

# 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)

**Seventeenth Session  
Rio de Janeiro, February 9 to 11, 2010**

#### QUALITY FEEDBACK SYSTEMS

*Document prepared by the International Bureau*

#### SUMMARY

1. International Authorities should have effective mechanisms for allowing feedback from Offices and applicants as part of their quality management systems. Consideration should be given to whether a common international system, most likely developed in conjunction with a third party observation system, should be developed to assist this process.

#### BACKGROUND

2. At its sixteenth session, the Swedish Patent and Registration Office proposed a system permitting quality feedback from designated and elected Offices to International Authorities in the following terms (paragraphs 1 to 5 of document PCT/MIA/16/5):

“1. This is a complementary proposal to the European Patent Office’s proposal for revision of Chapter 21 of the PCT International Search and Preliminary Examination Guidelines (Annex to document PCT/MIA/16/2). In Section 5 of that proposal (Communication), paragraph 21.17 makes provisions relating to inter-Authority communication and paragraph 21.19 makes provisions relating to communication with WIPO and designated and elected Offices.

“2. Paragraph 21.19 of that proposal states that Authorities need ‘to allow prompt feedback from them so that potential systematic issues can be elevated and addressed’. This requires that the Authorities must provide for effective communication with other Authorities, the International Bureau and designated and elected Offices.

“3. The Swedish Patent and Registration Office therefore suggests that in order to enhance this communication the International Bureau could provide an e-based feedback system accessible from their homepage [www.wipo.int/pct](http://www.wipo.int/pct).

“4. The feedback system could contain an easy electronic fill-out form where it would be possible to inform on: Country to which the feedback is directed, PCT file number(s), etc., for example.

“5. As the feedback is sent, only the Authority addressed can access the information. Of course it would be optional both to send and receive feedback.

International Authority: <b>SE</b>	PCT-No: <b>PCT/SE08/08333</b>
More relevant documents* found : <b>GB063333-8</b>	* Document not included in search report and given a higher category than all other documents
Category : <b>X</b>	
IPC class : <b>H01S:</b>	
Other Comments: acronym GWLD used for Group Wave Length Laser Diod.	
Regards/ Mark UKPTO	

3. The Meeting “agreed that the Secretariat should, in consultation with the Swedish Patent and Registration Office, develop more detailed proposed system requirements with a view to establishing an e-based feedback system, for consideration by the Meeting at its next session” (paragraph 63 of document PCT/MIA/16/15).

## BUSINESS REQUIREMENTS

4. In the context of search reports and international preliminary reports on patentability under the PCT, feedback can serve at least two purposes which are distinct but complementary:

(a) Giving appropriate feedback to the International Authority may assist in identifying systemic issues and addressing them to improve the processing of future cases.

(b) Identifying deficiencies in individual reports may assist other national Offices in ensuring that an effective review is made of the patentability of the individual international application according to the relevant national law.

5. Consequently, it would be desirable if any feedback mechanism was designed to allow at least information on newly found, more relevant citations to be made available publicly, in addition to more private feedback on the underlying reasons for the citations (or other perceived deficiencies) found, such as on relevant classification terms or databases which should be searched for the particular invention.

6. Any system must avoid introducing additional burdens for examiners in designated Offices and offer sufficient information to International Authorities to allow either individual examiners or central quality reviewers to quickly analyze the information and learn something useful from it.

## SYSTEM PROPOSAL

7. It appears that, in many respects, the requirements of any such system are quite similar to those of the third party observation system described in document PCT/MIA/17/2. Consequently, it is proposed that, if a centralized quality feedback system is desired, the two systems should be developed together.

### Routes for Giving Feedback

8. It is proposed that the system should offer at least two routes of access for giving feedback.

9. Firstly, the examiner should be able to make a comment in almost exactly the same way as a third party using a special login to the third party observation system. That system should automatically recognize logins from designated Offices over a secure connection (for example, recognizing a fixed IP address or a WIPO high level certificate held by the Office). The examiner in that Office should then be able to make all of the same public comments as any third party, together with additional options such as private comments on the classifications searched, databases searched or other matters.

10. Secondly, the system should permit the same information to be uploaded in an automated fashion, for example, using Web services, to deliver the same contents as would be typed into any of the fields based on an automated process. For example, on creation of the first national search or examination report, a system might identify all of the “X” and “Y” category citations which had not appeared in the international search report and automatically

upload these as an “observation”, together with any manual comments by the examiner which a particular Office’s implementation of the system might permit. Alternatively, serving at least some of the same purposes, the national search reports themselves might either be uploaded or a notification made of their existence on the Office’s public file inspection systems: as long as the citation information was provided in an electronically readable format, it might be possible at least to determine whether new citations had been made.

11. In either case, it may be desirable to allow the designated Office to indicate whether the application was being processed on the basis of the international application as filed or amended during the international phase (or a translation of such), or else on the basis of amendments filed during the national phase.

12. Observations made by designated Offices would automatically be tagged as such to distinguish them from normal third party observations. The parts equivalent to third party observations would be made public. The additional parts would be separated and fed separately to the relevant International Authority.

#### Content of Feedback

13. As noted above, it would appear appropriate for the system to permit all the same types of observation as can be made by third parties, even if in practice much of this functionality might rarely be used because of the workload which would be implied for examiners. In addition, it would be necessary to provide more detailed feedback on the underlying issues which caused (for example) more relevant citations to be found by the national Office.

14. Obvious candidates for further fields would be classification of the application, classification terms searched, databases searched, and other comments on the apparent scope of the international reports. While “other” could permit any type of comment to be made, if International Authorities are to easily assess feedback and address systemic problems in addition to case-specific ones, it may be desirable to categorize comments further for easier analysis.

#### NEXT STEPS

15. If the Meeting considers that such a system would be useful, a refined version of this draft proposal will be submitted to the third session of the PCT Working Group for consideration by the Contracting States. It is expected that a prototype would then be developed alongside a third party observation system, allowing further comment on the details of data entry and required fields before a final system is deployed.

*16. The Meeting is invited to comment on whether centralized arrangements might be desirable for permitting quality feedback to International Authorities and, if so, what content should be included to ensure that the value of such feedback would be greater than the burden of processing it.*