

Patent Cooperation Treaty (PCT) Working Group

Eighth Session
Geneva, May 26 to 29, 2015

TRAINING OF EXAMINERS

Document prepared by the International Bureau

SUMMARY

1. At the seventh session of the Working Group, the International Bureau reported on the ongoing discussions in the Meeting of International Authorities (PCT/MIA) on the issue of examiner training, where discussions had commenced on (i) how technical assistance activities around examiner training might be improved, (ii) the extent to which Member States could support such technical assistance activities, and (iii) the role that the International Bureau could play to facilitate international cooperation in the area of examiner training and the sharing of tools and training materials.
2. As recommended by the Meeting of International Authorities at its twenty-first session, the present document sets out proposals for better coordination of examiner training between national Offices, taking into account questions of effective long term planning, sharing of experience in delivering effective training and matching needs for examiner training with Offices able to supply the relevant needs.
3. The Meeting of International Authorities discussed the proposals set out in the present document at its twenty-second session, held in Tokyo from February 4 to 6, 2015. These discussions are summarized in paragraphs 33 to 38 of the Summary by the Chair (document PCT/MIA/22/22), which are reproduced in paragraph 19 of the present document, below.

BACKGROUND

4. In 2010, the PCT Working Group endorsed a series of recommendations to improve the functioning of the PCT system, based on a study prepared by the International Bureau (document PCT/WG/3/2) and related submissions from certain Member States (documents PCT/WG/3/5 and PCT/WG/3/13). Many of those recommendations covered issues not directly related to the processing of international applications but requiring technical assistance by the International Bureau or between Contracting States to be delivered in the broad context of the PCT.

5. One of those “PCT roadmap” recommendations endorsed by the PCT Working Group where such “collective action” was seen to be required and appropriate related to the issue of “examiner training”:

“181. Consequently, it is *recommended* that national Offices which are able to offer training in search and substantive examination should consider coordinating their activities in order to provide complementary training which can bring benefits to as wide a range of recipient Offices as possible. This might include indicating the amount and type of training which they were able to offer; allowing requests for training to be matched to the courses available; and running regional rather than national training where several Offices are found to have similar language and substantive needs. The IB should consider a similar approach in relation to training in PCT procedural processes such as the work of a receiving Office.”

6. Based on a document prepared by the International Bureau (document PCT/MIA/21/4), the issue was discussed by the Meeting of International Authorities at its twenty-first session, held in Tel Aviv in February 2014; notably, the Meeting discussed:

(a) how technical assistance activities around examiner training might be improved, including a discussion of experiences, “best practices” and “lessons learnt”;

(b) the extent to which Member States could support such technical assistance activities, both individually and collectively, either directly through Offices capable of providing examiner training (including, but not limited to those which act as International Authorities) or indirectly by contributing funds to support longer-term, well designed, planned and coordinated training, education and capacity-building programs; and

(c) the role that the International Bureau could play to facilitate international cooperation in the area of examiner training and the sharing of tools and training materials.

7. The discussions concluded with the Meeting of International Authorities recommending that the International Bureau should prepare proposals for better coordination of examiner training between national Offices, taking into account questions of effective long term planning, sharing of experience in delivering effective training and matching needs for examiner training with Offices able to supply the relevant needs (see document PCT/MIA/21/22, paragraphs 55 to 59).

8. At the seventh session of the Working Group, the International Bureau reported on the ongoing discussions within the Meeting of International Authorities on the issue of examiner training as part of its report on the results of the twenty-first Meeting of International Authorities (document PCT/WG/7/3). Furthermore, the issue was touched upon during the Working Group’s discussions, at its seventh session, on document PCT/WG/7/14 “Coordination of Technical Assistance under the PCT” (see paragraph 38 of the Summary by the Chair of the session, document PCT/WG/7/29), during which the International Bureau stated that it intended to present such proposals to the 2015 sessions of both the Meeting of International Authorities and of the Working Group.

9. Paragraphs 10 to 18, below, set out those proposals. The Meeting of International Authorities discussed those proposals at its twenty-second session, held in Tokyo from February 4 to 6, 2015. These discussions are summarized in paragraphs 33 to 38 of the Summary by the Chair (document PCT/MIA/22/22), which are reproduced in paragraph 19, below.

COORDINATION OF EXAMINER TRAINING

10. As discussed in document PCT/MIA/21/4, the International Bureau has only limited capacities, both in terms of financial as well as human resources with the appropriate expertise and skills, to be able to directly help national Offices to address all of their actual training needs, notably in the area of training of examiners in search and substantive examination. The focus of the International Bureau has thus been to work towards better coordination of such training activities with Offices of Member States which are able to offer such training, notably in search and substantive examination for examiners of Offices in developing and least developed countries, with the aim of bringing benefits to as wide a range of recipient Offices as possible.

11. It is thus suggested that, for basic training in search and examination, the International Bureau should continue to act mainly as a facilitator and coordinator, rather than as a direct “service provider”, with a focus of the International Bureau’s activities on mobilizing and coordinating donor Offices’ training resources. The International Bureau would nevertheless continue to provide Offices with training in procedural issues associated with search and examination, including the use of systems to assist the access and effective use of information relating to international search and examination reports, as well as information concerning equivalent national applications elsewhere. This should be coordinated with the timing and content of more substantive training to give the best overall effect.

12. There is no “one-size-fits-all” approach when it comes to examiner training. Particularly among developing countries, approaches to patent examination vary considerably, stretching from simple registration systems to full examination. Some Offices have competencies in particular areas of technology, resulting in a narrower focus on examination procedures. While common standards among groups of countries may lead to more regional efforts at coordination, some level of national variation in both laws and procedures will always exist and will always have to be accounted for. To address these variations with the greatest efficiency, training curricula and materials should be prepared in a way that makes them maximally adaptable to different environments.

13. It is thus suggested that training should be provided in flexible, modular formats to meet divergent needs.

14. What would appear to be needed is longer-term, well-designed, planned and coordinated training, education and capacity-building programs, enabling Offices in developing and least developed countries to improve their patent examination capacities. Ideally, this should be complemented by continuing follow-up of participants. This would enable suitable refresher training to be delivered to revise and consolidate the skills learnt during the program and for the long-term benefits of the programs to be evaluated and fed back to those responsible for the delivery and design of future programs.

15. It is thus suggested that the International Bureau should develop, jointly with partner Offices, a program concept for the provision of longer term training, to be provided by donor offices willing to commit to train examiners on a longer term basis, similar to IP-Australia’s competency based in-depth Regional Patent Examination Training (RPET) program presented during the twenty-first session of the Meeting.

16. It is further suggested that the International Bureau should develop, jointly with partner Offices, a plan to improve coordination of examiner training between national Offices, taking into account questions of standardized curricula, long-term planning, sharing of training experiences, and matching needs for examiner training with donor Offices. That plan might include proposals:

- (a) to establish and coordinate a network of national/regional donor Offices that would develop, or integrate with the existing WIPO facility, a web platform for sharing information, experiences, best practices, tools and materials;
- (b) to organize a donor conference, both to communicate the good work that has been done to date by existing donor Offices, as well as to establish understandings for long-term setting of standards and expectations regarding resource contributions;
- (c) to develop model training components/curriculum and a competency model, which may be used as a guide for patent Offices of developing countries in defining their needs and in designing their own training programs;
- (d) to explore other ways to streamline and strengthen cooperation with existing partner institutions, such as, for example, within the framework of WIPO's Funds-in-Trust (FITs) programs, or within the existing framework of WIPO's International Cooperation on the Examination of Patents (ICE) service, and with other potential "donor" Offices of Member States which are able to offer such assistance, particularly those which act as International Authorities.

17. As has been recognized by Member States when endorsing the PCT Roadmap recommendation concerning the issue of examiner training, "collective action" is required and appropriate to make progress on this matter. It is thus the intention of the International Bureau to actively approach Offices which are able to contribute, particularly those which act as International Authorities, with a view to encouraging them to partner with the International Bureau in carrying out the activities set out in paragraphs 15 and 16, above.

18. As a possible next step, the International Bureau envisages organizing a brainstorming session with those partner Offices, either in the form of a physical meeting or a video conference, to commence discussions as to the best possible way forward.

CONSIDERATION BY THE MEETING OF INTERNATIONAL AUTHORITIES UNDER THE PCT

19. The proposals set out in paragraphs 10 to 18, above, were discussed by the Meeting of International Authorities at its twenty-second session, held in Tokyo from February 4 to 6, 2015. These discussions are summarized in the Summary by the Chair (paragraphs 33 to 38 of document PCT/MIA/22/22) as follows:

"33. Discussions were based on document PCT/MIA/22/5.

"34. All Authorities which took the floor on the matter expressed their support in general for the initiative taken by the International Bureau aimed at better coordinating technical assistance activities around training of examiners of patent Offices in developing and least developed countries.

"35. One Authority, while generally supporting the initiative, stated that it was premature to discuss possible concrete activities before the following three issues had been addressed: (i) all International Authorities needed a better understanding of examiner training programs currently being offered; (ii) the list of issues to be addressed under the

initiative needed to be narrowed down; and (iii) priorities and policies had to be defined first. This Authority offered to prepare and share with other Authorities a brief outline of its own examiner training activities and invited the other Authorities to do the same. Another Authority stated that the above-mentioned issue (i) needed to be elaborated before carrying out any concrete activities.

“36. Several Authorities expressed concerns with regard to the proposal that the International Bureau should develop, jointly with partner Offices, model training components and curricula, noting that the content of such components should be left to the donor Offices, and that the International Bureau should primarily act as a coordinator. On the other hand, one Authority stressed the importance of uniformity and consistency of training modules and the International Bureau should help regarding the training and contents of the programs, notably if training to examiners in one Office were to be provided by different donor Offices.

“37. Several Authorities provided suggestions as to the possible content of the web platform or database to be created, such as requests for training received; training already provided; matchmaking between demand and supply; feedback on training, training material; etc. Two Authorities reported that they already were carrying out work under WIPO’s International Cooperation for Examination (ICE) program indicating that they would be happy to look into taking on more cases.

“38. Several Authorities indicated that they would be happy to attend a possible donor conference, provided it was held back-to-back with another PCT-related meeting.”

20. The Working Group is invited to comment on the proposals set out in the present document.

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