Recent Developments in Global IP Protection Systems and their Advantages for Developing Countries
- From PCT perspective-

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PCT Statistics

- Fall of 4.5% overall in 2009

- Out of top 5 countries, 3 countries are in Asia
  - Japan (3.6%), Republic of Korea (1.9%), and China (29.1%) show positive growth
  - Their total share is about 30%

- Sign of modest recovery in the first half of 2010
  

PCT Statistics

fall of 4.5% overall in 2009
International Applications Received in 2009 by Country of Origin (1)

China files only 140 less than KR

Increase/decline in certain national offices

US: -10.8%
JP: +3.6%
DE: -11.3%
KR: +1.9%
CN: +29.1%
International Applications Received in 2009 by Country of Origin (2)

Asian Region
Overview of PCT (1)
Overview of PCT (2)

- Compact and centralized process
  - Only one application filed, containing, by default, the designation of all States
  - Filed in one language
  - Filed with one Office and one set of formality check
  - One international publication
Overview of PCT (3)

- Service products
  - International Search Report
  - Written Opinion of the ISA
  - International Preliminary Examination Report
  - Written Opinion of the IPEA
  - Supplementary International Search Report

- For applicants – patentability assessment
- For third parties – evaluation resources
- For Offices – work sharing
Overview of PCT (4)

- Deferring and avoiding costs on national procedures up until 30 months

- Better decision making, based on international reports (ISR, Written Opinion, IPER, SISR)

- Pace keeping function for both applicants and Offices/Authorities
  Theoretically no backlog system
Overview of PCT (5)

- 142 PCT Member States
- Various national/regional Offices and International Authorities involved
- PCT system is supported by cooperation of all these various players

  - Receiving Office
  - International Searching Authority
  - International Preliminary Examining Authority
  - Designated/Elected Office
  - International Bureau
142 PCT States

- Albania
- Algeria
- Angola
- Antigua and Barbuda
- Armenia
- Australia
- Austria
- Azerbaijan
- Bahrain
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bosnia and Herzegovina
- Botswana
- Brazil
- Bulgaria
- Burkina Faso
- Cameroon
- Canada
- Central African Republic
- Chad
- Chile
- China
- Colombia
- Comoros
- Congo
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Cyprus
- Czech Republic
- Democratic People's Republic of Korea
- Denmark
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Estonia
- Finland
- France
- Gabon
- Gambia
- Georgia
- Germany
- Ghana
- Greece
- Grenada
- Guatemala
- Guinea
- Guinea-Bissau
- Honduras
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Israel
- Italy
- Japan
- Kazakhstan
- Kenya
- Kyrgyzstan
- Latvia
- Lesotho
- Liberia
- Libyan Arab Jamahiriya
- Liechtenstein
- Lithuania
- Luxembourg
- Madagascar
- Malawi
- Malaysia
- Mali
- Malta
- Mauritania
- Mexico
- Monaco
- Mongolia
- Montenegro
- Morocco
- Mozambique
- Namibia
- Netherlands
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Norway
- Oman
- Papua New Guinea
- Peru
- Philippines
- Poland
- Portugal
- Republic of Korea
- Republic of Moldova
- Romania
- Russian Federation
- Saint Lucia
- Saint Vincent and the Grenadines
- San Marino
- Sao Tomé e Príncipe
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Slovakia
- Slovenia
- South Africa
- Spain
- Sri Lanka
- Sudan
- Swaziland
- Sweden
- Switzerland
- Syrian Arab Republic
- Tajikistan
- Thailand
- The former Yugoslav Republic of Macedonia
- Togo
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United Republic of Tanzania
- United States of America
- Uzbekistan
- Viet Nam
- Zambia
- Zimbabwe
Overview of PCT (6)

- Freedom of State on its national substantive patentability

- The PCT system is a patent “filing” system, not a patent “granting” system. There is no “PCT patent” or “global patent”

- The decision on granting patents is made exclusively by national or regional Offices in the national phase
Merits for developing countries

- Utilize common resources
  - Workflow, Form, Tool (PCT-SAFE, etc.)
  - Unnecessary to develop on its own
- Utilize international preliminary reports on patentability
  - Enable well informed decision with limited capacities

- Various support from IB
  - Training & seminars
  - Technical assistance
  - Legal advice
Review of recent development (1)

- The PCT Reform (2000-2007)

- Simplification and improvements in efficiency
  - The period for entering the national phase under Chapter I was extended to 30 months
  - Written opinion of ISA was introduced into Chapter I
  - All-inclusive designation system
Review of recent development (2)

- Applicant safeguards
  - Reinstate the rights of applicants who had missed the time limit for national phase entry
  - Incorporation of missing elements and parts of the international application
  - Restoration of the right of priority
  - Rectification of obvious mistakes

- Supplementary international search

- Fee reductions to encourage the use of electronic filing
Roadmap

- Background
  - The PCT system does not effectively function as expected, e.g., quality, timeliness

- Roadmap
  - Improve the functioning of PCT system
    - Deliver results which meet the needs of applicants, Offices, third parties in all Contracting States
    - Without limiting freedom of Contracting States on substantive patent law matters
Recommendations (1)

- PCT/WG/3 (Jun. 2010) , PCT/A/41 (Sep. 2010) unanimously agreed a set of recommendations
- Recommended actions by ISA, RO, DO/EO, national Office, Contracting States, IB – all players are involved
- Accessibility from developing countries is recognized as one of main themes
Recommendations (2)

- **Quality**
  - Further improve quality management systems of IA
  - Develop quality metrics for measuring usefulness
  - Not routinely search more than a “top-up” when an international application handled as International Authority enters its own national phase
  - Explore collaborative search and examination
  - Set up third party observations system
  - Set up quality feedback system for Offices
  - Record search strategies
  - Improve explanations of relevance of cited documents

- **Timelines**
  - Improve timeliness of actions in international phase
Recommendations particularly relevant to developing countries (1)

- Feedback to improve ISR
- Improve access to effective search systems
- Assist Offices in digitizing national patent collections
- Deliver effective patent status information
- Review the level of fees for different types of applicant
Recommendations particularly relevant to developing countries (2)

- Improve training for Offices, better coordination
- Technical assistance based on needs and national policy
- Promotion of licensing

- Study of disseminating technical information and facilitating access to technology
- Terms of reference for the possible establishment of Technical Assistance Committee
Recommendations particularly relevant to developing countries (3)

- Construction of Infrastructure → Topic 3

- Digitization
- Network
- Search tool

- Plan and prioritization within limited resources are needed
PCT International Cooperation Division (1)

- Offices Services Section
  - Cooperation with Member States in particular who belong to developing and least developed countries, with a focus on providing assistance (PCT training, seminars and expert missions, etc).
  - Coordination of issues relating to International Authorities (ISA, IPEA)
Technical Cooperation Section

Promotion and cooperation with Offices and International Authorities for the use of modern information technology

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Thank you!