

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

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

PCT MINIMUM DOCUMENTATION TASK FORCE: STATUS REPORT

Document prepared by the European Patent Office

SUMMARY

1. This document reports on the activities carried out by the PCT Minimum Documentation Task Force ("the Task Force") in 2018 and on its tasks for 2019.

BACKGROUND

2. In January 2016, there was consensus at the Meeting of International Authorities (MIA) to reactivate the Task Force and the International Bureau invited one of the International Searching Authorities (ISAs) to replace it. The MIA invited the Task Force to resume its work on the basis of document PCT/MIA/23/5 (see paragraph 63 of document PCT/MIA/23/14), and "to recommence its discussions on the addition of databases, including traditional knowledge databases, to the PCT Minimum Documentation, as set out in document PCT/MIA/12/6" (see paragraph 85(a) of document PCT/MIA/23/14). Also, following India's request that the Indian Traditional Knowledge Digital Library database (TKDL) be included in the PCT Minimum Documentation (see document PCT/MIA/23/10), the MIA invited the Indian Patent Office "to submit a detailed working document to the Task Force, including a revised draft of the access agreement, setting out its proposals with regard to the inclusion of the Indian TKDL into the PCT Minimum Documentation, taking into account previous discussions in the Meeting, the Task Force and the IGC, as well as the discussions held at the present session of the Meeting" (see paragraph 85(b) of document PCT/MIA/23/14). Finally, the MIA invited the International Bureau "to work closely with the Indian Patent Office in the coming months with a view to moving the issue forward, where appropriate by means of informal consultations and written communications, such as PCT Circulars, to ensure proper preparation of the discussions to be

held at the next session of the Meeting in 2017" (see paragraph 85(c) of document PCT/MIA/23/14).

3. In February 2016, the European Patent Office (EPO) responded positively to the call of the International Bureau and agreed to lead the Task Force on the basis of the mandate given by the MIA (document PCT/MIA/23/14).

AGREED OBJECTIVES

4. Since 2005, the overarching objective of the Task Force has been to examine all factors relating to the maintenance and revision of the list of patent and non-patent literature collections belonging to the PCT Minimum Documentation, and to recommend objective criteria that patent and non-patent literature collections, in both paper and electronic formats, must adhere to in order to be considered for inclusion in the PCT Minimum Documentation.

5. The mandate given to the Task Force (see paragraph 9 of document PCT/WG/9/22), as noted by the PCT Working Group in May 2016, is as follows:

(a) Clarify the extent of the existing PCT Minimum Documentation, in view of the fact that the WIPO Handbook on Industrial Property Information and Documentation is outdated, the definition and extent of patent literature having last been revised in November 2001, and the definition and extent of non-patent literature having last been revised in February 2010.

(b) Make recommendations and draft standards which are reasonable for national offices to adhere to in order to have their national collections included in the PCT Minimum Documentation, and allow International Authorities and database providers to easily load the necessary information in a timely and reliable fashion. The question of whether utility models should also form part of the minimum documentation shall also be examined.

(c) Propose clearly-defined components of patent data that should be present in all patent collections belonging to the minimum PCT documentation list (for example, bibliographic data, abstracts, full text, facsimile images, classification data), as well as the quality and dissemination criteria such data must adhere to, in order to improve searchability and facilitate data exchange between patent offices and commercial database providers.

(d) Define the criteria necessary for a patent collection to become part of the PCT Minimum Documentation and the extent to which Authorities should be expected to include and search documents where they are in different languages or have equivalent technical disclosures to other patent documents.

(e) Improve the availability of technical information from patent documents, in terms of the technical and linguistic coverage of the documents, and of the searchability of the information contained. This will further improve the quality of international searches, and ensure better access to patent information for third parties.

(f) Make recommendations and propose mechanisms for reviewing and maintaining the non-patent literature part of the PCT Minimum Documentation, by taking into consideration factors such as:

- (i) practicable access to periodicals, including their availability in electronic form;
- (ii) the range of fields of technology covered by periodicals;

(iii) access conditions applicable to periodicals, including cost and text searchability.

(g) Recommend criteria for the inclusion of non-patent literature in the PCT minimum PCT documentation, and in particular, conditions under which traditional knowledge-based prior art should be included. Moreover, the Task Force should work with the Indian authorities after receiving their revised detailed proposals for inclusion of the TKDL database in the PCT Minimum Documentation.

AGREED METHODOLOGY AND WORK PLAN

6. The Task Force conducts its discussions using the wiki. As Task Force leader, the EPO prepares and submits discussion papers for consideration of the other Task Force members, and coordinates the discussions through a set of "discussion rounds". The EPO also sets deadlines for comments, and shapes the activities so that concrete proposals from the Task Force could be presented to the future sessions of the MIA and of the PCT Working Group.

7. In December 2016, the EPO posted in the wiki a high-level position paper on the activities of the PCT Minimum Documentation Task Force foreseen in 2017-2018 (see Appendix to document PCT/MIA/24/4). In this position paper, due to the interrelated nature of the seven objectives listed above under paragraph 5, the EPO proposed, for the sake of efficiency, that some of these objectives be grouped in view of being tackled by the Task Force, as follows:

- Objective A: Create an up-to-date inventory of the patent literature and non-patent literature parts of the current PCT Minimum Documentation.
- Objective B: Recommend criteria and standards for including a national patent collection in the PCT Minimum Documentation.
- Objective C: Propose clearly-defined bibliographic and text components of patent data that should be present in patent collections belonging to the PCT Minimum Documentation.
- Objective D: Recommend criteria and standards for the review, addition and maintenance of non-patent literature and traditional knowledge-based prior art, and afterwards assess, on the basis of the criteria that will have been established, the revised proposal from the Indian authorities on TKDL.

8. In the above-mentioned position paper, the EPO proposed to lead the discussions on Objectives A, B and C and invited one of the Task Force members to lead the discussions on Objective D.

9. The work plan proposed by the EPO found the support of the Task Force members and of the MIA (document PCT/MIA/24/15). The United States Patent and Trademark Office (USPTO) offered to lead the fourth objective and this was very appreciated by the MIA (see paragraphs 71 and 72 of document PCT/MIA/24/15).

STATE OF PLAY

10. The discussions on Objective A began in April 2017. They focused on revising the lists of both the patent and non-patent literature publications belonging to the PCT Minimum Documentation. Both lists were extensively reviewed, modified and expanded to bring their contents up-to-date and in line with Rule 34.1.

11. Following active participation and contribution by Task Force members, in the last quarter of 2017, the up-to-date inventory of the current PCT Minimum Documentation was finalized by the EPO and accepted by the Task Force members as the baseline upon which further improvements can be made, thereby meeting Objective A.

12. During the discussions on Objective A, the Task Force identified also two issues to be tackled during the discussions on Objectives B and C. In that regard, at the twenty-fifth session of the MIA (February 21 to 23, 2018), Authorities noted with approval “that significant progress had been made on identifying many of the issues involved in improving what was currently an extremely complicated situation of how patent documents belonged to the PCT minimum documentation” (see paragraph 63 of document PCT/MIA/25/13).

13. In 2018, as announced in paragraphs 14 and 15 of document PCT/MIA/25/4, the Task Force commenced work on Objectives B, C and D through a series of discussion rounds.

14. With respect to Objective B (recommend criteria and standards for including a national patent collection in the PCT Minimum Documentation), the discussions focused on addressing the two important issues which had been identified within the framework of the discussions on Objective A, namely:

(a) The first issue relates to the language-based criteria currently contained in Rule 34.1 which give rise to the following situation:

- the national patent collections of some ISAs do not belong to the PCT Minimum Documentation;
- the contents of the PCT Minimum Documentation vary depending on the ISA’s official language(s) and the availability of English abstracts; and
- the patent literature part of the PCT Minimum Documentation is limited to patents documents published in a limited number of languages.

(b) The second issue relates to utility models. Currently, Rule 34.1 only explicitly mentions the utility models of France as being part of the PCT Minimum Documentation, thereby omitting several other significant utility model collections that are important sources of relevant prior art.

15. The EPO tabled in the wiki two proposals addressing the above-mentioned issues to the Task Force for deliberation. The said proposals are annexed to the present status report (Annexes I and II). For both proposals, the EPO received feedback and comments from the Canadian Intellectual Property Office, the Japan Patent Office, the Spanish Patent and Trademark Office, as well as from the International Bureau. The silence of the other Task Force members is understood as a sign of their tacit agreement with the proposals.

16. With regards to the first issue relating to the language-based criteria, it may thus be concluded from the discussion round that within the framework of a future revision of Rule 34.1, at least the following four goals should be achieved:

- ensuring that the PCT Minimum Documentation should contain the patent collections of all ISAs, irrespective of their official language(s), by making it a requirement to be fulfilled by ISAs (through an amendment of Rule 36);
- relaxing the language-based criteria in Rule 34.1 so as not to exclude any patent Office’s collection based on language criteria alone (i.e. deleting the references to English, French, German and Spanish languages currently contained in Rule 34.1(c)(vi));

- ensuring that any patent collection belonging to the PCT Minimum Documentation (whether from an ISA or from another patent Office) is available free of charge and fulfills the technical and accessibility requirements to be defined within the framework of the upcoming discussions (including but not limited to what is addressed in Objective C); and
- including in the PCT Minimum Documentation first filings in any other country published after 1920, and for which corresponding English abstracts are generally available six months after publication and for which the original language full text is provided.

17. With regards to the second issue relating to utility models, it may be concluded from the discussion round that within the framework of a future revision of Rule 34.1 the following goal should be achieved:

- expanding the PCT Minimum Documentation to more utility model collections, i.e. including utility model collections in the PCT Minimum Documentation under the same conditions and requirements as those which will be applicable to patent collections (e.g. language-based criteria, technical requirements, obligation for ISAs to include their utility model collections, if applicable, in the PCT Minimum Documentation).

18. With respect to Objective C (propose clearly-defined bibliographic and text components of patent data that should be present in patent collections belonging to the PCT Minimum Documentation), the discussions focused on examining whether the Authority File Standard ST.37 could be used to facilitate describing the contents of patent and utility model collections belonging to the PCT Minimum Documentation.

19. The EPO tabled in the wiki a proposal in that regard to the Task Force for deliberation. The said proposal is annexed to the present status report (Annex III). Like for the proposals submitted for Objective B, the EPO received comments from the Canadian Intellectual Property Office, the Japan Patent Office, the Spanish Patent and Trademark Office, as well as from the International Bureau. The silence of the other Task Force members is understood as a sign of their tacit agreement with the proposal.

20. It may be concluded from the discussion round that there is general agreement on using the Authority File Standard ST.37 for the purposes of Objective C but that the details need to be further discussed. In this regard, it is proposed that the technical criteria which will be defined within the framework of the up-coming discussions on Objective C would not be directly included in Rule 34.1 but in (an Annex to) the PCT Administrative Instructions to which Rule 34.1 should refer to.

21. Before launching a new discussion round on Objectives B and C based on specific proposals for a Rule change with the intention of presenting a final proposal to the MIA in 2020, the EPO wishes to submit on behalf of the Task Force the conclusions presented in paragraphs 16, 17, and 20, above, to the Meeting for approval.

22. Finally, with respect to Objective D, the discussions are led by the USPTO, which is presenting a status report in a separate document annexed to the present status report (Annex IV). The Meeting is invited to comment on that report.

23. *The Meeting is invited:*

(i) to note the contents of the present document;

(ii) to approve the conclusions of the Task Force presented in paragraphs 16, 17 and 20 above; and

(iii) to comment on the status report in Annex IV.

[Annexes follow]

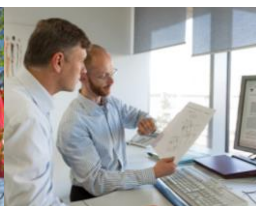


PCT Minimum Documentation

Extending the Patent Part: Challenges with Language Issues

OBJECTIVE B

Document No. PCT/MIND/2018/R1/B_01



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PCT Minimum Documentation Task Force Leader

16 May 2018

The Problem with PCT Rule 34.1

- Rule 34.1 in its current form excludes Patent Documentation that is not published in Chinese, English, French, German, Japanese, Korean, Russian or Spanish
 - furthermore, only those Chinese, Japanese, Korean, Russian and Spanish documents that have English Abstracts are part of the PCT Minimum Documentation
 - Chinese, Japanese, Korean, Russian and Spanish patents that do not have English Abstracts are only to be searched by ISAs that have one working language in common with the publication language of the document
- Currently, the Patent collections of **some ISAs do not belong to the PCT Minimum Documentation**

PCT Minimum Documentation: Current Situation



1. The PCT Minimum Documentation is **different for each ISA, depending on the ISA's official languages**; and
2. The PCT Minimum Documentation is **limited to patents published in a limited number of languages**

3 Categories of PCT Min. Documentation Patents

1. Compulsory Patent Collections belonging to the PCT Minimum Documentation

- ✓ **AP** ✓ **CH** (in DE & FR)
- ✓ **EA** ✓ **DD**
- ✓ **EP** ✓ **DE**
- ✓ **GC** ✓ **FR**
- ✓ **OA** ✓ **GB**
- ✓ **WO** ✓ **US**
- ✓ **CN** docs having EN Abstracts
- ✓ **JP** docs having EN Abstracts
- ✓ **KR** docs having EN Abstracts
- ✓ **RU/SU** docs having EN Abstracts

2. Patents belonging to the PCT Min. Doc. depending on the ISA's official Languages

- for ISAs with at least 1 working language in Chinese:
+ **CN** docs with no EN Abstracts
- for ISAs with at least 1 working language in Spanish:
+ **ES** docs with no EN Abstracts
- for ISAs with at least 1 working language in Japanese:
+ **JP** docs with no EN Abstracts
- for ISAs with at least 1 working language in Korean:
+ **KR** docs with no EN Abstracts
- for ISAs with at least 1 working language in Russian:
+ **RU/SU** docs with no EN Abstracts

3. Allowable Patent Collections that conditionally belong to the PCT Minimum Documentation

- 1st Filings in any other country published in the following languages:
 - English
 - French
 - German
 - Spanish

Currently:

- + **AT** 1st Filings
- + **AU** 1st Filings
- + **CA** 1st Filings
- + **ES** 1st Filings having EN abstracts

The Issue: Can the linguistic provisions in PCT Rule 34.1(c)(vi) be relaxed?

- To be examined by the Task Force in 2018:
 - Expanding the scope of PCT Rule 34.1(c)(vi), by deleting the references to the English, French, German and Spanish languages;
 - including stipulations that each IP Office concerned:
 - ensures that English Abstracts of its first filings are generally available no later than 6 months after their publication date
 - provides other ISAs with original language full text of its first filings, so that each ISA can machine translate them into English, or into their own official language.
 - amending Rule 34.1(e) accordingly.

Situation after suggested Change

1. Compulsory Patent Collections belonging to the PCT Minimum Documentation

- ✓ AP
- ✓ EA
- ✓ EP
- ✓ GC
- ✓ OA
- ✓ WO
- ✓ CN docs having EN Abstracts
- ✓ JP docs having EN Abstracts
- ✓ KR docs having EN Abstracts
- ✓ RU/SU docs having EN Abstracts
- ✓ CH (in DE & FR)
- ✓ DD
- ✓ DE
- ✓ FR
- ✓ GB
- ✓ US
- + National patent docs published by all other ISAs for which corresponding English Abstracts are generally available

2. Patents belonging to the PCT Min. Doc. depending on the ISA's official languages

- + For each ISA: the ISA's national patent documents that have no English Abstracts
- (for example:
 - for SIPO: Chinese patent documents that have no English Abstracts;
 - for India: Indian patent documents that have no English Abstracts
 - for Spain: Spanish patent documents that have no English Abstracts)

3. Allowable Patent Collections that conditionally belong to the PCT Minimum Documentation

- The 1st Filings in any other country published after 1920, and for which corresponding English Abstracts are generally available 6 months after publication, provided that the national Office of the interested country:
- places both these documents, along with their English Abstracts, at the disposal of each ISA
 - provides other ISAs with original language full text of its first filings, so that each ISA can machine translate them into their own official language

[Annex II follows]



PCT Minimum Documentation Task Force

OBJECTIVE B

Document No.
PCT/MIND/2018/R1/B_02

DATE: MAY 16, 2018

Proposal to include Utility Models in the PCT Minimum Documentation

Document updated by the EPO (16 May 2018)

What are Utility Models?

A Utility Model is a special form of patent right granted by a state or jurisdiction to an inventor for a fixed time period. The terms and conditions for granting Utility Models differ from those of patents, and usually include a shorter period of protection and less stringent patentability requirements.

Which Countries and regions provide Utility Model Protection?

According to [WIPO](#), there are 59 Patent Offices (57 National and 2 Regional) that grant Utility Models (see Annex). This amounts to 92 of the 148 PCT contracting states.

The Current Situation

Today the only Utility Models included in the PCT Minimum Documentation are the French Utility Certificates (PCT Rule 34.1(c)(v)). The exact number of French Utility certificates is unknown, but the EPO currently have bibliographic data of 83,000 French Utility Certificates in Espacenet.

EPO Proposal: Amend PCT Rule 34.1 to include more Utility Models

The EPO supports the inclusion of more Utility Models in addition the French ones that are currently part of the PCT Minimum Documentation.

The idea is to add the Utility Models of all patent offices whose collections are part of the minimum PCT today. In practice, this would mean the addition of the following Utility Model collections: **AP, AT, AU, CN, DE, ES, JP, KR, OA, RU**.

The linguistic conditions for the inclusion of patent collections in the PCT minimum documentation (Rule 34.1(c)(vi) and Rule 34.1(e)) would also apply thereto. Similarly, any technical conditions that the Task Force would recommend that patent collections belonging to the Minimum PCT Documentation should adhere to, would also apply to all utility models that are part of the Minimum PCT Documentation.

Arguments in favour of the proposed change are set out below:



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- It would improve quality by resulting in more complete international searches: there is huge and rapidly increasing volume of prior art in published Utility Models. Except in the case of 2014, the number Utility Model applications have grown by double digits each year since 2008. Between 2015 and 2016, they increased by 28.9%, amounting to 1.5 million filings in 2016. Therefore, there are solid reasons for all ISAs to consult them when performing international searches
- Furthermore, the vast majority of Utility Models published each year are Chinese Documents (1.48 million applications in 2016) and these Chinese Utility Models are available electronically and in Abstract form in English.

On the other hand, possible drawbacks of the proposal might be:

- The sheer volume of published Utility Models to be searched (see Figure below): Acquiring, loading and searching this huge, rapidly increasing collection of documents can be very resource-intensive for ISAs. Given the fact that most Utility Models do not have to satisfy conditions for inventive step, it is unclear how useful any disclosures contained therein might be for patent searches
- The availability of searchable Utility Model data from 1920 onwards: It is not known if the patent offices that have Utility Models can supply the data in searchable electronic format, or if corresponding electronic abstracts in the English language are readily available. If either of these two conditions are not met, then including Utility Model collections in the minimum documentation would have a very limited beneficial effect.

On the whole, the EPO believes that the potential benefits of such a change outweigh the potential drawbacks and seeks support for the Task Force to endorse the above proposal.



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**Document No.
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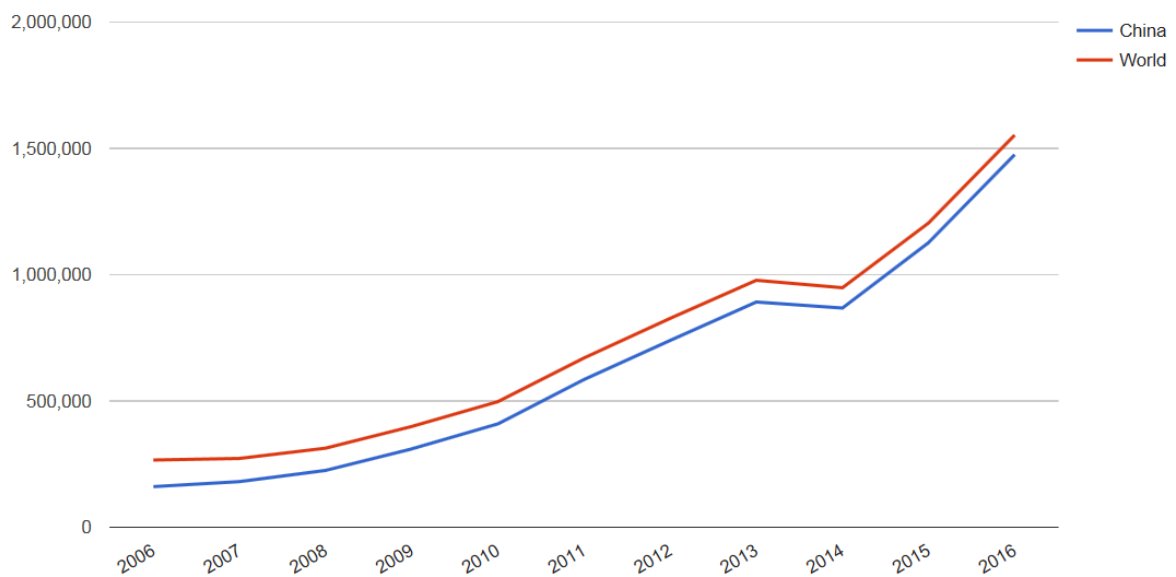
DATE: MAY 16, 2018

Proposal to include Utility Models in the PCT Minimum Documentation

Document updated by the EPO (16 May 2018)

Reporting type : Total count by filing office

Indicator : 1 - Total utility model applications (direct and PCT national phase entries)



2006 2016



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DATE: MAY 16, 2018

Proposal to include Utility Models in the PCT Minimum Documentation

Document updated by the EPO (16 May 2018)

Appendix: List of Countries and regions where Utility Models can be acquired (source: [WIPO](#))

1. Albania
2. Angola
3. Argentina
4. ARIPO:
 1. Botswana
 2. The Gambia
 3. Ghana
 4. Kenya
 5. Lesotho
 6. Malawi
 7. Mozambique
 8. Namibia
 9. Sierra Leone
 10. Liberia
 11. Rwanda
 12. São Tomé and Príncipe
 13. Somalia
 14. Sudan
 15. Swaziland
 16. Tanzania
 17. Uganda
 18. Zambia
 19. Zimbabwe
5. Armenia (EAPO)
6. Aruba
7. Australia
8. Austria
9. Azerbaijan (EAPO)
10. Belarus (EAPO)
11. Belize
12. Brazil
13. Bolivia
14. Bulgaria
15. Chile



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16. China (including Hong Kong and Macau)
17. Colombia
18. Costa Rica
19. Czech Republic
20. Denmark
21. Ecuador
22. Egypt
23. Estonia
24. Ethiopia
25. Finland
26. France
27. Georgia
28. Germany
29. Greece
30. Guatemala
31. Honduras
32. Hungary
33. Indonesia
34. Ireland
35. Italy
36. Japan
37. Kazakhstan (EAPO)
38. Kuwait
39. Kyrgyzstan (EAPO)
40. Laos
41. Malaysia
42. Mexico
43. OAPI:
 1. Benin
 2. Burkina Faso
 3. Cameroon
 4. Central African Republic
 5. Chad
 6. Congo
 7. Cote D'Ivoire
 8. Equatorial Guinea
 9. Gabon
 10. Guinea
 11. Guinea Bissau
 12. Mali



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13. Mauritania
14. Niger
15. Senegal
16. Togo

44. Peru
45. Philippines
46. Poland
47. Portugal
48. Republic of Korea
49. Republic of Moldova
50. Russian Federation (EAPO)
51. Slovakia
52. Spain
53. Taiwan
54. Tajikistan (EAPO)
55. Trinidad & Tobago
56. Turkey
57. Ukraine
58. Uruguay
59. Uzbekistan

[Annex III follows]



PCT Minimum Documentation Task Force

OBJECTIVE C

Document No.
PCT/MIND/2018/R1/C_01

DATE: MAY 16, 2018

Bibliographic and text components of Patent and Utility Model data that should be present in all Patent and Utility Model collections belonging to the PCT Minimum Documentation

Document updated by the EPO (16 May 2018)

Introduction

The goal of **Objective C** of the PCT Minimum Documentation Task Force is to propose clearly-defined bibliographic and text components of patent data that should be present in all patent and utility model collections that belong to the PCT Minimum Documentation.

Work entailed

The Task Force Shall identify which components need to be present in PCT Minimum Documentation patent/utility model data (e.g. bibliographic data, abstracts, full text, facsimile images, classification data), as well as the quality and dissemination criteria such data must adhere to, to improve searchability and facilitate data exchange between patent offices and commercial database providers.

Furthermore, the Task Force shall make recommendations for common standards in which Offices should be requested to publish their applications and bibliographic data for ease of use by others (file formats, packaging means, frequency of updates, etc.).

WIPO Standard ST.37

In August WIPO published [Standard ST.37 "Recommendation for an Authority File of Published Patent Documents"](#). This Standard defines mandatory and optional data elements that constitute an authority file of patent documents, as well as its structure and format.

Even though the primary purpose of an Authority File generated by an IP Office is to allow other Patent offices to assess the completeness of the available patent documentation, the EPO believes that Standard ST.37 can also serve as a good starting point for Objective C of the PCT Minimum Documentation Task Force. This is because Standard ST.37 already defines an agreed set of mandatory and optional bibliographic



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OBJECTIVE C

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Bibliographic and text components of Patent and Utility Model data that should be present in all Patent and Utility Model collections belonging to the PCT Minimum Documentation

Document updated by the EPO (16 May 2018)

data elements of patent collections, as well as a file format (XML), plus an agreed update frequency for Authority Files, all of which fall in the scope of Objective C.

Rather than re-invent the wheel, the Task Force can easily leverage [WIPO Standard ST.37](#) and re-purposed it for our goal of having clearly-defined bibliographic and text components of patent data that should be present in patent and utility model collections belonging to the PCT Minimum Documentation.

Therefore, the EPO, as Task Force Leader, seeks the Task Force's consensus on the following:

1. IP Offices that own patent and utility model collections belonging to the PCT Minimum Documentation must provide the International Bureau with an Authority File of their patent and utility model documents at least annually, according to the WIPO ST.37 Standard. All International Search Authorities shall have access to each other's Authority Files and can use them to verify the completeness of the patent part of the PCT Minimum Documentation that they consult when carrying out their international searches.
2. The Authority Files provided by each IP Office must contain the following mandatory Bibliographic data elements:
 - a. the Two-letter alphabetic code of the IPO publishing the document (publication authority);
 - b. the Publication Number;
 - c. kind code of the patent document (kind-of-document code); and
 - d. publication date.

(This is identical to the Data Elements 8(a), (b), (c) and (d) of [WIPO Standard ST.37](#)).

3. Additionally, the Authority Files provided by each IP Office must contain a "publication exception code" to indicate documents for which the complete publication in machine-readable form is not available (identical to exception code "P" in paragraph 23 of [WIPO Standard ST.37](#)).



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Bibliographic and text components of Patent and Utility Model data that should be present in all Patent and Utility Model collections belonging to the PCT Minimum Documentation

Document updated by the EPO (16 May 2018)

4. Each IP Office must provide the following mandatory elements for each document in their collection, insofar as that document is available in machine-readable format:
 - a. the complete full text
 - b. facsimile images of all the pages of each document
 - c. the IPC (international patent classification) symbols assigned to the document

5. Each IP Office may provide, at its own discretion the following optional elements for each document in their collection, insofar as they are available in machine-readable format:
 - a. the Abstract of the document
 - b. The Application Number and Application Date of the document
 - c. The Priority Number and Priority Date of the document
 - d. any classification symbols assigned to the document according to any other classification scheme, e.g. CPC classification symbols or FI/F-term symbols.

Consensus on the above items shall enable the Task Force to work out any remaining outstanding details on Objective C in a timely and efficient manner.

[Appendix to Annex III follows]

Appendix: WIPO Standard ST.37

STANDARD ST.37

RECOMMENDATION FOR AN AUTHORITY FILE OF PUBLISHED PATENT DOCUMENTS

*Adopted by the Committee on WIPO Standards (CWS)
at its fifth session on June 2, 2017*

Editorial Note by the International Bureau

Annexes III and IV to the present Standard, which define XML schema (XSD) and Data Type Definition (DTD), are under preparation by the Authority File Task Force. They are planned to be presented for consideration and adoption by the Committee on WIPO Standards (CWS) at its sixth session in 2018.

Until the said Annexes are adopted by the CWS, the only recommended format for the purpose of this Standard is text.

STANDARD ST.37

RECOMMENDATION FOR AN AUTHORITY FILE OF PUBLISHED PATENT DOCUMENTS

*Adopted by the Committee on WIPO Standards (CWS)
at its fifth session on June 2, 2017*

INTRODUCTION

1. This Standard defines data elements to constitute an authority file of patent documents, as well as its structure and format.
2. The primary purpose of the authority file generated by an industrial property office (IPO) is to allow other IPOs and other interested parties to assess the completeness of the available patent documentation.
3. In order to allow consistency checks, the authority file should contain the list of all publication numbers assigned by the IP office. This may include publication numbers for which no published document is available – this can be the case for applications withdrawn shortly before the publication or for destroyed documents – as well as publication numbers for which the publication contains only bibliographic data.

DEFINITIONS

4. For the purposes of this Standard:
 - (a) the term “patent documents” includes patents for inventions, plant patents, design patents, inventors’ certificates, utility certificates, utility models, patents of addition, inventors’ certificates of addition, utility certificates of addition, and published applications therefor. “Documents” means patent documents, unless otherwise stated;
 - (b) the terms “publication” and “published” are used in the sense of making available:
 - (i) a patent document to the public for inspection or supplying a copy on request; and
 - (ii) multiple copies of a patent document produced on, or by, any medium (e.g., paper, film, magnetic tape or disc, optical disc, online database, computer network, etc.); and
 - (c) according to certain national industrial property laws or regulations or regional or international industrial property conventions or treaties, the same patent application may be published at various procedural stages. For the purpose of this standard, a “publication level” is defined as the level corresponding to a procedural stage at which normally a document is published under a given national industrial property law or under a regional or international industrial property convention or treaty.

REFERENCES

5. References to the following Standards are of relevance to this Recommendation:

WIPO Standard ST.1	Recommendation Concerning the Minimum Data Elements Required to Uniquely Identify a Patent Document
WIPO Standard ST.2	Standard Manner for Designating Calendar Dates by Using the Gregorian Calendar
WIPO Standard ST.3	Recommended Standard on Two–Letter Codes for the Representation of States, Other Entities and Intergovernmental Organizations
WIPO Standard ST.6	Recommendation for the Numbering of Published Patent Documents
WIPO Standard ST.10/C	Presentation of Bibliographic Data Components
WIPO Standard ST.16	Recommended Standard Code for the Identification of Different Kinds of Patent Documents
WIPO Standard ST.36	Recommendation for the Processing of Patent Information Using XML (eXtensible Markup Language)
WIPO Standard ST.96	Recommendation for the Processing of Industrial Property Information Using XML (eXtensible Markup Language)

RECOMMENDATIONS

6. An authority file is generated by the IPO and contains a list of all patent documents published by that IP office from the first publication onwards. It should also include document numbers which were allocated but for which no published document is available (see paragraphs 22 to 25 below).

7. For practical reasons, an authority file may not include documents published during certain period (not longer than two months) before the date when the authority file was generated by the IP office. This period depends on the document processing practices of the IP office and, should an IP office submit a definition file as laid down in paragraphs 33 and 34 below, then it is recommended to indicate there the date of the publication of the latest document listed in the authority file.

DATA ELEMENTS

8. For each publication, the authority file should contain the following minimum data elements to uniquely identify all types of patent documents as originally published by the IP office:

- (a) Two-letter alphabetic code of the IPO publishing the document (publication authority);
- (b) publication number;
- (c) kind code of the patent document (kind-of-document code); and
- (d) publication date.

9. In addition to the elements listed above, the authority file may contain the following data elements:

- (a) publication exception code (to indicate, for example, withdrawn or missing documents);
- (b) priority application identification of the corresponding publication, which should contain the following sub-elements:
 - i. two-letter alphabetic code of the IPO publishing the priority application;
 - ii. priority application number;
 - iii. kind-of-document code of the priority application; and
 - iv. filing date of the priority application.
- (c) application identification of the corresponding publication, which should contain the following sub-elements:
 - v. two-letter alphabetic code of the IPO publishing the application;
 - vi. application number;
 - vii. kind-of-document code; and
 - viii. filing date.

10. Publication exception code (as per paragraph 9(a) above) should be always included for the documents, for which the complete publication in machine-readable form is not available (see paragraphs 22 to 25 below). Otherwise, the data element "publication exception code" should not be populated.

11. The provision of the optional data elements indicated in paragraphs 9(b) and 9(c) above remains within the discretion of the IPO generating the authority file.

12. The list of documents in the authority file should be sorted firstly by publication number, secondly by type of document (kind code), thirdly by publication date and (optionally) fourthly by publication exception code and fifthly by priority number.

13. For the cases where a publication number has been allocated but no document has been published, data elements "kind code" and "publication date" may not be populated.

Field formatting

14. All elements and sub-elements listed in paragraphs 8 and 9 above must be recorded in separate fields.

15. Examples of text format and XML file structures are provided in Annexes II to IV.

Publication Authority

16. The two-letter alphabetic code for the publication authority – country or region of the IPO generating the authority file – should follow recommendations of WIPO Standard ST.3.

Publication Number

17. Any non-alphanumeric characters – for example, those used as separators, such as dots, commas, dashes, slashes, spaces – should preferably be removed from the publication number, while generally the publication number should be following the recommendations of WIPO Standard ST.6.

Kind Code

18. Different kinds of patent documents should be identified following the recommendations of WIPO Standard ST.16. If the IP office uses kind-of-document codes which do not follow the recommendations of WIPO Standard ST.16, the definitions of such codes should be provided in the definition file (see paragraphs 33 and 34 below).

19. If no kind of patent document code was allocated or it is unknown, the corresponding data element “kind code” may not be populated.

Publication date

20. The publication date should be presented in accordance with paragraph 7(a) of WIPO Standard ST.2. For example, ‘20170602’ for ‘June 2, 2017’.

21. If the publication date is unknown to the IP office generating the authority file, the corresponding data element “publication date” may not be populated.

Publication exception code

22. The publication exception code should be used for publication numbers for which the complete publication is not available in machine-readable form.

23. The following single-alphabetic letter codes should be used to indicate the reason why the complete published document, for which the corresponding number is assigned, is not available:

C	Defective documents.
D	Documents deleted after the publication.
E	Publication number allocated by the IPO representing a PCT national/regional phase entry (for example Euro-PCT). No corresponding document published. A Euro-PCT application is an international (PCT) patent application that entered the European regional phase.
M	Missing published documents.
N	Not used publication number, for example, when publication numbers have been issued, but for some reason have not been allocated to any publication. See also paragraph 24 below.
P	Documents available on paper only.
R	Reissued publications.
U	Unknown publication numbers, for example, when during compilation of the authority file certain publication numbers have been found in the database, but the corresponding documents are missing without known cause. Typically this code can indicate a database error that requires further analysis.
W	Applications (or patents), which were withdrawn before the publication; this can include lapsed or ceased patents and might depend on national patent law regulations.
X	Code available for individual or provisional use by an IPO.

24. It is recommended to list only the numbers assigned by the IPO, but in case of small gaps in the numbering sequence (less than 1000 consecutive publication numbers), the IPO may use the publication exception code “N” to identify the numbers, which were not used.

25. The use of codes “N”, “W” and “X” should be described in the definition file (see paragraphs 33 and 34 below).

Priority application identification

26. The recommendations for data elements, as indicated in paragraphs 16 to 21 above, should be applied mutatis mutandis to all sub-elements of “priority application identification” element.

27. Priority application numbers should be indicated in accordance with paragraphs 12 and 13 of WIPO Standard ST.10/C.

Application Identification

28. The recommendations for data elements, as indicated in paragraphs 16 to 21 above, should be applied mutatis mutandis to all sub-elements of “application identification” element.

29. Application numbers should be provided in the same format as it appeared on the original patent publication issued by the IP office. If the IP office uses application number formats in the Authority File that are different from those used on the original publication, an explanation of the format should be provided in the definition file
RECOMMENDED STRUCTURE AND FORMAT OF THE AUTHORITY FILE

30. It is recommended to provide a single file for all publication numbers listed in the authority file.

31. If generating a single file proves impractical due to the resulting file size, the IP office may generate several files, dividing the list of publication numbers based on one of the following criteria:

- (a) Publication date (file per year or several years);
- (b) Publication level (applications, granted IP rights); and
- (c) Types of patent documents (file per kind-of-document code).

32. To improve file handling, IPO may generate an update file which includes data for the current year and the last calendar year and a static file including all older data.

Definition File

33. If some of the records included in the authority file contain information, which is not evident or easily understandable, it is recommended to provide a definition file in addition to the authority file. For example, in the definition file the IP office may:

- (a) describe specific criteria for building the authority file(s);
- (b) describe the use of publication exception codes, in particular codes “N”, “W” or “X”;
- (c) describe the use of kind-of-documents codes (see paragraph 18 above) or provide a reference to Part 7.3 of the WIPO Handbook if up-to-date information on kind-of-documents codes is already described in Part 7.3 of the WIPO Handbook;
- (d) indicate the date of the most recent document listed (see paragraph 7 above); and
- (e) describe the numbering systems used or provide a reference to Parts 7.2.6 and 7.2.7 of the WIPO Handbook if up-to-date information on the numbering systems used is already described in Parts 7.2.6 and 7.2.7 of the WIPO Handbook.

34. To assist other IP offices and interested parties in a first assessment of the completeness of the available patent documentation, the definition file may also include an overview of the data coverage, for example indicate the number of publications per year by kind code or by publication level. Annex I contains an example of a definition file to assist IP offices in drafting their definition files.

File Format

35. The file must be encoded using Unicode UTF-8.

36. With the aim to harmonize, as much as possible, the current practices to exchange and parsing of authority files, two file formats are recommended:

- (a) XML (eXtensible Markup Language) format – to identify the content of data fields of an authority file (see paragraphs 8 and 9 above) using XML tags within an instance, either in an XML schema (as defined in Annex III) or a Document Type Definition (DTD) (see Annex IV) format; and
- (b) Text format (file extension TXT) – to identify the content of minimum data fields and the optional publication exception code element using a single text coded list, where the elements are separated by commas (preferred), tabs or semicolons and a “Carriage Return” (CRLF character) to represent the end of each record (as defined in Annex II). Text files are smaller in size than XML files.

37. XML is the preferred format for the purpose of this Standard, as it provides clear data element contents and allows automatic validation of its structure and type. IPOs may use text format for simple authority files, which contain minimum data elements (as per paragraph 8 above) and, if applicable, publication exception code only; the content of each data field should be obvious.

File name

38. The name of the authority file generated by an IPO should be structured as follows:

- (a) for a single file (see paragraph 30 above) – CC_AF_YYYYMMDD, where “CC” is the ST.3 code of the IP office, “AF” means “authority file” and “YYYYMMDD” – date of the generation of the authority file.

For example,

EP_AF_20160327 – single authority file generated by the EPO on March 27, 2016; and

- (b) for each one of multiple files (see paragraph 31 above) CC_AF_{criterion information}_KofN_YYYYMMDD, where “CC” is the ST.3 code of the IPO, “AF” means “authority file”, {criterion information} is a place-holder and K is the index number of this file, N is the total number of files generated and “YYYYMMDD” – date of the generation of the authority file.

For example,

EP_AF_A-documents_1of2_20160327 – first of two parts of the authority file generated by the EPO on March 27, 2016, this part covers applications only;

EP_AF_B-documents_2of2_20160327 – second of two parts of the authority file generated by the EPO on March 27, 2016, this part covers granted patents only.

IMPLEMENTATION OF THE AUTHORITY FILE

39. In order to ensure efficiency of the data exchange, authority files in XML format must be structured according to the XML schema (XSD) or the data type definition (DTD) file as specified in Annex III and Annex IV, respectively.

40. The update frequency for the authority file should be at least annual.

41. It is recommended that IPOs generate and make available authority files covering all assigned document numbers, no later than two months after the last covered publication date. For example, an authority file with data coverage until the end of 2017 should be made available before March 1, 2018.

42. If an error is discovered in an authority file, a replacement file should be provided by the IP office as soon as possible.

[Annex I to ST.37 follows]

ANNEX I

EXAMPLE OF A DEFINITION FILE

*Adopted by the Committee on WIPO Standards (CWS)
at its fifth session on June 2, 2017*

DEFINITION FILE FOR XX AUTHORITY FILE

This definition file relates to the following authority file: XX_AF_20170322

Date of production

2017-03-22

Data coverage

Public XX documents from 1974-01-01 to 2016-12-31.

The XX authority file lists all XX patent and XX utility model publications

Coverage according to document type and kind-of-document code (see Part 7.3 of the WIPO Handbook for details on kind codes):

Type	Kind Code	Total
Patent Application	A1	125.568
Patent Application	A2	96.430
Patent Granted	B1	144.879
Utility Model Application	U	24.332
Utility Model Examined	Y1	18.445

A detailed (annual) data-coverage can be found online at <http://www.XX-office.org/coverage>.

Used options

- Application information is provided where available
- Priority data not included
- Publication Exception Codes used are the following:

Publication Exception Code	Definition
D	Documents deleted after the publication.
E	PCT applications which have not been republished
M	Missing published documents
R	Reissued publications
U	Unknown publication numbers
X	Bibliographic details of filed patent applications, as announced in the Gazette published by the office
W	Applications (or patents), which were withdrawn before the publication

Remark:

R – Reissued publication

Before 2001-01-01 correction requests from applicants and proprietors at the XX office were registered and executed, but not recorded in necessary electronic formats. Therefore these so-called reissued publications are only available with bibliographic data but not as published documents.

Numbering Formats:

For details on the numbering systems used by XX office see the corresponding entries in Parts 7.2.6 and 7.2.7 of the WIPO Handbook.

[Annex II to ST.37 follows]

ANNEX II

TEXT FILE (TXT)

*Adopted by the Committee on WIPO Standards (CWS)
at its fifth session on June 2, 2017*

1. The authority file text structure lists the minimum data elements and the optional publication exception code element (see paragraphs 8 and 9) for each publication record in one line, separated by a comma (preferred), tab or semicolon and a “Carriage Return” (CRLF character) to represent the end of each record.
2. Data structure: <publication authority>,<publication number>,<kind-of-document code>,<publication date>,<publication exception code><CRLF>.
3. This example illustrates an authority file represented using a TXT structure where the data elements are separated by a comma:

...

```
EP,2363052,A1,20110907,W<CRLF>  
EP,2363053,A2,20110907,M<CRLF>  
EP,2540632,A1,20130102,P<CRLF>  
EP,2540632,B1,20151202,<CRLF>
```

[Annex III to ST.37 follows]

ANNEX III

XML SCHEMA (XSD)

This Annex is under preparation by the Authority File Task Force. It is planned that the proposal will be presented for consideration and approval at the sixth session of the Committee on WIPO Standards to be held in 2018.

[Annex IV to ST.37 follows]

ANNEX IV

DATA TYPE DEFINITION (DTD)

This Annex is under preparation by the Authority File Task Force. It is planned that the proposal will be presented for consideration and approval at the sixth session of the Committee on WIPO Standards to be held in 2018.

[End of Annex IV and of Standard]

[Annex IV follows]

PCT MINIMUM DOCUMENTATION TASK FORCE: STATUS REPORT ON OBJECTIVE D

Document prepared by the United States Patent and Trademark Office

BACKGROUND

1. In December 2016, the European Patent Office (EPO) posted a high level position paper on the activities of the Task Force on PCT Minimum Documentation, which the EPO heads. In the paper the EPO proposed that the activities of the Task Force should be grouped into four objectives. The fourth objective, Objective D, was to develop criteria and standards for the review, addition and maintenance of non-patent literature (NPL) and traditional knowledge-based (TK) prior art. It also included assessing, on the basis of those criteria and standards, the proposal from the Indian Patent Office on the inclusion of the Traditional Knowledge Digital Library (TKDL) database in the PCT Minimum Documentation.
2. The United States Patent and Trademark Office (USPTO) agreed to lead the discussions on Objective D in the Task Force.

STATE OF PLAY

3. As a first step, the USPTO developed a questionnaire directed to the PCT International Authorities (ISA/IPEA) regarding their use of NPL and TK-based prior art sources and databases in their prior art searches. The questionnaire also addressed updates and additions of NPL and TK information and databases to the list of PCT Minimum Documentation, the requirements for such databases to be useable by the International Authorities, possible problems in utilizing those databases and questions regarding potential confidentiality and other requirements attached to the use of those databases.
4. A draft of the questionnaire was posted on the Task Force wiki on May 10, 2018. The USPTO received several comments and suggestions for the questionnaire, which were considered in preparing a final version of the questionnaire. The International Bureau sent the questionnaire to the International Searching and Preliminary Examining Authorities on July 9, 2018, in Circular C. PCT 1544. The International Authorities were asked to reply to the questionnaire by September 7, 2018.
5. We have received a number of replies to C. PCT 1544 from 15 International Searching and Preliminary Examining Authorities. The USPTO plans to study the responses in greater detail and provide a thorough analysis of the responses, including some further discussion questions, which will be presented at the twelfth session of the PCT Working Group, provisionally scheduled to take place from June 11 to 14, 2019. In the meantime, we would like to share some initial impressions gleaned from a review of the replies.
6. A common observation provided by many offices to question 1 is that patent examiners routinely use sources of NPL and TK prior art that are not listed in the PCT Minimum Documentation. These include various Internet-based search engines, databases and others. These sources change rapidly over time and according to some offices are not easily tracked and categorized. The replies to this question point to the insufficiency of the current list of sources in the PCT Minimum Documentation, and potentially to the difficulty in populating and later updating an expanded list of NPL and TK-related sources in the PCT Minimum Documentation.
7. Replies to question 5 and 6 indicate that most Offices provide to the applicant and to third parties the full reference where NPL prior art is used in an Office action. In many cases the NPL prior art is also made available to parties that seek to inspect the file wrapper of a patent application. A

small number of offices only provide a summary and/or a link to the NPL prior art, due to copyright concerns.

8. Many of the Offices responding to the questionnaire expressed degrees of concern regarding confidentiality provisions associated with access to databases listed in the PCT Minimum Documentation. The Offices indicated the need to provide the prior art references to the applicant, to third parties interested in the published applications, and to the general public. Some Offices expressed concern that all prior art references should be publicly available, since prior art that is kept secret or confidential cannot be properly used to evaluate the novelty and non-obviousness of an application. These concerns were voiced, for example, in replies to questions 10(h) and 11.

9. Responses to questions 12 and 13 by many Offices suggest a strong concern that imposing conditions on access to a source of prior art required by the PCT Minimum Documentation could lead to an ISA/IPEA losing access to that required source, if it were to allegedly breach an access condition, and thus be unable to meet the requirements specified in the PCT. Many Offices found this situation unacceptable.

10. These are only some preliminary observations stemming from the replies to the questionnaire. We plan to conduct discussions in the wiki on this topic, and present at the next PCT Working Group a paper with additional and more detailed conclusions derived from the responses.

[End of Annex IV and of document]