

## **Patent Cooperation Treaty (PCT) Working Group**

### **Fourth Session June 6 to 10, 2011, Geneva**

#### **PCT Minimum Documentation: Addition of Patent Documents of the People's Republic of China**

*Proposal by the People's Republic of China*

#### **SUMMARY**

1. The People's Republic of China intends to propose to the PCT Assembly in September-October 2011 that PCT Rule 34 be amended so as to incorporate patent documents of the People's Republic of China into the PCT minimum documentation used in carrying out international searches. The eighteenth session of the Meeting of International Authorities under the PCT in March 2011 has supported this proposal. The Working Group is invited to comment on the proposal.

#### **BACKGROUND**

2. The Chinese patent documentation has formed an important component part of the global prior art. Since the first patent application was received on April 1, 1985, the number of patent applications in China has increased rapidly. By December 31, 2010, the accumulated number of patent applications for inventions and utility models in China has, in less than three decades, approached 4.75 million, including 2,330,264 applications for invention patents and 2,417,384 applications for utility models. In 2010, the number of China's invention patent applications reached 390,000, ranking second among all countries and the number of its PCT applications exceeded 12,000, ranking fourth among all countries. According to the statistical data published by WIPO, invention patent applications in China in 1985 accounted for 0.9% of the world total that year, and rose to 18.2% in 2009, showing that the proportion of the Chinese patent documentation in the total of global patent documentation has been experiencing a sharp rise.

3. The Chinese patent documentation has enriched and broadened the content and scope of global prior art. A large proportion of the Chinese patent applications come from domestic applicants. Since 2003, the number of domestic applications has remarkably exceeded that of foreign ones. For example, in 2010, the proportion of domestic applications for invention patent was nearly 75%. Among the domestic applications, many of them belong to China's traditional fields of technology, such as traditional Chinese medicine and botanical pesticide, as well as technical areas where China has competitive advantages, for instance, digital communication. According to the statistics published by WIPO, the number of PCT applications from China in the field of digital communication amounted to 20% of the global PCT applications in this area. The technical information contained in most of the Chinese domestic applications can only be obtained by searching the Chinese patent documentation because equivalent applications are not made in other countries, so that the Chinese documentation may be the exclusive source of such technical information. Hence, for PCT International Authorities, searching the Chinese patent documentation will contribute to the improvement of both the quality and completeness of PCT searches.
4. The quality of Chinese patent documentation data processing has been constantly improved. In recent years, the State Intellectual Property Office of the People's Republic of China (SIPO) has been devoted to enhancing the quality and efficiency of patent documentation data processing. By establishing a professional data processing team and adopting strict quality control measures, SIPO has produced standardized Chinese patent documentation data in a universal format, which makes reference to the WIPO relevant standards. All of these moves have provided guarantee for the users in timely and efficiently searching and obtaining patent documentation data.
5. Chinese patent documentation has been digitalized and can be searched and obtained online. Through years of efforts, all Chinese patent documents can now be furnished in electronic form. SIPO has provided English language abstracts of the patent documents of the People's Republic of China published since 1985 to all other 16 PCT International Authorities, some of which have also already received the full image data of the Chinese patent documents. At present, users worldwide can search and access online to the Chinese patent documents, free of charge, via the official website of SIPO. With online operation of the English Search System for Chinese Patent Documentation and the Chinese-English Machine Translation System for Chinese Patent Documentation, global users have easier and more prompt access to English abstracts and machine-translated specifications of the Chinese patent documents. According to statistics, in 2010, the accumulated total amount of visits to the official website of SIPO by foreign users has reached 77.34 million, in which the visits to the patent search column amounted to 62.21 million. These statistical data show that an increasing number of global users are making use of Chinese patent documents.

6. The amount, types and format of those patent documents SIPO can provide are as follows:

<i>ST.16 Code</i>	<i>Type</i>	<i>Coverage</i>	<i>Amount</i>	<i>Format</i>
A	Published Patent Applications	1985 - 2011.03.31	1,992,000	TIFF (specification) TXT (bibliographic data)
B	Approved Patent Applications	1985 - 1992	19,000	
C	Granted Patents	1993 - 2010	578,000	
B	Granted Patents	2010 - 2011.03.31	139,000	
	English abstracts	1985 - 2011.01.31	1,954,189	XML

7. At its eighteenth session in March 2011, the Meeting of International Authorities under the PCT expressed its strong welcome for the proposal to add the Chinese patent documentation to the PCT minimum documentation. It encouraged SIPO to present a proposal to the PCT Working Group including proposals as to the appropriate amendments to the PCT Regulations and to conduct bilateral discussions with the other Authorities to ensure that they had all the necessary information in time to recommend an appropriate date of entry into force as part of a proposal to the PCT Assembly. A proposal needs to be submitted by July in order for it to be discussed at the September/October 2011 session of the Assembly (see paragraphs 84 and 85 of document PCT/MIA/18/16).
8. SIPO is actively consulting with other International Authorities bilaterally on timely access to and use of the Chinese patent documentation. SIPO is willing to provide necessary support to the International Authorities if they meet any problems in utilizing the Chinese patent documentation.

#### **PROPOSAL**

9. The Annex contains draft amendments to PCT Rule 34, which would incorporate the patent documents published by SIPO into the PCT minimum documentation. The said documents would include patents and published applications for patents since 1985 as well as the English abstracts thereof, but not utility models.
10. It is proposed that the date of entry into force of the amended PCT Rules should be set by the Assembly for a date by which the International Authorities indicate that they will be able to search the Chinese patent documentation effectively.
11. *The Working Group is invited to comment on the proposals contained in the Annex to this document.*

[Annex follows]

ANNEX

PROPOSED AMENDMENTS TO THE PCT REGULATIONS:

MINIMUM DOCUMENTATION:

PATENT DOCUMENTS OF THE PEOPLE'S REPUBLIC OF CHINA

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## Rule 34

### Minimum Documentation

#### 34.1 Definition

(a) and (b) [No change]

(c) Subject to paragraphs (d) and (e), the “national patent documents” shall be the following:

(i) [No change]

(ii) the patents issued by the Federal Republic of Germany, [the People's Republic of China](#), the Republic of Korea and the Russian Federation,

(iii) to (vi) [No change]

(d) [No change]

(e) Any International Searching Authority whose official language, or one of whose official languages, is not [Chinese](#), Japanese, Korean, Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, [the People's Republic of China](#), the Republic of Korea, the Russian Federation and the former Soviet Union as well as those patent documents in the Spanish language, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than six months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

(f) [No change]

[End of Annex and of document]