Challenges in Examination of Paris and PCT Patent Applications in Kenya

Brief by:
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Copyright Issues

- **Permit**: The Organizers of, and the participants to, the event in which this paper is presented may freely use this work for non-commercial purposes. Also quotations are freely encouraged so long as they are for non-commercial purposes and the author is acknowledged.
This paper aims at highlighting:
- the specific challenges of substantive examination, in particular PCT national phase entries or Paris convention applications.
- It may not be exhaustive, but aims at creating an understanding of the situation by the facilitators and trainees in order to facilitate discussion on the same, including:
  - in the last session of the workshop on challenges and options for the national phase of PCT applications; and
  - With the experts during the exercises or health breaks, etc.
Paper Focus

- Patent Examination Statistics.
- Usage of External Examination Results.
- Timelines on Examination of International Applications.
- Access to Examination Results of other IP Offices.
Paper Outline: Slides

- 1-5: Preamble
- 6-8: Patent Examination Statistics
- 9-9: Patent Law and International Application Info
- 10-11: Major Patent Examination Challenges and Way Forward
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## Patent Examination Statistics: Applications

- **WIPO-JPO PCT Kenya Statistics 241113-2.docx**

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Patent Examination Statistics: Grants

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Patent Examination Statistics: Services

- Examination Timelines are set in Service Charter.
- Pendency of applications, i.e. time till first action (report/grant/rejection) = 18 Months upon request.
- Number of Patent Examiners (Formality / Substantive) = 12
  - Physical Sciences = 3
  - Natural Sciences = 6 (3-trainees)
  - Engineering = 3
Patent Law and International Application Information

- Sources:
  - Filing of Application;
  - Submission by Applicant (Section 38 of Patent Law): Search, Examination, Grants, Rejection, Invalidation – Enforcement?
  - Searches by examiner (mainly WIPO, EPO, USPTO, IP-AU databases) or by WIPO service.

- Usage: Regularly for substantive examination.
- Obligation: International examination reports are no binding on the patent examiner.
Patent Examination Challenges: Internal

- Inadequate search capacity (examiners and resources):
  - especially in relation to certain specialised fields such as chemical structures and gene sequences.
Patent Examination Challenges: External

- Unsearched claims: one or more necessitating re-search & hence delay.
- Amendments after Paris filing or PCT national phase entry:
  - not easily identified/accessible; and
  - May be different in different countries.
- Huge backlog in some major IP offices: thus their examination results are not readily available.
References

End of Presentation

- Imbuya Mono
- Asante Sana
- Thanks
- Muchas Gracias
- Merci Beaucoup
- Arigato Gosaimasu