Vivian

Encs: - certificate
- request for entry on the list

EPA/EPO/OEB form 909 (5.1.1/Nov) 08/93

Hauptsitz/Headquarters/Siège
Erhardstraße 27
D-80331 München

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I am pleased to inform you that after consideration of your answer papers, the Examination Board has decided that you have been successful in passing the European qualifying examination held from 29 to 31 March 1995.

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Formal requirements

- Formal requirements will apply to letter formats and other communication means
- These formal requirements can vary from country to country
- Complying with the formal requirements may be important in your business relationship with the receiving party
- Consistency in the layout of communications will add to the effectiveness of communications in general

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Designs

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Page
Your ref.
Our ref.
Date



Substantive requirements

- Be cordial
- Be clear
 - use a clear layout
 - use “plain” language
 - be precise and factual
- Inform you client or agent of the relevant terms
- Use proper references, dating, mention enclosures etc
- Sign

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Your ref.: ABC
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The Hague,
10 August 2010

Re: EP Patent No. 123456

Dear Mr. Lamb,

Thank you for your letter of 6 April 2010 in the above mentioned case and the enclosed Office Action. A response is due 24 August 2010. With respect to the objections raised by the Examiner, please be informed as follows.

From the Office Action it is clear to me that either the gist of the invention has (still) escaped the Examiner or that he is just unwilling to understand and appreciate the differences over the prior art. Either way we shall have to discuss our options.

The first objection refers to the planar surface. The Examiner requests a further explanation. As we discussed before, the planar surface is a contact surface for cooperation with the dispense tool and for centring. The surface is disclosed in the drawings and indicated with the reference number 9A (e.g. fig. in fig. 4) and discussed as such in the description (e.g. page 9, lines 5 - 27) as well as (at least one of) its purposes. An elucidating copy of the drawings is enclosed with this letter.

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Page 2
Your ref. ABC
Our ref. Jes/lb
Date 10 August 2010



The second objection is again a rejection on the basis of Fallon in view of Stenger. Our response earlier made has apparently not convinced the Examiner of patentability. The biggest problem remains apparently that the Examiner is of the opinion that the claims do not specify sufficiently that the connecting device and the intermediate body are two individual and separate elements, the one for repeated use, the other for single use.

From the Office Action I get the impression that the Examiner does not understand the invention as claimed. Please respond to the Office Action in due time, elucidating the invention to the Examiner, using the above considerations. The claims as pending can be maintained.

Your kind cooperation in this matter is, as always, highly appreciated.

Kind regards,
LION INT. IP SERVICES

A handwritten signature in black ink, appearing to read 'Leo Jessen'.

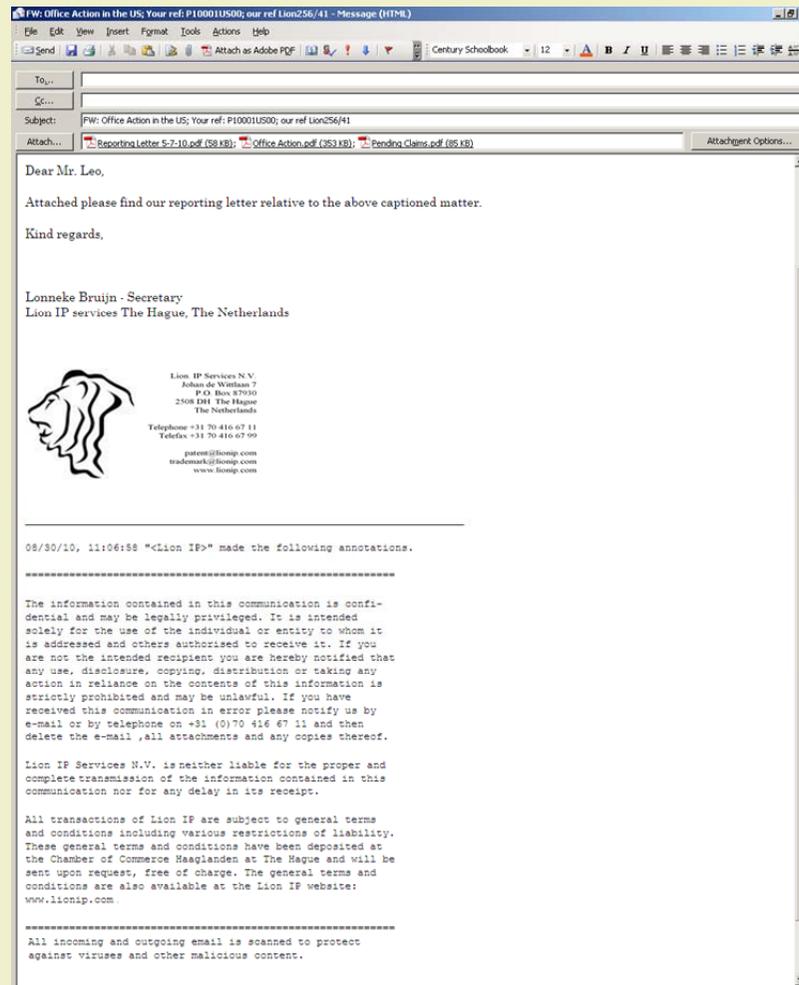
Leo Jessen

Enclosure: 1

E-mails

- E-mail is a very useful but also a very dangerous means of communication
- Review your e-mails as you would review your letters
- If possible, use a standard format for your e-mails, preferably similar to your letters

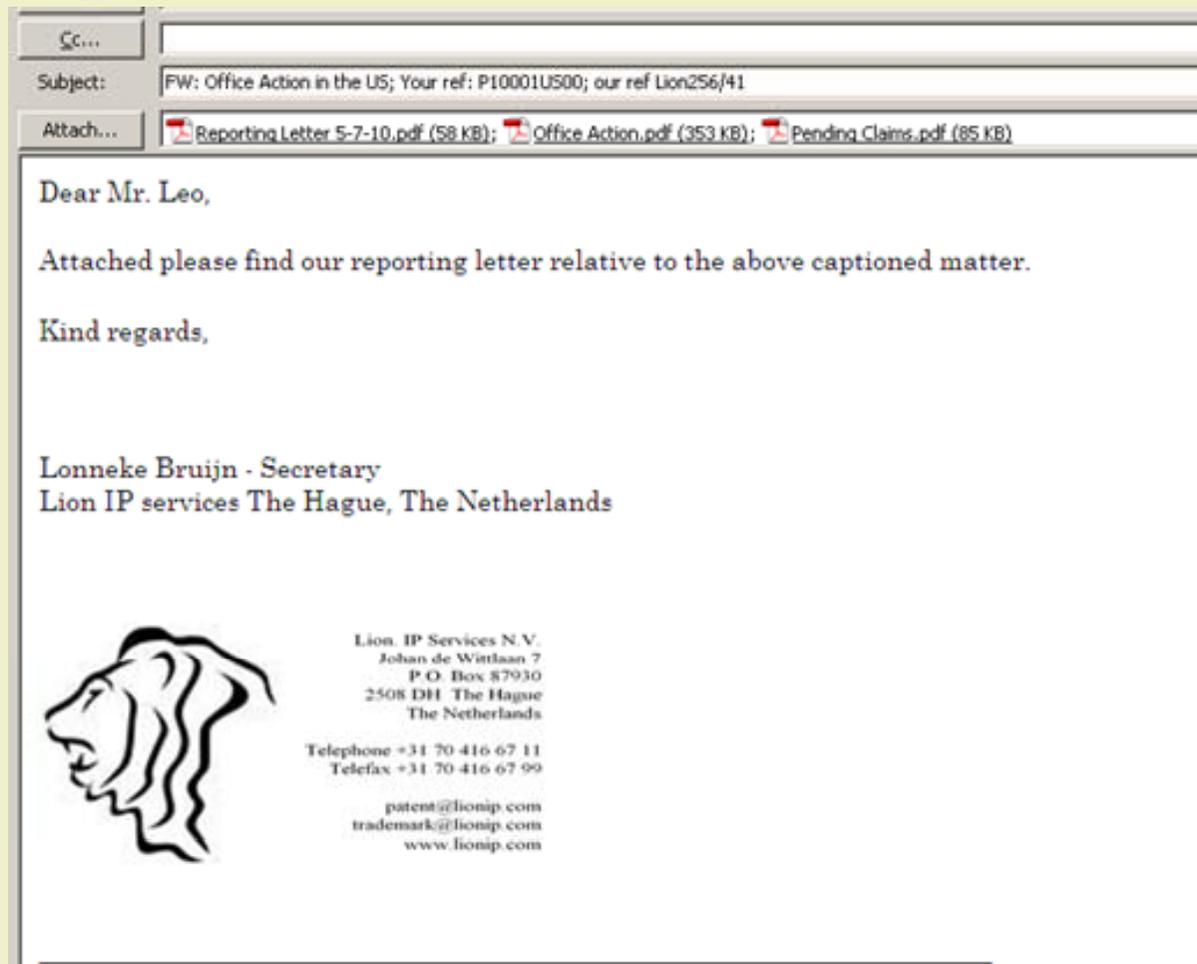
E-mails: an example



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E-mails: text and enclosures



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E-mails: disclaimer

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Summary

- Comply with the formal requirements of the communication means chosen
- Take your time for your communications, not in the least for the layout
- Take into account what your client or agent might expect to hear: he (she) may not always “hear” what you tell him (her)
- Be consistent in all your communications

Thank you

Leo Jessen

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