

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

MEETING OF INTERNATIONAL AUTHORITIES
UNDER THE PATENT COOPERATION TREATY (PCT)

Fifteenth Session
Vienna, April 7 to 9, 2008

INTERNATIONAL APPLICATIONS PUBLISHED WITHOUT CLASSIFICATION

Document prepared by the European Patent Office

1. Under PCT Rule 43.3, the International Searching Authority (ISA) is responsible for classification of the application. This responsibility also extends to those cases where the International Searching Authority is not in a position to complete the international search report prior to completion of the technical preparations for publication of the international application, as the definitive classification must be made by the time that the international application is published (PCT International Search and Preliminary Examination Guidelines, paragraph 2.10(a)). International publication without classification data causes great inconveniences for industrial property offices and for users of patent information, and the EPO believes that the International Authorities should take all possible measures to prevent this from happening.
2. In 6% of all WO publications in the year 2007 the classification was nevertheless missing. 73% of the international applications concerned were applications where the EPO was the International Searching Authority. As it would appear from these figures that it is in particular the EPO that is not meeting its obligations under the PCT, the EPO would like to inform the Meeting that it has put a mechanism into place to ensure a timely classification whenever possible.

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3. Four to five weeks prior to a “publication run” the EPO receives from WIPO a list with the outstanding international search reports for that publication run. Formalities officers are instructed to inform examiners as soon this list is received that they should either establish an international search report for the applications concerned or alternatively, if this is not possible, to submit classification data by a set date.

4. The reason why there is a great number of international publications without classification where the EPO was the International Searching Authority is, however, not in the first place due to examiners failing to classify the application in time. Such classification can only be made when the EPO is in fact in the possession of the search copy. Therefore, the EPO is depending on processing times at the different receiving Offices in order to meet its obligations. The EPO has established that in those cases where classification data are submitted to WIPO after completion of the technical preparations for publication, late receipt of the search copy is the main reason.

5. The Meeting is invited to comment on the matter and to consider what measures can be taken to speed up the transmittal of search copies.

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