

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

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PROPOSAL TO PROMOTE THE IMPROVEMENT OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION

Document prepared by the China National Intellectual Property Administration

SUMMARY

1. The China National Intellectual Property Administration (CNIPA) proposes to design a questionnaire and conduct a survey with a view to improving the form, content and format of the international search report (ISR) and the written opinion (WO) of the International Searching Authority. The questionnaire would be used to survey both examiners as providers of the ISR and the WO, and the various users of these work products (examiners in the PCT national phase, applicants and third parties). Based on the responses from the questionnaire, the final step of the work would involve identifying directions for future improvement of the ISR and the WO. The CNIPA volunteers to take the lead in designing the questionnaire and conducting the survey together with other participating International Authorities.

BACKGROUND

2. The PCT, which is an important channel for patent applications, has played a significant role in simplifying the procedure for applicants to seek patent protection in multiple countries and regions. As the PCT System has gained more and more recognition by patent applicants due to the cost-efficiency and reliability of its procedures, the total number of PCT applications has steadily increased in recent years. Accordingly, improving the quality of work products in the international phase is an important aspect for related discussion on the improvement of the PCT System, so as to provide applicants with comprehensive and accurate results of search and examination, and offices with effective reference for patent examination in the national phase to avoid duplicate examinations, and substantive basis for cooperation on work-sharing.

3. In the current situation where cooperation regarding the PCT becomes closer and emerging technology constantly springs up, Offices have noticed the importance and necessity of reviewing the PCT System under the current legal framework to better adapt to future development. At the eleventh session of PCT Working Group in 2018, the International Bureau proposed the overall direction and priorities for the future improvement of the PCT System (see PCT/WG/11/5), identifying that quality of international search reports as well as other key work products is in close relation to the further development of the PCT System.

THE IMPORTANCE OF THE IMPROVING THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION

4. The ISR and the WO are important work products, which build a communication bridge between examiners and users, as well as between the international phase and the national phase. They are also the key basis for the work-sharing among Offices. In this regard, the continuous improvement of the form, content and format of the ISR and the WO will further improve the quality of the ISR and the WO, thus ensure their clarity in form, completeness in content and flexibility in data format. Through the improvement, examination results will be presented more clearly, ensuring the effective utilization by examiners, applicants and the public, and the proper implementation of work-sharing.

5. The importance of improving the quality of the ISR and the WO has been widely recognized and work has been occasionally done in this regard in the past. For example, in the twenty-fourth session of the Meeting of International Authorities under the PCT held in 2017, a proposal was made to require, in the cases of citing patent documents written in languages other than English in the ISR, the indication of the corresponding part of the English patent family document if such an English patent family document exists (see PCT/MIA/24/11). This proposal was supported by International Authorities and the PCT International Search and Preliminary Examination Guidelines has been modified accordingly.

PROPOSAL

6. Though work had been done occasionally to improve the ISR, an overall review of the ISR and the WO has not been carried out yet. In order to provide high quality work products to applicants and the public, especially under the current circumstance of more in-depth work-sharing and closer linkage between the international phase and the national phase, the CNIPA believes that it is necessary to conduct a comprehensive survey and evaluation of the ISR and the WO for the purpose of promoting the improvement of these two PCT work products at the practical level.

7. Therefore, the CNIPA proposes to implement related work to promote the improvement of the form, content and format of the ISR and the WO, by collecting comments through a survey, with the aim to find out directions for future improvements and to suggest specific improvement measures for the ISR and the WO. Specifically, the CNIPA proposes to conduct the work in the following three steps:

(a) Design a questionnaire to solicit experiences, needs, comments and recommendations regarding the ISR and the WO. The design principles include the following:

(i) the survey questions should take into account both comprehensiveness and efficiency, and the total number of questions should not be excessive. The survey questions should be concise, concrete, representative and pertinent with the aim to acquire accurate results while not being burdensome on respondents;

- (ii) the target respondents of the questionnaire primarily include two categories: providers (examiners who establish the ISR and the WO in the international phase) and users (examiners in the national phase, applicants and third parties), and the questions should be designed for each category respectively based on the knowledge and experience of the target respondents;
 - (iii) the layout of the questionnaire should be designed for easy completion and facilitating the follow-up analysis; and
 - (iv) the distribution scope and method of the questionnaire should be balanced between comprehensiveness and representativeness.
- (b) Conduct a survey using the questionnaire designed in step (a) to gather the user experiences, needs, comments and recommendations on the ISR and the WO, then establish a statistic report to present the results of the respondents' feedback in the survey.
- (c) Complete an analysis report, which involves identifying directions and specific suggestions for future improvement of the ISR and the WO at the practical level based on the survey results.

NEXT STEP

8. The CNIPA proposes to carry out related work according to the three steps mentioned above in three years and begin to design the questionnaire in 2019. The CNIPA volunteers to lead related work in the proposal and invite interested International Authorities to join the implementation of the proposal. It is suggested that International Authorities that are interested in joining the implementation of step (a) contact the CNIPA before the end of March 2019. In 2019, the participating International Authorities will work together via WIPO wiki platform on discussions of designing survey questions, the layout of the questionnaire, the distribution method, etc. The CNIPA will also report the progress regularly through WIPO wiki platform and comments from all International Authorities will be welcomed.

9. The Meeting is invited to comment on the proposal contained in paragraphs 7 and 8, above, and any interested International Authority is invited to contact the CNIPA before the end of March 2019 if it would like to join the implementation of step (a).

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