

Meeting of International Authorities under the Patent Cooperation Treaty (PCT)

Twenty-Fifth Session
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NUMBER OF WORDS IN ABSTRACTS AND FRONT PAGE DRAWINGS

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SUMMARY

1. A circular will shortly be issued containing proposals for modifications to the PCT Applicant's Guide and the International Search and Preliminary Examination Guidelines concerning the drafting and review of abstracts. ePCT-Filing has been modified to include a warning where it is detected that the length of abstract supplied by the applicant falls outside the normally expected range. Further measures will probably be required to make any improved guidelines which are adopted effective.

BACKGROUND

2. The PCT Working Group, at its ninth session, held in Geneva from May 17 to 20, 2016, discussed a working document titled "Number of Words in Abstracts and Front Page Drawings" (document PCT/WG/9/16). This working document shows that a large proportion of international applications are published with abstracts which fall well outside the recommended range of lengths and with significant quantities of text in the drawing chosen for the front page of the published international application. This results in increased translation and processing costs, but also raises the question of whether the abstract and drawing published on the front page might often not be optimal for the purpose of effective searching.

3. It was emphasized that the International Bureau is not seeking to impose strict limits on the number of words in an abstract. Rather, the aim is to improve the quality of abstracts, to make sure that they are useful for the purposes of search and scanning of international

applications and to reduce the cost of translation of long abstracts which are of doubtful value. There was general agreement that in some cases it is important to have an abstract which is longer (or occasionally shorter) than the recommended range of lengths.

4. Following discussions by the twenty-fourth session of the Meeting of International Authorities (document PCT/MIA/24/13) and by the tenth session of the PCT Working Group (PCT/WG/10/23) it was agreed that the International Bureau should issue a circular with preliminary proposals and further questions, and that a work count tool would be added to ePCT-Filing.

5. Circular C. PCT 1517 was issued on July 31, 2017, inviting further comments on possible improvements which might be made to the guidance provided to applicants and to examiners at International Searching Authorities for the drafting and revising of abstracts.

6. A word count feature has been added to ePCT-Filing to give a warning if the number of words in the abstract falls outside of the expected range. However, the value of this is limited since, even for those applications filed using ePCT-Filing, a large proportion do not include the abstract in text format.

NEXT STEPS

7. A further Circular will be issued shortly containing proposals for modifications to the PCT Applicant's Guide and the International Search and Preliminary Examination Guidelines concerning the drafting and review of abstracts.

8. Even if the proposed modifications are considered appropriate to defining good practice, it likely that further measures will be required if they are to have any effect.

9. It is apparent that most International Authorities consider that it is the responsibility of the applicant to draft a good abstract and that significant revision by the examiner should be the exception rather than the rule. However, there is little incentive for the applicant to make efforts to draft an effective abstract since the abstract is entirely for the benefit of Offices and third parties and provides little value to the applicant in the application process or the rights which may be granted. Indeed, some applicants may be concerned that doing anything other than describing the application in essentially the terms of Claim 1 (which will typically not serve as an effective tool for searching or for quickly conveying the sense of the invention) will introduce a risk that Offices or courts in some States will use the abstract to interpret the claims in a more narrow sense than intended, despite the clear terms of PCT Article 3(3) ("The abstract merely serves the purpose of technical information and cannot be taken into account for any other purpose, particularly not for the purpose of interpreting the scope of the protection sought").

10. The obvious solutions to encouraging better drafting are either to introduce fees or requirements for the applicant to modify inadequate abstracts. However, it is not clear that such measures would be practical or desirable:

(a) It would be relatively easy to introduce an additional fee for abstracts longer than 150 words in English or the average equivalent in other languages. However, this would merely encourage short abstracts, rather than high quality ones;

(b) A fee for cases where the International Searching Authority needed to revise the abstract would be relatively expensive to collect, because it could only be done after the event, and would probably be seen as arbitrary since there will always be an element of preference in drafting which will vary from examiner to examiner;

(c) Requiring the applicant to redraft abstracts if they are not appropriate would be highly inefficient, requiring a second round of consideration by the examiner and potentially delaying the establishment of the international search report and/or international publication.

11. Consequently, the International Bureau is not currently proposing any specific measures in this area. Further consideration will be required of how to encourage or enforce good drafting more effectively if modified Guidelines are to have any practical effect.

12. The Meeting is invited to note the status of work concerning the length and quality of abstracts in international applications.

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