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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

INTERNATIONAL PATENT COOPERATION UNION  
(PCT UNION)

ASSEMBLY

Fourteenth Session (9<sup>th</sup> Extraordinary)\*  
Geneva, September 8 to 12, 1986

APPOINTMENT OF THE UNITED STATES PATENT AND TRADEMARK OFFICE AS  
AN INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY UNDER  
THE PATENT COOPERATION TREATY (PCT)

*Memorandum of the Director General*

1. The President of the United States of America has asked the US Senate for advice and consent in respect of the withdrawal of the reservation under Article 64(1)(a) of the PCT declaring that the United States of America would not be bound by the provisions of Chapter II of the PCT.
2. It may be that the United States of the America will soon be in a position to withdraw the reservation under Article 64(1)(a). The United States Patent and Trademark Office (USPTO), which is already an International Searching Authority (ISA), is willing to act, as from the date on which the withdrawal of the reservation enters into effect, also as International Preliminary Examining Authority (IPEA). This requires the appointment of the USPTO as IPEA and amendments to the existing agreement between that Office and the International Bureau in order to include in its scope, in addition to the functions of the USPTO as ISA, also the functions of the USPTO as IPEA. The appointment, which must be made by the Assembly of the PCT Union, is conditional on the approval by the Assembly of the said amendments.

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\* *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at [pct.legal@wipo.int](mailto:pct.legal@wipo.int)

3. A decision on the appointment of the USPTO as IPEA and an approval of the said amendments by the Assembly could become necessary several months before its next ordinary session. It is in the interest of both the users of the system and the system as a whole that the USPTO acts as IPEA as soon as possible. In order to avoid the convening of an extraordinary session of the Assembly only for the purpose of taking a decision on the appointment of the USPTO as IPEA and of approving the amendments of the agreement, it is proposed that the Assembly now take the following decisions:

- (i) the USPTO is provisionally appointed as IPEA, and
- (ii) the required amendments of the existing agreement between the USPTO and the International Bureau are approved in advance, provided that the amended agreement will on substance be similar to the agreements already concluded by the International Bureau with the other industrial property Offices acting both as ISAs and as IPEAs,

it being understood that the appointment will become effective only once the United States of America is bound by the provisions of Chapter II of the PCT, that the agreement, once amended, will be promptly communicated by the International Bureau to all Contracting States of the PCT and that the Assembly at its first session following the amendment of the existing agreement (probably in September 1987) will be invited to confirm the appointment of the USPTO as IPEA.

4. Should it appear to be necessary, during the negotiations of the amendments, to envisage amendments resulting in an agreement which is substantially different from the existing ones, the Assembly will be convened in an extraordinary session to approve the amended agreement.

*5. The Assembly is invited to adopt the proposals contained in paragraph 3 above.*

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