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WORLD INTELLECTUAL PROPERTY ORGANIZATION
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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

PREFERENTIAL TREATMENT FOR
INTERNATIONAL APPLICATIONS RELATING TO “GREEN” TECHNOLOGIES

Document prepared by the International Bureau

SUMMARY

1. A number of national patent Offices are according preferential treatment to patent applications which relate to environmentally-friendly (“green”) technologies. The International Bureau would like to seek the views of Member States as to what, if any, measures might be taken within the PCT system to give preferential treatment to international applications which relate to “green” technologies.

BACKGROUND

2. A number of national patent Offices are according preferential treatment to patent applications which relate to environmentally-friendly (“green”) technologies. For example:

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(a) The United Kingdom Intellectual Property Office (IPO) has established a “Green Channel” initiative, in which patent applicants must make a written request “indicating that their application relates to a ‘green’ or environmentally-friendly technology, and which actions they wish to accelerate: search, combined search and examination, publication, and/or examination. The Office will require no further reasons for accelerated processing. This service will apply to existing applications as well as to applications filed after 12 May 2009.”¹

(b) The State Intellectual Property Office of the People’s Republic of China (SIPO) has likewise committed to provide a similar fast track accelerated prosecution for green technology patent applications.²

(c) The Korean Intellectual Property Office (KIPO) recently announced that “green” patent applications are eligible as of October 1, 2009, for “super speed” examination. This special examination procedure applies to patent applications directed to technologies relating to the environment or “low-carbon green growth.”³

(d) The United States Patent and Trademark Office (USPTO) announced on December 7, 2009, a pilot project to accelerate the examination of certain “green” technology patent applications. Under the pilot, “pending patent applications in green technologies will be eligible to be accorded special status and given expedited examination, which will have the effect of reducing the time it takes to patent these technologies by an average of one year.”⁴ For the purposes of the pilot, the first 3,000 applications related to green technologies in which a proper petition is filed will be examined on an accelerated basis.

(e) IP Australia similarly has announced that it is “helping green innovators find a fast track to the marketplace by offering priority to environmentally friendly technologies in the patent application system.”⁵

¹ See <http://www.ipo.gov.uk/pro-types/pro-patent/p-law/p-pn/p-pn-green.htm>.

² See <http://www.ipo.gov.uk/about/press/press-release/press-release-2009/press-release-20090512.htm>. “The ‘green’ patents initiative was one of the key deliverables announced at the UK/China Economic and Financial Dialogue on 11 May, with China already agreeing to adopt the proposal.”

³ See KIPO press release of 20 Oct. 2009: “To support the patent acquirement of green technologies researched & developed under the national strategy of low-carbon green growth, the Korean Intellectual Property Office (Commissioner Jung-sik Koh) is planning to apply a super speed examination system starting October 1. The super speed examination system is subjected to green technologies that minimize the discharge of pollutants, as well as those which received funding or authentication for green growth. Applicants can apply for the super speed examination by requesting a prior arts search to an authenticated agency, and submitting the results of the search to KIPO. Currently, the period from application to acquire a patent is an average of 18 months for ordinary examinations, and roughly three months for preferential examinations. Using the super speed examination system, however, the period can be slashed to less than a month, the fastest examination period in the world. In case the registration of the patent is refused under the super speed examination system, the applicant can use the super speed judgment system to receive the reasons of the refusal within four months from applying for judgment....”

⁴ See http://www.uspto.gov/news/pr/2009/09_33.jsp.

⁵ See http://www.ipaustralia.gov.au/pdfs/news/MR_150909_fast_track_green_patents.pdf. See also http://www.davies.com.au/publications_patents.aspx (In Brief Update, 16 September 2009): “Following this announcement, the simple statement that a patent application relates to a field of green technology will constitute a suitable reason in support of a request for expedited examination. Applicants of Australian patent applications covering green technologies (likely to be interpreted quite broadly) should give consideration to requesting expedited examination where there is a commercial motivation to do so. After filing a request for expedited examination, an applicant can expect to receive a first examination report within a matter of two to four months.”

What should and could be done in the PCT context?

3. The International Bureau would like to seek the views of Offices of PCT Member States (in the context of this meeting, in their roles as International Authorities) as to what, if any, measures might be taken within the PCT system to give preferential treatment to international applications which relate to “green” technologies.

4. Options which could be considered in terms of preferential treatment (upon request of applicants) might include:

(a) accelerated processing by receiving Offices, International Searching Authorities and International Preliminary Examining Authorities, as well as the International Bureau (though the scope for accelerated processing appears quite limited, noting the already tight time limits during the international phase);

(b) fee-related incentives accorded by the International Bureau (international filing fee), receiving Offices (handling fee) and International Authorities (search fee and preliminary examination fee);

(c) specifically indicating and/or drawing attention to such published international applications as “green” applications in order to facilitate licensing and commercialization.

5. It is the intention of the International Bureau to also put this item on the agenda of the next session of the PCT Working Group.

6. The Meeting is invited to consider what, if any, measures might be taken within the PCT system to give preferential treatment to international applications which relate to “green” technologies.

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