

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

**Twenty-Sixth Session**  
**Cairo, February 13 to 14, 2019**

### **PCT COLLABORATIVE SEARCH AND EXAMINATION PILOT: PROGRESS REPORT**

*Document prepared by the European Patent Office*

#### **SUMMARY**

1. This document reports on the progress of the third pilot project on collaborative search and examination under the PCT ("CS&E") among the IP5 Offices (the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the National Intellectual Property Administration of the People's Republic of China (CNIPA) and the United States Patent and Trademark Office (USPTO)).

#### **BACKGROUND**

2. At its third session in June 2010, the PCT Working Group endorsed a series of recommendations to improve the functioning of the PCT as listed in document PCT/WG/4/3. The recommendation under paragraph 165(b) mentions trials of arrangements whereby examiners in International Authorities with complementary skills work together to establish a report.

3. With this aim, KIPO, the USPTO and the EPO launched two pilot projects on collaborative search and examination under the PCT (CS&E) in 2010 and 2012. Both pilots concluded with an overall very positive outcome in terms of quality and efficiency for both the participating Offices and users whose applications were treated under the collaborative scheme (see documents PCT/MIA/18/7, PCT/MIA/20/4 and PCT/MIA/24/3).

## FRAMEWORK

4. On June 2, 2016, the IP5 Heads endorsed the "IP5 Cooperation Framework on Collaborative Search and Examination under the PCT", which is a document setting the underlying principles and main features of the third pilot. The Collaborative Search and Examination Pilot Group ("CS&E Pilot Group") established on the basis of that document is in charge of developing and monitoring this project.
5. The main features of this pilot project are in particular:
  - an applicant-driven approach: the applications processed during this pilot are selected by applicants;
  - a balanced workload distribution: all collaborating International Authorities contribute to the establishment of each CS&E work product; each Office will process approximately 100 international applications in its role as "main International Searching Authority" and approximately 400 international applications in its role as "peer International Searching Authority" over two years;
  - a common set of quality and operational standards is applied by all collaborating International Authorities when processing PCT applications;
  - the use of a "collaborative tool", i.e. an IT infrastructure allowing exchanges among Offices in a secure environment and automated data collection; and
  - the possibility for the collaborating International Authorities to accept, at some point in time during the pilot, also applications filed in a language other than English.
6. In this pilot project, the examiner from the Office acting as competent International Searching Authority under PCT Rule 35 for a given international application ("the main examiner") conducts the search and examination as for any other international application and establishes a provisional international search report and written opinion. These provisional work products are then transmitted to peer examiners from the other participating Offices in their capacity as International Searching Authorities. Peer examiners provide the main examiner with their contributions, taking into consideration the provisional international search report and written opinion. The final international search report and written opinion are established by the main examiner after consideration of the contributions from the peer examiners. Further details on the concept and framework of this CS&E pilot project and the requirements for participation are available on the respective IP5 Offices' websites.

## STATE OF PLAY

7. This pilot project is divided in two phases: a preparatory phase and an operational phase. The preparatory phase, which started on June 2, 2016, was dedicated to the administrative and practical preparations required to ensure a smooth functioning of the pilot. The operational phase started on July 1, 2018 and will run until June 1, 2021. It is dedicated to the processing of applications under the collaborative scheme, the monitoring of applications for evaluation purposes and the assessment of the outcome of the pilot.
8. On November 13, 2018, the CS&E Pilot Group held its seventh session in Seoul with a view to take stock of the operational phase. The CS&E Pilot Group was pleased to note that the operational phase is running very smoothly in spite of the operational challenges faced by the various participating Offices due in particular to manual work-arounds to process the files and the peer contributions. More specifically, the deadlines set within the framework of this pilot for the establishment of provisional international search reports and peer contributions have so far almost always been met and the majority of final international search reports was established within the time limit under PCT Rule 42.1. Figures giving a general overview of the progress of

this pilot project on December 11, 2018, may be found in the table below. Moreover, the collaborative tool provided and maintained by the International Bureau proved to be very practical and effective.

Total number of accepted applications	Total number of provisional search reports	Total number of peer contributions	Total number of final search reports
163	135	409	54

9. In general, applicants' interest for this pilot project is high. At some Offices, it is still quite moderate due to the fact that, during the first six months from the launch of the operational phase, English is the only filing language accepted for the purposes of this pilot. Some Offices experienced a strong response from applicants in the first months of the operational phase. For instance, the EPO as main International Searching Authority reached its quota for applications in English for the first year of the pilot in September 2018. Similarly, the CNIPA stopped accepting applications filed in English in November 2018. Both Offices will start accepting files in English again as of the beginning of the second year of the pilot project, i.e. July 1, 2019.

10. Furthermore, the EPO and the CNIPA have decided that they will accept international applications filed in a language other than English within their yearly quota of around 50 international applications per main International Searching Authority. Hence, the EPO as main International Searching Authority will start accepting around ten international applications filed in French or German as of January 1, 2019 (for further details, see Notice published in the November issue of EPO's Official Journal, OJ EPO 2018, A95). The CNIPA will accept into the pilot international applications filed in Chinese in the beginning of 2019 as of a date still to be confirmed. Finally, KIPO is also considering accepting files in Korean later in 2019.

11. *The Meeting is invited to note the contents of the present document.*

[End of document]