

Meeting of International Authorities under the Patent Cooperation Treaty (PCT)

Twenty-Second Session Tokyo, February 4 to 6, 2015

PCT DIRECT: A NEW SERVICE STRENGTHENING THE USE OF THE PCT

Document submitted by the European Patent Office

1. On November 1, 2014 the European Patent Office (EPO) in its capacity as receiving Office and International Searching Authority launched a new PCT service, called “PCT Direct” (see Notice from the EPO dated 18 August 2014 published in OJ EPO 2014, A89).
2. Under PCT Direct, an applicant filing an international application claiming priority from an earlier application already searched by the EPO will be able to react to any objections raised in the search opinion drawn up for the priority application. This new service will simplify the assessment of the international application and add to the value of the international search report and written opinion established by the EPO.
3. Applicants may request to have their international application processed under PCT Direct by filing a letter (“PCT Direct letter”) containing informal comments aimed at overcoming objections raised in the search opinion established by the EPO for the priority application. Such informal comments are to be understood as arguments regarding the patentability of the claims of the international application and also possibly as explanations regarding any modifications to the application documents, in particular to the claims, in comparison with the earlier application. PCT Direct letters do not form part of the international application.
4. At the moment, upon receipt of a PCT Direct letter, the international application will be processed under PCT Direct only where the following two requirements are met:
 - (a) the informal comments are filed together with the international application with the EPO as receiving Office,

(b) the international application claims priority of an earlier application searched by the EPO (i.e. a European *premiers dépôts* or certain national first filings).

5. The PCT Direct letter and any marked-up copy of the claims and/or description are to be submitted as a single document in PDF format and indicated by checking Box IX of the PCT request form (check list, Form PCT/RO/101). In particular, the words “PCT Direct / informal comments” should be specified under point 11, “Other”, for filings on paper and point 19, “Other”, for filings in electronic form.

6. In 2014 in total, the EPO received 992 PCT applications with the PCT Direct letter attached (before November, it was running as a limited pilot). Since November 2014, PCT applications filed with PCT Direct letters increased up to 200 per month. User groups have praised the launch of this new service as it brings more efficiency both for them and for the EPO as ISA.

7. The EPO and the IB are exploring ways to extend the use of the PCT Direct service to other receiving Offices. With such extension, PCT applicants who selected the EPO as ISA (or any other ISA who wishes to offer a similar service) could submit PCT Direct letters with their applications irrespective of the receiving Office. Such a measure would enhance equal treatment amongst PCT applicants and streamline procedures amongst receiving Offices. The extension of the new PCT Direct service to other receiving Offices would require an update of the PCT RO Guidelines to ensure a smooth prosecution of the PCT Direct letters from the part of the receiving Offices. In a nutshell these would need to be added to the search copies sent to the competent ISA. Also the PCT electronic filing tools may need to be adapted (PCT check list).

8. The Meeting is invited to comment on the proposed extension of the PCT Direct service to other receiving Offices outlined in paragraph 7.

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