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## Standing Committee on the Law of Patents

**Thirty-Fifth Session**  
**Geneva, October 16 to 20, 2023**

### EXPEDITED EXAMINATION PROGRAMS OF IP OFFICES

*Document prepared by the Secretariat*

#### I INTRODUCTION

1. The Standing Committee on the Law of Patents (SCP), at its thirty-fourth session held in Geneva from September 26 to 30, 2022, agreed that the Secretariat would prepare a document compiling information relating to the expedited examination programs of Intellectual Property Offices (IPOs), including information on Prioritized Examination of COVID-19 related patent applications. It was also agreed that the document would include those expedited examination programs discussed during the thirty-fourth session of the SCP as well as any additional contributions provided to the Secretariat by Member States prior to its thirty-fifth session (see document SCP/34/8, paragraph 25, second bullet point under “Quality of Patents, including Opposition Systems”).

2. This document contains the compilation of the said information for the Committee’s discussions at its thirty-fifth session to be held in Geneva from October 16 to 20, 2023, prepared in accordance with the above decision of the SCP.<sup>1</sup>

3. The document consists of the following sections: (i) Overview of the expedited examination programs; (ii) Expedited examination programs in national and regional IPOs; (iii) Patent Prosecution Highway (PPH); and (iv) Other bilateral/multilateral initiatives.

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<sup>1</sup> The Secretariat invited Member States and regional patent offices, through Circular Note C. 9141 dated December 7, 2022, to submit relevant inputs to the International Bureau. The information received is published on the website of the SCP electronic forum at:  
[https://www.wipo.int/scp/en/meetings/session\\_35/comments\\_received.html](https://www.wipo.int/scp/en/meetings/session_35/comments_received.html).

4. In addition to information about expedited examination programs implemented by IPOs in their respective countries and/or in collaboration with other offices, some Member States provided information on other procedures available at their offices which generally aim to streamline the patent granting process. These procedures include a waiver, on behalf of the applicant, with respect to the notification of certain communications, earlier publication of a patent application or, in case of international applications under the Patent Cooperation Treaty (PCT), earlier entry to the national/regional phase. Considering the mandate of the SCP for this compilation, such procedures are not included in this document unless they directly relate to, or are part of, the expedited examination procedure.

## II. OVERVIEW OF THE EXPEDITED EXAMINATION PROGRAMS

### *General*

5. Patent offices around the globe recognize the importance of timely delivery of their decisions. Irrespective of its underlying causes, prolonged pendency can have significant consequences.<sup>2</sup> It can lead to delays in the commercialization of technologies and hinder the objectives of the patent system as a whole. Delays can be particularly problematic in fast-paced industries where innovation cycles are short. Thus, timeliness in the evaluation of patent applications is recognized as one of the important elements contributing to the quality of the patent granting process.<sup>3</sup> This means that not only the quality of examination reports but also the speed at which they are delivered are vital to the quality of patents.

6. To address the issue of patent pendency and serve the needs of innovators/applicants efficiently, many IPOs have implemented expedited patent examination programs. These programs are designed to accelerate the processing and examination of patent applications, allowing the applicants to obtain decisions on their patent applications in a more expeditious fashion compared to applications processed according to the conventional examination timeline. In essence, eligible applications are examined as a matter of priority and, consequently, the time needed to obtain a patent could be significantly reduced.

### *Types of expedited examination programs/Grounds*

7. The submissions by Member States have revealed that the types of expedited examination programs offered by the respective offices differ one from another.<sup>4</sup> While it is difficult to summarize all available expedited examination programs, the following general observation can be made.

8. In many IPOs, expedited examination programs may be requested on one or more grounds. In some countries, the program is available to any applicant and applies to applications in any field of technology. In other countries, the program is available to eligible applications/applicants under the applicable law, and the possibility to accelerate examination procedures may depend on various qualifications, the most popular being:

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<sup>2</sup> Patent pendency refers to the time it takes for a patent office to evaluate and grant or reject a patent application. Several factors can influence patent pendency, including examiner staffing, available IT resources, the number of patent applications filed, the complexity of technology covered in the applications, and the length of applications as well as applicant behavior. Some factors may be beyond the control of the patent offices, such as a sudden surge in patent applications filed.

<sup>3</sup> For discussions on the concept of “quality of patents” and timeliness as a component of patent quality, see document SCP/26/3.

<sup>4</sup> See Section III of this document for the information on expedited examination programs implemented at IPOs in various countries.

- (i) the status of the applicant (such as a small or medium-sized enterprise or startup business, an elderly applicant or an applicant who is seriously ill, or a public entity);
- (ii) whether the application relates to a certain area of technology (such as green technology, health-related technology or artificial intelligence);
- (iii) whether the expedited examination is justified based on public interest (such as national emergency, defence purposes or disaster prevention);
- (iv) business circumstances of the applicant (such as an applicant requesting a public fund, anticipating infringement proceedings, or intending to commercialize the invention); and
- (v) conditions on the filing route (e.g., the application was first filed in the national IPO, or it has been or will be filed in at least one other foreign IPO).

9. In addition, according to Member States' submissions, some other types of expedited examination are introduced in some countries. For example, in Israel, if an application has been subjected to an unreasonably long examination pendency, an applicant can request a fast-track examination. In the Republic of Korea, applications directly related to export promotion and applications filed by an enterprise selected as an exemplary company under the national law, among others, can also be admitted for expedited examination. Similarly, in Japan, applications relating to technologies resulting from the R&D activities accredited under the national law may enjoy the benefit of expedited examination. As another example, the IP Office of Canada provides an expedited examination when an applicant is able to demonstrate that the standard examination procedure and pendency would cause its rights to be prejudiced.

10. Furthermore, in a number of IPOs, the expedited examination programs are available with respect to patent applications which concern COVID-19 specifically.<sup>5</sup> Such programs aim to facilitate fast entry into the marketplace of critical technologies to address the global crisis for the benefit of the public.

11. Table 1, below, provides a general, indicative and non-exhaustive list of grounds and/or types of expedited examination programs provided by IPOs.<sup>6</sup>

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<sup>5</sup> According to the responses received from the Member States, these countries are: Brazil, Bulgaria, Canada, China, France, Israel, Morocco, the Republic of Korea, the Russian Federation, and the United States of America.

<sup>6</sup> Thus, for an accurate information and precise language used with respect to the expedited examination program in a specific jurisdiction, readers must consult relevant national/regional legislation/regulation.

Table 1 Types of Expedited Examination Programs provided by IPOs (Indicative)

<b>Expedited Examination Types/Grounds</b>	<b>Details</b>	<b>Countries</b>
General Expedited Examination	A program generally available to any applicant and for all types of applications.	Finland, France, Republic of Moldova, Singapore, Slovakia, Spain, United States of America, European Patent Office
Public Interest/National Emergency/ Defense	Expedited examination of the application is justified by a national emergency, the benefit of the general public or for defense purposes.	Australia, Brazil, China, Israel, Japan, Republic of Korea, United States of America
COVID-19	The application concerns technologies that are used in relation to COVID-19 specifically	Brazil, Bulgaria, Canada, China, France, Israel, Morocco, Republic of Korea, Russian Federation, United States of America
Health-Care Related Technology	Subject matter of the patent application concerns health-related technologies.	Brazil, Republic of Korea, Russian Federation, Thailand, United States of America
Green Technology	Subject matter of the patent application concerns green technologies or other technologies that aim to improve the environment.	Australia, Brazil, Bulgaria, Canada, China, Finland, Israel, Japan, Republic of Korea, Spain, United States of America
Certain Other Technology Areas	The application concerns certain technological areas, such as AI, IoT, big data, cloud computing, etc.	China, Republic of Korea, Russian Federation
Applications Filed by Small and Medium-Sized Enterprises/Startups/Venture Businesses or Others	The application is filed by an applicant having the status of a Small or Medium-Sized Enterprise, a venture business or another type of business or enterprise.	Australia, Brazil, Canada, Japan, Morocco, Republic of Korea
Application Filed by Public Entity or Scientific/Technological Institution or is Related to Education/Duties of the State	The application is filed by a public, scientific or technological institution or otherwise by an institution related to education or duties of the state.	Brazil, Japan, Republic of Korea
Health/Age of Applicant or Inventor	The applicant's or inventor's health or age justifies expedited examination of the application.	Brazil, Israel, Republic of Korea, United States of America

First-time Filer Applicant or Recipient of an Award	The applicant is filing an application for the first time before the IPO, or is the recipient of an award in the respective country.	United States of America
Need to Commercialize/Produce/Export/License the Invention	The grounds for requesting expedited examination are related to the commercialization, production or licensing of the invention.	Australia, Brazil, China, Israel, Japan, Norway, Republic of Korea
Needs Relating to Unauthorized Use of the Invention by a Third Party	The applicant alleges unauthorized use of the claimed invention by a third party.	Australia, Brazil, China, Israel, Norway, Republic of Korea
Application First Filed in the Country	The application is first filed in the respective country.	Brazil, China, Czech Republic, Japan, Norway, Singapore, Thailand
Application is filed in Conjunction with Another Application	The application has been or will be filed in at least one other foreign IPO (claiming priority)	Israel, Japan, Norway, Republic of Korea
Application is an International Application under the PCT or the Office acts as the Receiving Office or International Searching Authority (ISA)	The program applies with respect to international applications under the PCT or when the Office acts as the Receiving Office/ISA	Japan, Republic of Korea, Spain, Thailand
After Unreasonably Long Pendency for Examination	Possibility to request expedited examination arises if the application has not been examined in due time.	Israel
Applicant has Requested/Intend to Receive Funding or Investment	The applicant has been granted public funding or is requesting funding, e.g., from credit institutions.	Australia, Brazil, Norway
Applicant's Rights Would be Affected Under Regular Examination	Justification for expedited examination is provided when applicant is able to demonstrate that the standard procedure and pendency would cause their rights to be prejudiced.	Canada
PPH	Expedited examination is carried out by virtue of any of the Patent Prosecution Highway programs.	Information on PPH-implementing Member States can be consulted in each respective IPO's website or the PPH Portal website. <sup>7</sup>

<sup>7</sup> Available at: <https://www.jpo.go.jp/e/toppage/pph-portal/index.html>.

### *Rationale for provision of expedited examination programs*

12. Depending on the types of expedited examination programs offered by the IPOs, the rationale behind expedited examination practices may be different and can be attributed to several compelling reasons, including:

- **Facilitating Commercialization:** Expedited examination practices facilitate the commercialization of patented products and foster business partnerships. Businesses can more readily license or enforce their IP rights when they are granted quickly.
- **Responding to Emerging Technologies:** In rapidly evolving technological fields, timely protection of intellectual property is critical. Expedited examination practices allow applicants in these cutting-edge industries to secure their rights swiftly, enabling them to capitalize on their innovations before they become obsolete.
- **Supporting Small Businesses and Startups:** Small businesses and startups often have limited resources and need to commercialize their intellectual property quickly to compete in the market. Expedited examination practices level the playing field by giving these entities a faster route to protection, enabling them to compete effectively with larger companies.
- **Addressing global challenges:** Technology plays a pivotal role in addressing and resolving some of humanity's most pressing challenges, such as global climate change, the COVID-19 pandemic, or unforeseen global crises that may emerge. The public greatly benefits from the timely delivery of solutions to pressing global issues and swift deployment of these technologies.
- **Public interest or humanitarian consideration:** Exceptional circumstances such as national emergency (e.g., natural disaster), or humanitarian reasons (e.g., the age/health conditions of applicants) may justify expeditious processing of patent applications based on public interest or humanitarian consideration.

13. In addition to the above, it was suggested that, on a larger scale, delay in granting patent rights can affect the flow of foreign investment, with subsequent repercussions on domestic innovation reliant on this important venture capital for research and development.<sup>8</sup>

14. In summary, with respect to rationale of such programs, by prioritizing certain applications, IPOs can create a dynamic and responsive intellectual property ecosystem that benefits both applicants and society as a whole. These practices play a vital role in shaping the innovation landscape and driving economic growth in today's fast-paced world.

### *Procedure and conditions*

15. Process and conditions for requesting accelerated examination may be different from one office to another. In most offices, such acceleration is subject to an express request by the

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<sup>8</sup> See a proposal of the United States of America for an information exchange on expedited patent examination mechanisms at intellectual property offices, contained in document SCP/33/4.

applicant<sup>9</sup> within a certain time limit.<sup>10</sup> In general, applicants are required to provide justification and supporting documents to qualify for a specific program.

16. In several offices, to qualify for the acceleration program, a patent application and/or a request for participation in such a program must be filed electronically *via* the office's electronic filing system.<sup>11</sup>

17. As the number of requests for participation in the fast-track examination programs can be high in some technological fields, in some offices, accelerated prosecution of the application is provided only where it is practically feasible, i.e., the acceptance of such requests is subject to the workload of search and examining divisions.<sup>12</sup>

18. Specific conditions to be met to qualify for accelerated examination are different from one office to another and between various types of programs in the same office. For example, in some offices, the number of claims in the application must be limited to a certain number,<sup>13</sup> and the application must be complete to be considered for expedited examination.<sup>14</sup> Another difference among the offices is the availability of accelerated examination for international applications under the PCT that entered the national phase.<sup>15</sup>

19. With respect to prioritized examination of COVID-19-related applications, some other conditions may need to be fulfilled. For example, in one office, to be granted a prioritized examination status, a request must include a certification that the applicant qualifies for small or micro entity status, and also a certification that the claim(s) of the patent application cover a product or process subject to an applicable FDA approval for COVID-19 use.<sup>16</sup>

20. Under some circumstances, offices can remove an application from the accelerated examination program, resulting in the application being examined according to a standard examination procedure. For example, such circumstances in some offices include: (i) the request for accelerated examination or application has been withdrawn; (ii) the applicant has

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<sup>9</sup> In Slovakia, applicants do not have to request expedited examination of a patent application – examination of an application is expedited based on fulfilment of qualifying conditions. In Brazil, the expedited examination can be requested by a prior user. See Section III of the paper with respect to Slovakia and Brazil, respectively.

<sup>10</sup> E.g., at the same time as the patent application is filed (e.g. Norway and Spain); at any time following the filing of the patent application (e.g., Australia); before the first office action has been issued (e.g. see 'Cancer Moonshot Expedited Examination Pilot Program' in the United States of America); at any time once responsibility for the application has passed to the examining division (see, e.g., European Patent Office (EPO)).

<sup>11</sup> See, e.g., China, Thailand, United States of America, and EPO.

<sup>12</sup> See, e.g., China, Finland, United States of America and EPO. In Singapore, the application needs to be made within the cap limits established by the Intellectual Property Office of Singapore (IPOS), which currently stands at 10 patent requests per month, in general, and two requests per entity (individual or corporation).

<sup>13</sup> E.g., in Thailand, the application shall contain no more than 10 claims throughout the period of participation in the program; In Singapore, the application must contain 20 or fewer claims; in the United States of America, application must contain three or fewer independent claims and twenty or fewer total claims, and must not contain multiple dependent claims.

<sup>14</sup> Other conditions are stipulated in some offices' rules for qualification under such programs. E.g., in USPTO: Claims must be directed to a single invention; Petition must include a statement agreeing to have an interview with the examiner to discuss any outstanding issues arising in the examination process; Applicant must provide a statement that a pre-examination search was conducted meeting certain requirements; and Applicant must provide an accelerated examination support document that satisfies certain requirements.

<sup>15</sup> Some offices apply national fast-track programs to PCT applications at the national phase (although PCT-PPH may be available), while some other offices do. In some other offices, accelerated examination is available if the office was a Receiving Office or an International Searching Authority for the respective PCT application.

<sup>16</sup> The United States Patent and Trademark Office.

requested an extension of time limits; (iii) the application has been found to be irregular; and (iv) the application has been amended.

### *Fees*

21. The majority of the offices which provided information on their accelerated examination programs do not require payment of fees for requesting participation in such programs.<sup>17</sup> In some offices, a fee may be required for some grounds for acceleration but not all.<sup>18</sup> In at least one office, the fees for expedited procedure increases by 100 per cent as compared to the fee established for the standard examination procedure.<sup>19</sup> Among offices which offer accelerated examination procedure with respect to COVID-19-related applications specifically, only few offices require fees.<sup>20</sup>

### *Reduced Pendency*

22. The average pendency period of applications under regular patent examination varies from one office to another, and so is the average pendency period of applications under accelerated examination, since there are many factors that affect the period. In most of the offices that provided information on pendency, it takes on average more than a year or two to receive a final decision of the office on applications processed according to a regular procedure. Pendency for applications which were examined under accelerated procedure has been reduced by half of that time in some offices, whereas in other offices, to several months.<sup>21</sup> Several offices reported that the average pendency of application processed under the accelerated programs is around 12 months.<sup>22</sup> In two offices, examination pendency for expedited applications is around 20 or 24 months from the filing date or the time of filing a request for such an examination.<sup>23</sup>

### *Patent Prosecution Highway (PPH) and Other Bilateral and Multilateral Initiatives*

23. The Patent Prosecution Highway (PPH) is an examination cooperation program between two IP Offices, typically managed by a number of bilateral PPH agreements between cooperating Offices. Under the agreements, if the claims of an application are found patentable by the first office (OEE: Office of Earlier Examination), an applicant may request accelerated examination of corresponding claims in a corresponding application at the second office (OLE: Office of Later Examination). The accelerated examination procedures allow applicants to obtain a final examination decision at the OLE more quickly. The OLE can utilize the positive search and examination result of the OEE, while considering the compliance with the patentability requirements under the national law of the OLE. Applying the same PPH principle, some patent offices have concluded agreements which integrate bilateral schemes to a plurilateral scheme. A multi-party PPH allows applicants to request an accelerated examination of a corresponding application at any of the participating office, if the claims of the application

<sup>17</sup> These are IPOs in: Australia, Finland, France, Morocco, Norway, Singapore, Slovakia, Spain, Thailand, and EPO.

<sup>18</sup> See, e.g. Israel and the United States of America.

<sup>19</sup> See the Republic of Moldova.

<sup>20</sup> These countries are Brazil and the Republic of Korea. However, in the Republic of Korea, startups within three years of their founding obtain 70 per cent discount on fee within 10 cases on a yearly basis.

<sup>21</sup> For example, in Japan, average pendency from request for examination to grant of a patent for applications processed under accelerated examination is 5.6 months and applications processed under super accelerated examination is 2.6 months (while for regular applications the pendency is 15.2 months); In Singapore, under SG IP FAST, an applicant may be granted a patent within six months, subject to the complexity of the patent application.

<sup>22</sup> See, e.g., Canada, China, Finland, Norway, and the United States of America.

<sup>23</sup> France and Slovakia, respectively.



are found allowable by any other participating office. Section IV of the document provides information on the various PPH programs.

24. In addition, other collaborative initiatives, bilateral or plurilateral, that aim to expedite examination procedures have been reported by the Member States. These initiatives are outlined in Section V of the document.

### III. EXPEDITED EXAMINATION PROGRAMS IN NATIONAL/REGIONAL OFFICES

25. This section provides information on the existing expedited examination programs as reported by different IPOs.

#### AUSTRALIA

26. In Australia, patent applicants can request expedited examination of an application for a standard patent before the Australian IP office (IP Australia), under certain circumstances, as provided below.<sup>24</sup>

27. *Grounds/Qualification:* Eligibility for expedited examination depends on the circumstances of the case in question. The Australian Patents Regulations<sup>25</sup> provides that the Commissioner of Patents of Australia may expedite examination if he/she is reasonably satisfied that:

- it is in the public interest; or,
- there are special circumstances that make expedited examination desirable.

28. Without limiting the circumstances that the Commissioner may consider justify expedited examination, valid reasons to grant expedited examination to patent applications currently include:

- (i) the invention is in the field of green technology;
- (ii) the applicant is a small or medium-sized enterprise;
- (iii) the claims of the invention have been found acceptable by certain patent offices under the Global Patent Prosecution Highway program, or the IP Australia-European Patent Office Patent Prosecution Highway program<sup>26</sup>;
- (iv) the applicant needs a granted patent in order to produce, commercialize or license out their invention;
- (v) the applicant is concerned that its invention may be infringed and wants to commence infringement proceedings.

29. *Conditions & Fees:* Expedited examination can be requested at any time following the filing of the patent application. Applicants can submit their request at no additional cost. Unless requesting expedited examination using a Patent Prosecution Highway program, an applicant must provide reasons why the application is eligible for expedited examination.

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<sup>24</sup> Information presented by the Delegation of Australia during SCP/34. See also the submission made by IP Australia to SCP/35 as well as its website on expedited examination, available at: <https://www.ipaustralia.gov.au/patents/how-to-apply-for-a-standard-patent/how-to-request-examination-of-my-patent-application>.

<sup>25</sup> Australian Patent Regulations 1991 (Cth) r 3.17.

<sup>26</sup> General information on the PPH can be found in Section IV, below.

30. *Reduced Pendency:* Standard patent applications in Australia can take more than a year from the submission of an examination request for the examination process to begin. Expediting the examination process potentially reduces this waiting time to between four and eight weeks.

## BRAZIL

31. In Brazil, the National Institute of Industrial Property (INPI Brazil) offers several types of fast-tracks for processes involving the protection of patents. Each of these fast-track options has its own fees and requires specific supporting documents to benefit from priority processing.<sup>27</sup>

32. *Conditions & Fees:* On December 27, 2022, INPI Brazil published Ordinance No. 079.<sup>28</sup> which regulates the priority/fast-track processing of patent applications. Fast-track processing in Brazil only implies giving preference in the prosecution with respect to office actions. It does not change the examination procedure, and the quality standards for fast-track processed applications should be the same for any other patent applications.

33. The following fast-track options are made available to applicants by INPI Brazil.<sup>29</sup>

### *Fast-track programs based on the type of applicant*

<b>Title of the program</b>	<b>Fee (expressed in Brazilian reales)</b>	<b>Applicant</b>	<b>Supporting documents</b>
Elderly applicant	Exempt from additional fees	A physical/natural person aged 60 or above	Official identification document
Handicapped applicant	Exempt from additional fees	A person presenting a physical or mental handicap	Report/certification from a doctor working for the public administration
Applicant with serious illness	Exempt from additional fees	A person presenting a serious illness	Report/certification from a doctor working for the public administration
Micro or small enterprise	R\$890,00 R\$356,00*	Applicant is an Individual Micro-Entrepreneur (MEI), Micro Enterprise (ME) or Small Enterprise (EPP)	Certificate issued by the Brazilian government indicating the classification of the enterprise
Science and technology institutions	R\$890,00 R\$356,00*	Applicant is a Scientific, Technological or Innovation Institution <sup>30</sup>	Certificate issued by the Brazilian government indicating the status of the institution
Startup applicant	R\$890,00 R\$356,00*	Applicant is a startup <sup>31</sup>	Certificate issued by the Brazilian government indicating the status of the applicant

\*with discount

<sup>27</sup> Information submitted by INPI Brazil to SCP/35.

<sup>28</sup> The Ordinance is available at: <https://www.gov.br/inpi/pt-br/servicos/patentes/legislacao/legislacao/portaria-79-16-12-2022.pdf>.

<sup>29</sup> Information presented by the Delegation of Brazil during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_g\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_g_quality.pdf). See also INPI Brazil's Ordinance No. 079 cited above.

<sup>30</sup> As defined in paragraph V of Article 2 of Law No. 10,973 of December 2, 2004.

<sup>31</sup> As defined in Article 4 of Complementary Law No. 182/2021.

*Fast-track programs based on a specific situation or condition*

<b>Title of the program</b>	<b>Fee (expressed in Brazilian reales)</b>	<b>Situation/Condition</b>	<b>Supporting documents</b>
Release of public funding resources	R\$890,00 R\$356,00*	Applicant is requesting funding from Official National Credit Institutions or Development Agencies	Documents related to the request for funding <sup>32</sup>
Applicant claiming third-party infringement	R\$890,00 R\$356,00*	Request for priority processing made by applicant or patentee who has come upon evidence to the likelihood of the invention being used without authorization	Copy of document notifying the third party of alleged unauthorized use, which shall include a proof of receipt  Evidence of the alleged unauthorized use of the invention
Third party accused of infringement	R\$890,00 R\$356,00*	Request for priority processing made by a third party who has been accused by the applicant or patentee of unauthorized use of the invention	Evidence that the third party is being accused by the applicant or patentee;  Indication of a request for examination or for patent invalidation, demonstrating that the claimed invention is not patentable;  Clarification of any difference between the claimed invention and the subject matter under the third party's use <sup>33</sup>
Prior use	R\$890,00 R\$356,00*	Request for priority processing made by a third party claiming its prior user right	Evidence that the third party requester was exploiting all or part of the subject matter described in the patent application, prior to its filing or priority date;  Evidence that the patent application limits their right to continue the rightful exploitation of the invention;  Indication of a request for examination or for patent invalidation, demonstrating

<sup>32</sup> Required documents specified in Article 15 of INPI Brazil's Ordinance No. 079 (contained in Industrial Property Magazine (RPI) No. 2712).

<sup>33</sup> Required documents further explained in Article 17 of INPI Brazil's Ordinance No. 079.

			that the claimed invention is not patentable <sup>34</sup>
Public-funding-led technologies	R\$890,00 R\$356,00*	Application concerning an invention whose development was supported through public funding	The request for priority processing must be filed by the applicant containing the documents related to the receipt of public funding <sup>35</sup>
Technology made available in the Brazilian market	R\$890,00 R\$356,00*	The invention has been licensed, offered for sale, imported or exported in the Brazilian market	Evidence that the technology is in the market (itself or imbibed)
Patent families first filed in Brazil	R\$890,00 R\$356,00*	The invention being claimed belongs to a patent family whose earliest application was filed in Brazil	Evidence that the patent family was first filed in Brazil
Request from the Brazilian Ministry of Health	Exempt from additional fees	Patent applications concerning pharmaceutical products and processes, equipment and/or materials for use in health-related fields, which have been assisted by the Brazilian Ministry of Health for being considered as strategic with regard to the Unified Health System (SUS)	Request for priority processing must be made by the Ministry of Health
Public interest or national emergency	Exempt from additional fees	Patent application covered by an act of the Federal Executive Power that declares an emergency of national or public interest	<i>Ex officio</i> <sup>36</sup>

\*with discount

*Fast-track programs based on the type of technology*

Title of the program	Fee (expressed in Brazilian reales)	Type of technology	Supporting documents
Green technology	R\$890,00 R\$356,00*	Invention related to green technology	Statement by the applicant explaining the relation to green technologies <sup>37</sup>

<sup>34</sup> Required documents further explained in Article 18 of INPI Brazil's Ordinance No. 079.

<sup>35</sup> Required documents specified in Article 19 of INPI Brazil's Ordinance No. 079.

<sup>36</sup> This fast-track program is further explained in Article 14 of INPI Brazil's Ordinance No. 079.

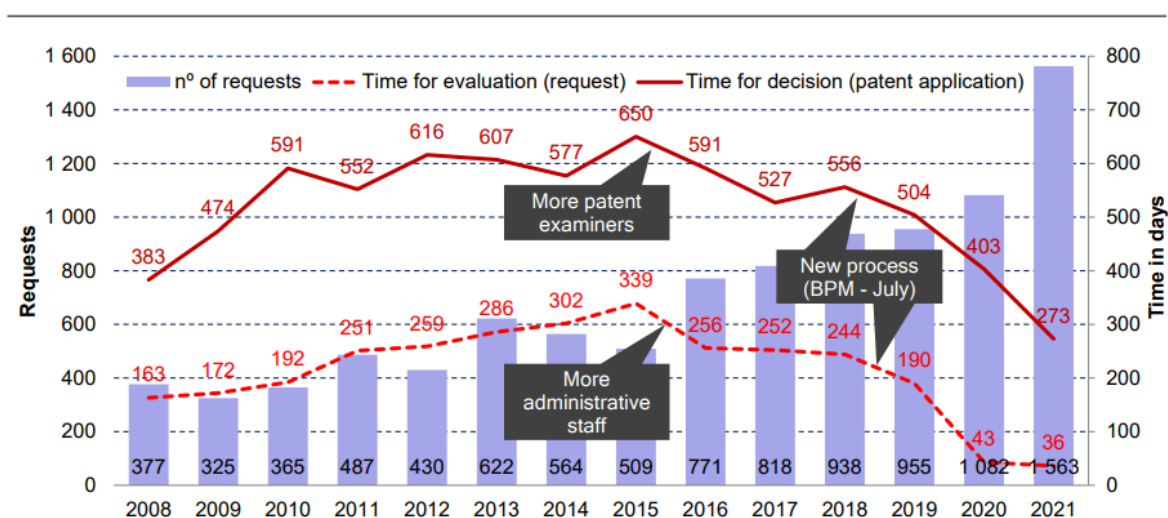
<sup>37</sup> Applicant must point to a specific item considered to be "green technology", within Annex II of INPI Brazil's Ordinance No. 079.

Health care technology (AIDS, Cancer, neglected or rare disease)	R\$890,00 R\$356,00*	Pharmaceutical products and processes, equipment and/or materials for the diagnosis, prophylaxis and/or treatment of Down Syndrome, Acquired Immunodeficiency Syndrome (AIDS), Cancer, rare or neglected diseases and public health emergencies of national importance	Statement made by the applicant, explaining the invention's relation to these diseases or conditions
COVID-19 care technology	R\$890,00 R\$356,00*	Technology that relates to COVID-19 care	Statement made by the applicant, explaining the invention's relation to COVID-19

\*with discount

Statistics<sup>38</sup>

### Fast-track results



INPI's Patent Fast-Tracks

WIPO, sep 26, 2022

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### BULGARIA

34. In Bulgaria, there are currently no legal regulations that provide for the expedited examination of patent applications that pertain to COVID-19, green technologies, cancer treatment or other emergency situations. In its submission, Bulgaria stated that “[f]or utility model registration requests, the registration regime allows consideration of requests related to the topics of COVID-19 and green energy with priority within the statutory deadlines. [...]”<sup>39</sup>

### CANADA

35. The Canadian Intellectual Property Office (CIPO) implements a deferred examination system where applicants have four years from filing to request examination of their applications.

<sup>38</sup> Information presented by the Delegation of Brazil during SCP/34. Further information on statistical data can be found on INPI Brazil's webpage, available at: <https://www.gov.br/inpi/pt-br/servicos/patentes/tramite-prioritario/estatisticas-gerais>.

<sup>39</sup> Information submitted by Bulgaria to SCP/35.

To allow for accelerated examination of patent applications in certain cases, CIPO promotes the use of four main examination programs<sup>40</sup>, which are:

- Advanced examination
  - Also referred to as “Special Order”, it is provided for in Rule 84(1)(a) of Canada's Patent Rules.
- Green technology
  - Set forth in Rule 84(1)(b) of the Patent Rules. The application must be related to technologies that help resolve or mitigate environmental impacts or conserve the natural environment and resources.
- Patent Prosecution Highway (PPH)<sup>41</sup>
- COVID-19 relief
  - Application must support the health-related response to COVID-19.

Detailed information about each of these programs is provided below.

#### *Advanced examination under a special order*

36. *Grounds/Qualification:* These advanced examination requests can be filed in relation to all types of patent applications and are available to anyone who believes the failure to advance the examination of a patent application is likely to prejudice their rights.

37. *Conditions & Fees:* The applicant must submit the request with an accompanying statement, where they explain why their rights are likely to be prejudiced if the application is examined under the regular processing time. In terms of operational affairs, these applications are assigned higher examination priority. Such a status can be removed if the applicant requests an extension of time or causes the application to be deemed abandoned. In addition, applicants must pay a fee when submitting the request<sup>42</sup>.

38. *Reduced Pendency:* In these cases, CIPO commits to issuing a first office action within seven months after receiving a request, compared to a service standard of 20 months for standard applications. The average pendency of applications in this program is on average, 373 days, which is less than half the pendency for regular applications. Also, the pendency from the request to the first office action is around 109 days, which is 30 per cent less than the average for regular applications.

39. *Statistics:* In 2021, CIPO received 416 of these requests. It is estimated that the grant rate of these applications is around 85 per cent, compared to the 69 per cent average grant rate for standard applications.

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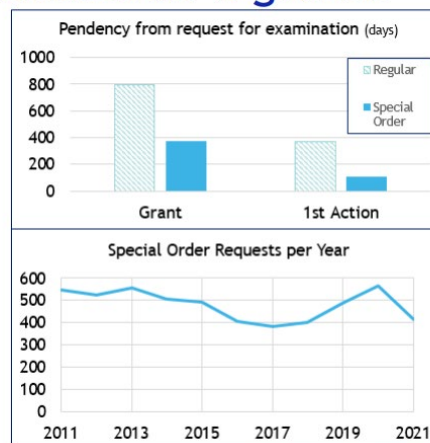
<sup>40</sup> Information presented by the Delegation of Canada during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_j\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_j_quality.pdf). See also the information provided in CIPO's website, at: <https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/patents/expedite-your-patent-application>.

<sup>41</sup> General information on the PPH can be found in Section IV, below.

<sup>42</sup> According to CIPO, the payable fees are \$526.29 for requests made in 2023 and \$694.00 for requests made in 2024.

## “Special Order” statistics at a glance

- ✓ 1<sup>st</sup> action: 7 months  
(regular service standard: 20 months)
- ✓ Requests: 416 in 2021
- ✓ Grant rate: 85%  
(Granted/Disposed 2011-2021; regular 69%)



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### Advanced examination for green technologies

40. **Grounds/Qualification:** Applicants may request advanced examination under the green technologies program, if their patent application relates to a green technology that either helps resolve or mitigate environmental impacts or conserves the natural environment and resources. Any applicant may submit a request under this program.

41. **Conditions & Fees:** To take advantage of this advanced examination process, the applicant must submit a letter that includes:

- (i) a request for advanced examination;
- (ii) a statement indicating that the application relates to technology that, if commercialized, would help to resolve or mitigate environmental impacts or to conserve the natural environment or natural resources;
- (iii) an early laid open date; This indication is only needed if the request is made before the application has been opened to public inspection (usually 18 months after the filing date).<sup>43</sup>

42. Once the advanced examination is approved, the application is assigned a higher examination priority. This status can be removed for the same reasons as “Special Order” applications. Applicants are not required to pay additional fees.

43. **Reduced Pendency:** CIPO commits to issuing a first office action within three months of processing a request for advanced examination. The average total pendency of Green patents is 380 days. The average pendency from the request to the first action is around 122 days.

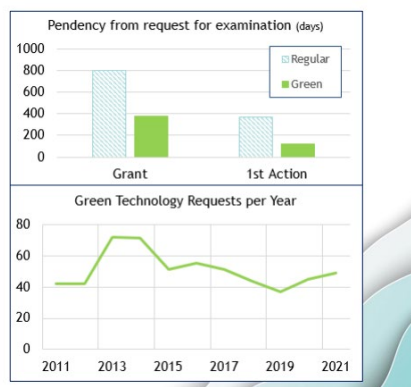
44. **Statistics:** In 2021, CIPO received 49 Green Technology requests. According to the information provided, applications examined under this program have had a 95 per cent grant rate, compared to the 69 per cent grant rate for standard applications.

<sup>43</sup> The request for advanced examination for a green technology must be sent to CIPO by following the communication procedures found in Chapter 2 of Canada’s Manual of Patent Office Practice, available at: [https://manuels-manuals.opic-cipo.gc.ca/w/ic/MOPOP-en#/#/b/c\\_2](https://manuels-manuals.opic-cipo.gc.ca/w/ic/MOPOP-en#/#/b/c_2).

## “Green” statistics at a glance

- ✓ 1<sup>st</sup> action: 3 months  
(90% of the time)
- ✓ Requests: 49 in 2021
- ✓ Grant rate: 95%  
(Granted/Disposed 2011-2021; regular 69%)

11



### *Expedited examination of patent applications related to COVID-19 relief for small entities*

45. *Grounds/Qualification:* This program is available to applications that support the health/related response to COVID-19.<sup>44</sup> A person can apply for accelerated examination on these grounds if:

- (i) they have a new or existing patent application for an invention that supports the health-related response to COVID-19; and
- (ii) they qualify as a small entity which is a business employing 50 or fewer employees or a university.<sup>45</sup>

46. *Conditions & Fees:* CIPO will accelerate examination under this program if a claimed invention is currently approved or has been subjected to a Health Canada approval process, including but not limited to:

- a Medical Device License;
- a Medical Device Establishment License (MDEL);
- an authorization under the Interim Order respecting the importation and sale of medical devices for use in relation to COVID-19;
- an investigational testing authorization (ITA);
- an authorization under the Interim Order Respecting Clinical Trials for Medical Devices and Drugs Relating to COVID-19;
- No Object Letter (NOL) for clinical trials;
- Notice of Compliance (NoC); and,
- an authorization under Interim Order Respecting the Importation, Sale and Advertising of Drugs for Use in Relation to COVID-19.

47. Submitting a request to benefit from this expedited examination program does not require the payment of additional fees. To benefit from this program, the applicant must submit a letter to CIPO that includes:

<sup>44</sup> This program aims to accelerate examination of up to 50 patent applications and will remain in effect until otherwise indicated by CIPO.

<sup>45</sup> See the Manual of Patent Office Practice, Chapter 10.02.01.



- (i) a statement that the technology is medical and related to COVID-19 and that an approval for its use has been submitted to or has been obtained from Health Canada;
- (ii) a small entity declaration;
- (iii) a request for an early laid open date (if appropriate); Applicant must include this only if the statement is made before the application has been opened to public inspection, which usually occurs 18 months after the filing or priority date;
- (iv) a request for examination (if this has not been done at that point), which requires payment of the associated examination fee.

48. Other applicable conditions are the same as the “Advanced examination under a special order” program.

49. *Reduced Pendency*: CIPO commits to issuing a first office action within three months of processing a request for advanced examination.

## CHINA

50. The China National Intellectual Property Administration (CNIPA) offers different accelerated examination options for patent applications, which are provided under the Measures for the Administration of Prioritized Examination of Patents (“The Measures”), which came into effect on August 1, 2017.<sup>46</sup>

51. *Objectives & Goals*: The expedited examination programs offered by CNIPA seek to facilitate optimization and upgrade of industrial architecture, promote the implementation of the Chinese national intellectual property strategy and the foundation of intellectual property power, serve innovation-driven development, and improve the patent examination proceeding.

52. The Measures apply to the following applications: (i) patent applications for inventions in the stage of substantive examination; (ii) patent applications for utility model or design; (iii) reexamination of a patent application for invention, utility model and design; and (iv) invalidation of a patent for invention, utility model and design.

53. *Grounds/Qualification*: Only patent applications that satisfy one of the following conditions may request prioritized examination:

- (i) where key industries of China, for example, energy conservation and environmental protection, new-generation information technology, biologics, high-end equipment manufacturing, new energy, new material, new energy vehicle, intelligent manufacturing, etc., are involved;
- (ii) where key industries encouraged by provincial governments and municipal governments of districts are involved;
- (iii) where the fields of Internet, big data, cloud computing, etc., are involved or the product has a rapid update;
- (iv) where the patent applicant or petitioner has been prepared for implementation or has started implementation of the invention, or there is evidence proving that someone else is implementing the invention;

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<sup>46</sup> Information submitted by the CNIPA to SCP/35. Additional information is taken from a non-official source: [http://www.lindapatent.com/en/law\\_patent/674.html](http://www.lindapatent.com/en/law_patent/674.html).

- (v) where the Chinese application is a patent application first filed in China and then filed in a different country or region on the same subject; or
- (vi) where the application is of great significance for national interest or public welfare.

54. *Conditions & Fees:* The number of the patent applications going through prioritized examination shall be determined by the CNIPA, according to the examination capacity in different special technical fields, the number of granted patents in the previous year, the number of cases to be reviewed in the current year, and other conditions.

55. In order for an application to be considered for expedited examination, the consent of all applicants or petitioners must be obtained. The application must be filed by electronic means.

56. When an applicant seeks prioritized examination of a patent application concerning an invention, utility model or design, an application for prioritized examination as well as the materials of the prior art or the available design information and relevant certificates must be submitted. The application for prioritized examination must be signed with recommendations by the relevant department of the State Council or provincial Intellectual Property Office, except for the cases specified and prescribed in item (v), above.

57. When receiving a first Office Action, the applicant must make a response or rectification as soon as possible. The time limit for the applicant to respond to the Office Action for an invention patent is two months from the issuing date of the notification of the Office Action. In the case of an Office Action concerning a utility model or design patent, the time limit to respond is 15 days from the notification of the Office Action.

58. CNIPA may cease the prioritized examination procedures and proceed with ordinary prosecutions, having notified the applicant for prioritized examination, under one of the following circumstances:

- when the applicant submits, after the request for prioritized examination is approved, amendments to the application document under Article 51.1 and 51.2 of the Implementation Regulations of the Chinese Patent Law ;
- when the applicant responds in a period exceeding the time limits imposed by CNIPA;
- when the applicant files false materials; or
- when the application is found during the prosecution to be an abnormal patent application.

59. *Reduced Pendency:* When CNIPA approves the application for prioritized examination, the case shall be closed within the following time limit from the date of the approval: (i) for a patent application for invention, the first Office Action shall be issued within 45 days, and the case closed within a year; and (ii) for a patent application for utility model and design, the case shall be closed within two months.

60. In 2020, the State Administration for Market Regulation, the State Drug Administration and CNIPA jointly issued ten measures to support resumption of work and production. Those measures further clarify that patent applications related to the prevention and treatment of COVID-19 diseases shall be prioritized for examination upon request.

## CZECH REPUBLIC

61. The Industrial Property Office of the Czech Republic puts into practice examination procedures that seek to help accelerate patent application processes overall.<sup>47</sup> In the case of the first filing of the patent application in the Czech Republic, the Office has introduced an effective specific assistance in providing search reports in Czech and English, and in a structure corresponding to the standards of the European system. These search reports are provided with respect to patent applications filed together with the requests for substantive examination. In practice, this means that such a search report is usually issued within seven months from the filing of an application.

62. The search reports are available well in advance before the expiration of the 12-month priority period for filing abroad. Thus, applicants can decide, in a more qualified way, whether to file an application for the technical solution also abroad. In addition, they can more realistically estimate the outcomes of foreign patent proceedings, based on the search results. Moreover, the expeditious issuance of a search report and a patent benefits the applicants who seek accelerated patent proceedings before foreign patent offices with which the Office has agreed on the respective PPH cooperation.<sup>48</sup>

## FINLAND

63. The Finnish Patent and Registration Office (PRH) provides for fast-track processing of patent applications under certain conditions.<sup>49</sup>

64. *Grounds/Qualification:* Any applicant can request for their application to be processed *via* fast-track. Patent applications can be granted fast-track status if:

- (i) the invention relates to bioeconomy, circular economy, or clean technology solutions; or
- (ii) the applicant is able to informally point out an important economic reason, or another strong argument for why their application should be granted such status.

65. *Conditions & Fees:* Request for fast-track processing must be made on the same day as the application is filed. A specific form needs to be filled out to this effect. To submit the request, the applicant does not have to pay additional fees. The request can be made with respect to a divisional or separated patent application. Fast-track processing in this form cannot be requested for international applications under the PCT, pursued in Finland.<sup>50</sup>

66. The PRH will carry out a formal examination of the application. If any of the formal requirements are considered to be missing, the Office will issue a formal office action, pointing out the deficiencies and allowing the applicant to reply within a certain time period to remedy those deficiencies. If the formal requirements are complied with within the time limit, the application will proceed to the technical examination. That step is notified to the applicant by mail.

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<sup>47</sup> Information presented by the Delegation of the Czech Republic during SCP/34. See also the submission made by IPO CZ to SCP/35.

<sup>48</sup> General information on the PPH can be found in Section IV, below.

<sup>49</sup> Information submitted by the PRH to SCP/35. See also the PRH's website on fast-track processing, available at:  
<https://www.prh.fi/en/patentit/applyforanationalpatentinfinland/processingofapplicationsatprh/fast-trackprocessing.html>.

<sup>50</sup> Fast-track processing of international applications under the PCT can only be requested via the Patent Prosecution Highway.

67. In the fast-track processing, the PRH will issue the first office action within three months after the application has proceeded to the technical examination. The applicant will later receive the second office action within two months from their reply to the first office action. If there are no obstacles to the patent application, the first or second office action can be a communication of approval. In these cases, the application will proceed rapidly to the patent grant phase. If the application cannot be approved in conjunction with the second office action, it will be processed according to the normal processing schedule thereafter.

68. If the PRH receives too many applications, based on its own determination, the number of applications accepted under the fast-tracking program can be reduced.<sup>51</sup>

69. *Reduced Pendency:* The patent is expected to be granted in about a one-year period.

## FRANCE

70. In France, there are currently three options to request expedited examination of a patent application. The National Institute of Industrial Property (INPI) allows applicants to request PPH accelerated examination<sup>52</sup>, or one of the following dedicated expedited examination programs: (i) the standard accelerated process for patent applications; or (ii) the accelerated examination of COVID-19-related applications.<sup>53</sup>

### *Accelerated Patent Grant*

71. *Grounds/Qualification:* Any applicant can aspire to request accelerated examination under the above-stated grounds. To be considered for accelerated examination status, the application must concern French patents or utility certificates.<sup>54</sup>

72. *Conditions & Fees:* The request must be submitted to INPI by the applicant or the agent, within ten months from the filing of the patent or utility certificate application. No additional fees need to be paid. The request for accelerated examination must be submitted electronically, via the online service provided by INPI.

73. In order to ensure accelerated delivery, INPI makes it necessary to bring forward the publication of the patent application or utility certificate, which would otherwise normally occur after a period of 18 months after the filing or the claimed priority date. At the request of the applicant, INPI will therefore publish the application in advance, in accordance with the provisions of Article R. 612-39 of the French Intellectual Property Code. The advanced publication will take place 10 months from the filing,<sup>55</sup> excluding those applications filed under foreign or internal priority.<sup>56</sup>

74. INPI will not proceed with the early publication, if the patent or utility certificate application is no longer considered for accelerated examination. After approving expedited examination of

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<sup>51</sup> If an applicant wishes to see if such limits have been imposed, the status of fast-tracking examination can be verified in the PRH website before submitting a request, available at: <https://www.prh.fi/en/patentit/applyforanationalpatentinfinland/processingofapplicationsatprh/fast-trackprocessing.html>.

<sup>52</sup> General information on the PPH can be found in Section IV below.

<sup>53</sup> Information presented by the Delegation of the France during SCP/34. See also INPI's website, available at: <https://www.inpi.fr/en/services-and-benefits/accelerated-patent-grant>.

<sup>54</sup> Which is available in the e-procedures area of INPI's website.

<sup>55</sup> This specific procedure will be taken into account for advance publication requests made for the purposes and within the request for accelerated examination. It in no way affects the possibility that applicants have of obtaining the immediate publication of the patent application or utility certificate. For this, the applicant can in fact separately submit a request for advanced publication in writing to INPI, which will be subjected to the applicable procedure.

<sup>56</sup> In these cases, the applications will be published normally, at the end of a period of 18 months from the earliest priority date claimed.

the application, INPI can take away this status, placing the application to the regular examination procedure, in the following limited cases:

- (i) when the application does not give rise, within ten months of its filing, to an authorization for disclosure and exploitation of the national defense (article L. 612-9 CPI);
- (ii) when the application concerned is irregular;
- (iii) when the applicant modifies the documents of their application or request an extension of the deadline for responding to the search report;
- (iv) when a third party submits written observations on the patentability of the invention;
- (v) when the applicant does not pay the fee for issuing and printing the patent specification within the period of two months as granted by INPI; or
- (vi) when the preliminary search report partially cites prior art or could not be established within ten months of filing.<sup>57</sup>

75. *Reduce Pendency*: INPI commits to issue the patent within twenty months from the date of filing for these applications.

#### *Accelerated granting of patents related to COVID-19*

76. *Objectives & Goals*: This expedited examination program is aimed at accelerating innovations related to COVID-19, which have given rise to marketing authorization by a competent authority.

77. *Grounds/Qualification*: Any applicant can request expedited examination under this program. The application needs to pertain to subject matter related to COVID-19 and to be filed exclusively *via* the online service provided by INPI.

78. *Conditions & Fees*: The request must be submitted to INPI by the applicant or the agent, within ten months from the filing of the patent or utility certificate application. The request must be submitted electronically, *via* the online service provided by INPI. No additional fees are required.

79. In order to ensure accelerated delivery, INPI makes it necessary to bring forward the publication of the patent application or utility certificate, which would otherwise normally occur after a period of 18 months after the filing or the claimed priority date. At the request of the applicant, INPI will therefore publish the application in advance.<sup>58</sup> In the interest of the applicant, this publication will only be advanced to the extent necessary for expedited issuance.

80. Other applicable conditions are the same as the standard Accelerated Patent Grant procedure.

81. *Reduced Pendency*: INPI processes these applications in a maximum of 24 months, which includes the preliminary search reports that need to be issued, even in the case of those that quote prior art which might lead to the rejection of the application.

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<sup>57</sup> See Articles L. 612-14 and R. 612-58 of the French Intellectual Property Code.

<sup>58</sup> In accordance with the provisions of Article R. 612-39 of the French Intellectual Property Code.

## ISRAEL

82. In Israel, a patent applicant is entitled to request the acceleration of their patent examination before the Commissioner of Patents, so long as they accompany the request with an affidavit that supports the reasons or causes being asserted by the applicant with respect to their need for accelerated proceedings.<sup>59</sup> There are four main categories or tracks of accelerated procedures offered by the Israel Patent Office :

- based on the applicant or a third party's needs (as provided for under Section 19(a) of the Israeli Patent Law);
- based on green inventions (as set forth in the Commissioner's Circular No. 034/2017);
- based on the PPH<sup>60</sup>; and
- based on a corresponding patent (allowing for examination with respect to a future claim of priority).

### *Expedited examination on the basis of the applicant or a third party's needs*

83. *Grounds/Qualification:* For accelerated examination on the basis of applicant's needs, the following grounds are considered eligible: (i) advanced age or medical condition of the applicant (or inventor); (ii) exploitation of claimed invention by a third party without applicant's consent; (iii) unreasonably long pendency for examination; and (iv) public interest.

84. For accelerated examination based on third-party needs, the following circumstances are considered eligible: (i) delay in development or production of a certain product/process caused by the examined application; (ii) unreasonably long pendency for examination; and (iii) public interest.

85. *Fees:* As to the requests for the accelerated procedure based on the applicant's needs, while a request based on the applicant's age or health conditions is free of charge, a request based on other grounds costs 1,000 NS. For accelerated examination based on third-party needs, a fee in the amount 15,000 NS is required.

86. *Reduced Pendency:* In these cases, the examination is expedited by advancing the respective application out of turn. The first examination in these cases should be completed within three months from the day on which the request was approved. The subsequent examination process should be completed within three months from the applicant's reply.

### *Expedited examination on the basis of green technologies*

87. *Conditions & Fees:* For expedited examination on the basis of green inventions,<sup>61</sup> the applicant first needs to send a request, manifesting their desire to expedite the examination of the application. They will need to justify how the invention pertains to the improvement of the environment for the request to be accepted.<sup>62</sup> Once the request is accepted, the application receives a new classification as a green application and the IPO will prioritize the processing of the application. No additional fees are required under this program.

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<sup>59</sup> Information presented by the Delegation of Israel during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_k\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_k_quality.pdf).

<sup>60</sup> General information on the PPH can be found in Section IV, below.

<sup>61</sup> This type of accelerated examination was first implemented in 2010.

<sup>62</sup> "improving the environment" can mean, among others, tracking factors contributing to global warming, reducing air or water pollution, promoting non-polluting agriculture, and promoting alternative energy.

*Expedited examination of applications on which priority will be based*

88. An applicant may request an accelerated examination if he/she files, or intends to file, a subsequent application claiming priority, based on the previous Israeli application.<sup>63</sup>

89. *Reduced Pendency:* The applicant receives a search and examination report within three months from the date of approval of his/her request. This will provide the applicant information about the relevant prior art and, where necessary, the appropriate amendments that need to be made before filing a subsequent application.

90. During this program, several communications including interviews, may take place between the applicant and the examiner, assisting the applicant in taking the appropriate decisions regarding the best strategy with respect to the invention. If an international application under the PCT is subsequently filed, the applicant will receive 50 per cent refund of the search fee of the ISA. If the application is accepted, the applicant can request accelerated examination in other offices based on the PPH. The search and examination report may be issued in English, upon the applicant's request.

91. The issuance of search and examination reports in English had been limited to this track only. Since 2020, applicants in Israel are entitled to request the report in English in all types of applications. The applicant is entitled to delay the publication for up to 18 months from the filing date.

*Examination of COVID-19 related applications*

92. *Conditions & Fees:* Through the Commissioner's Notice of 2020, the Office announced that it would accelerate examination of patent applications aimed at diagnosis, treatment, prevention or eradication of COVID-19. Search and examination reports will be issued within three months from the approval of the request. According to the IPO, in order to exempt applicants of COVID-19 related patents from having to pay additional fees for the expedited examination, these types of applications are considered green technology applications.

*Statistics*

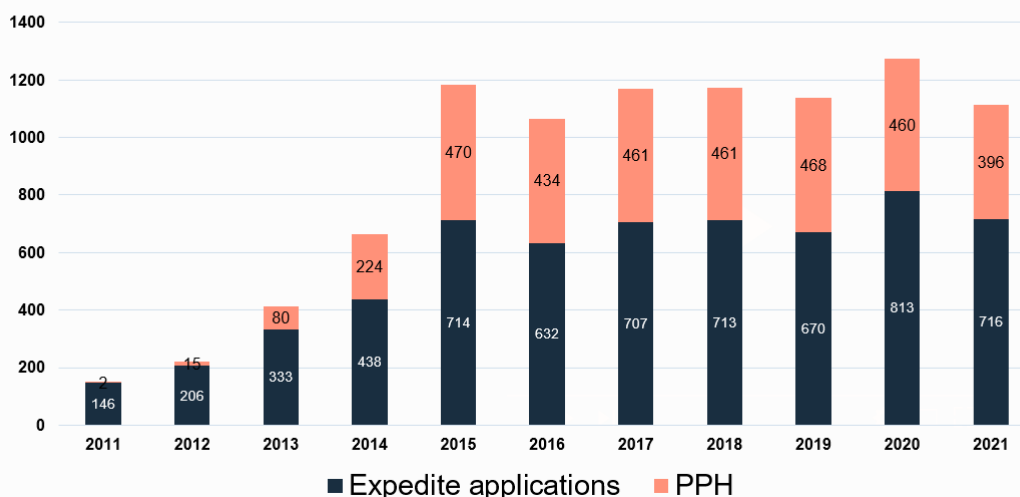
93. The Office has not received a single request to carry out the accelerated examination based on the third party's needs since its introduction in 2012. General statistics on the accelerated examination programs are provided below.<sup>64</sup>

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<sup>63</sup> Based on the Commissioner's Notice from 2010.

<sup>64</sup> Information presented by the Delegation of Israel during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_k\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_k_quality.pdf).

## Number of Expedited applications 2011-2021



### JAPAN

94. The Japan Patent Office (JPO) provides services for expediting examination of patent applications. Other than the available PPH programs,<sup>65</sup> the JPO offers accelerated examination and super accelerated examination. The information corresponding to each of the programs is provided below.<sup>66</sup> The JPO does not have a system for granting accelerated examination based solely on the fact that a patent application concerns COVID-19-related technology.

#### *Accelerated Examination*

95. *Goals behind expedited the examination program:* To provide an early notice of examination results when the accelerated examination has been requested by applicants.

96. *Qualifying grounds for expediting examination:* A patent application that meets requirements (1) to (4) is eligible for accelerated examination:

- (1) a request for examination has been filed.
- (2) any of the following applies:
  - a) working-related applications - Applications filed by an applicant or a licensee who has already commercialized the invention or plans to commercialize the invention within two years from the filing date of a request for accelerated examination.
  - b) internationally filed applications - (i) Applications filed with both the JPO and at least one foreign IP Office; (ii) Applications had been filed with a receiving Office under the PCT and then entered into the national phase in Japan; or

<sup>65</sup> General information on the PPH can be found in Section IV, below.

<sup>66</sup> Information presented by the Delegation of Japan during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_h\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_h_quality.pdf). See also the submission made by the JPO to SCP/35 as well as its website, available at: <https://www.jpo.go.jp/e/system/patent/shinsa/jp-soki/index.html>.



- (iii) Applications filed with the JPO as domestic applications and later with a receiving Office under the PCT.
- c) applications filed by SMEs, individuals, universities, public research institutes, etc. - Applicants of an invention, in whole or in part, may be SMEs, individuals, universities or public research institutes, approved Technology Licensing Offices (TLOs), or authorized TLOs.
- d) green technology-related applications - Applications involving “green inventions” (inventions that have an energy-saving effect and contribute to CO2 reduction).
- e) applications related to providing support for recovery from earthquake disasters - Applications that fall under conditions (i) or (ii) - (i) Applications by all or some persons who have an address or temporary residence in specific affected areas, and applications by persons affected by the earthquake; (ii) Applications by an incorporated entity, where its business establishment in specific affected areas suffers damage from the earthquake and related disasters, and the applicant intends to file an application for an invention created or worked as part of the operation of such establishment.
- f) applications related to the Act for promotion of Japan as an Asian Business Center: Applications related to technologies invented as a result of R&D activities accredited under that Act.
- (3) The application shall not be withdrawn pursuant to Article 42, paragraph (1) of the Patent Act.
- (4) The representative shall be a patent attorney, an attorney-at-law or a legal representative.

97. *Internal institutional arrangements to facilitate expedited examinations:* The Official Services Management Section of the JPO conducts integrated term management and provides information to the Examination Department, where each staff manager is responsible for administering individual cases.

98. *Staffing and/or resource allocations:* JPO allocates resources to the Official Services Management Section. No dedicated staff is assigned to the Examination Department.

*Pendency for regular applications and applications under expedited examination (FY2021)*

	Average pendency from request for examination to First Action	Average pendency from request for examination to establishment of right
Regular Application	10.1 months	15.2 months
Accelerated Examination	2.6 months	5.6 months

99. *Fees:* The accelerated examination program does not require the applicants to pay additional fees.

*Super-Accelerated Examination*<sup>67</sup>

100. *Goals & Objectives:* Super-accelerated examination is conducted in less time than ordinary accelerated examination so that users can establish rights earlier.

101. *Qualifying grounds for expediting examination:* A patent application is eligible for super-accelerated examination if examination has been requested but it has not begun. Such an application must also meet both of the following requirements:

- (i) a “working-related” and “internationally filed” application or a “working-related” application filed by startups;<sup>68</sup>
- (ii) an application for which all filing procedures are performed online within four weeks before the date of request for super-accelerated examination.

102. Applicants must respond to office actions within one month.

103. *Internal institutional arrangements to facilitate expedited examinations:* The Official Services Management Section of the JPO conducts integrated term management and provides information to the Examination Department, where each staff manager is responsible for administering individual cases.

104. *Staffing and/or resource allocations:* JPO allocates resources to the Official Services Management Section. No dedicated staff is assigned to the Examination Department.

*Pendency for regular applications and applications under super-expedited examination (FY2021)*

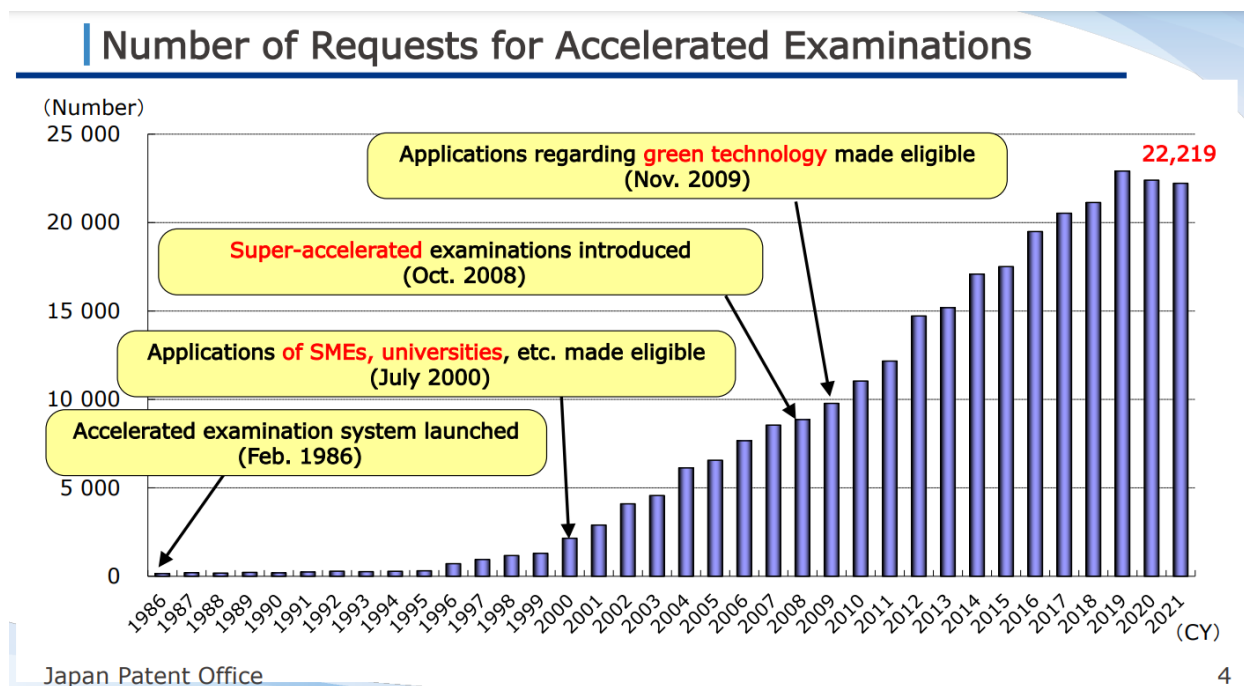
	Average pendency from request for examination to First Action	Average pendency from request for examination to establishment of right
Regular application	10.1 months	15.2 months
Super-Accelerated Examination	0.8 month	2.6 months

105. The super accelerated examination program does not require the applicants to pay additional fees.

<sup>67</sup> Guidelines for the Super Accelerated Examination program are available on the JPO’s website at: [https://www.jpo.go.jp/system/patent/shinsa/soki/document/super\\_souki/supersoukisinsa.pdf](https://www.jpo.go.jp/system/patent/shinsa/soki/document/super_souki/supersoukisinsa.pdf).

<sup>68</sup> Conditions for “working-related” and “internationally filed” applications in super accelerated examination are the same as the “working-related” and “internationally filed” referred to in the section above on standard accelerated examination.

Statistics<sup>69</sup>



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## MOROCCO

106. The Moroccan Industrial and Commercial Property Office (OMAPI) is implementing practices to facilitate and expedite pending patent applications, especially those filed by SMEs.<sup>70</sup>

107. With respect to COVID-19 pandemic related applications, OMAPI started implementing expedited examination practices without the need for payment of additional fees. Upon request from the applicant, the application benefits from the accelerated examination, which allows for the preliminary search report to be notified within two months from the filing date, instead of the normal six-month pendency period that applies to regular applications. The Office elaborates a written opinion on patentability, prior to the observations and/or amendments made by the applicant with respect to its application. Once this stage of the examination procedure has transpired, the Office issues the definitive report. Since the initial implementation of the expedited examination procedure, it has been extended and widened to benefit any applicant.

## NORWAY

108. The Norwegian Industrial Property Office (NIPO) offers accelerated proceedings for national applications as from June 2022.<sup>71</sup> Since its introduction, NIPO has experienced a very positive response to the program with increasing requests for such proceedings.

109. *Grounds & Qualification:* Any applicant can submit a request for accelerated proceedings. Only applications that do not claim priority (first applications) are eligible for accelerated

<sup>69</sup> Information presented by the Delegation of Japan during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_h\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_h_quality.pdf).

<sup>70</sup> Information presented by the Delegation of Morocco during SCP/34.

<sup>71</sup> Information submitted by NIPO to SCP/35. See also, NIPO's website on accelerated processing, available at: <https://www.patentstyret.no/en/services/patents/application-process-for-a-patent/accelerated-processing-of-a-patent-application/>.

proceedings at NIPO. There are no restrictions with regard to specific technical fields or circumstances. Applications that contain several independent inventions are not eligible for accelerated processing.

110. Grounds considered reasonable for granting expedited examination include:

- (i) the applicant is negotiating with an investor who requires a written opinion before providing investment;
- (ii) the applicant is in negotiations concerning a licensing agreement;
- (iii) the applicant's invention is being wrongfully exploited by third parties; and
- (iv) the applicant wishes to file an application internationally and needs several written opinions before the priority year expires.

111. *Conditions & Fees:* The request for accelerated processing must be submitted when the patent application is initially filed. A request for accelerated processing addressed to NIPO that arrives after the respective application has been filed will, in principle, not be accepted. If the application does not satisfy the conditions to qualify for accelerated processing, it will be processed according to the standard procedure.

112. After receiving an initial assessment of the application from NIPO, if the applicant responds in due time, it will be possible to receive two further assessments before the priority deadline expires, i.e., one year from the date of filing. With two assessments from NIPO, the applicant will have a good basis for considering whether they should apply for a patent in other countries.

113. Patent applicants are not required to pay additional fees when requesting accelerated examination.

114. *Reduced Pendency:* In the accelerated proceedings, NIPO will provide a first written opinion within four months from the filing date, while it takes seven months from filing to issue the written opinion in standard proceedings. When an accelerated proceeding is approved, it is possible to grant the patent within one year, provided that the application is not too complicated, the applicant requests early publication and responds to office actions in due time.

## REPUBLIC OF MOLDOVA

115. At the State Agency on Intellectual Property (AGEPI), the standard substantive examination of a patent application shall be carried out within 18 months from filing.<sup>72,73</sup> This period excludes time accounted for by correspondence and is subject to compliance with the provisions of Article 48 of the Patent Law on preliminary examination.

116. A request for substantive examination may be filed in the Republic of Moldova prior to the expiry of 30 months following the filing date of the patent application. The request is only deemed to be filed on payment of the examination fee and may not be withdrawn.

117. The Patent Law<sup>74</sup> establishes that the fees payable for urgent execution of the procedures for substantive examination search and request will increase by 100 per cent as compared to the established fee for the standard examination procedure and, once the fees are paid, the term for the execution of the respective actions decreases by half. Urgent execution of the

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<sup>72</sup> See Article 51, Paragraph (2) of the Patent Law of the Republic of Moldova.

<sup>73</sup> Information submitted by AGEPI to SCP/35.

<sup>74</sup> See Article 93, Paragraph (7) of The Patent Law.

procedures for substantive examination is carried out within 9 months from the request and payment of the fee.

## REPUBLIC OF KOREA

118. The Korean Intellectual Property Office (KIPO) offers several expedited examination options provided for in the Korean Patent Act (“KPA”) and the Enforcement Decree of the KPA.<sup>75</sup> With respect to the KPA, Article 61 states that the Commissioner of KIPO may instruct an examiner to examine a patent application in preference to other patent applications:

- (i) where it is found that any person, other than the patent applicant, is practicing for business purposes the invention claimed in the patent application after it is laid open under Article 64 of the KPA;
- (ii) where it is deemed necessary to urgently process a patent application as prescribed in the Presidential Decree;
- (iii) where a patent application prescribed in the Presidential Decree is deemed necessary for disaster prevention, response, recovery, etc.

119. With respect to (ii) and (iii), KIPO provided the following information:

### *Urgent processing of a patent application by necessity*

120. *Grounds/Qualification:* Grounds for admissibility into this expedited examination program are prescribed in Article 61, subparagraph 2 of the KPA, which include the following:

- (i) patent applications in the area of the defense industry;
- (ii) patent applications directly related to green technology under the Framework Act on Carbon Neutrality and Green Growth For Coping with Climate Crisis;
- (iii) patent applications utilizing technologies related to the fourth industrial revolution, such as artificial intelligence (AI) and the Internet of Things (IoT);
- (iv) patent applications directly related to export promotion;
- (v) patent applications concerning the official duties of the State or local governments (including any patent application concerning the duties of the national and public schools provided for in the Higher Education Act, which is filed by the organization in charge of the technology transfer and industrialization established within the national and public schools pursuant to Article 11(1) of the Technology Transfer and Commercialization Promotion Act);
- (vi) patent applications filed by an enterprise confirmed as a venture business under Article 25 of the Act on Special Measures for the Promotion of Venture Businesses;
- (vii) patent applications filed by an enterprise selected as a technology-innovative small and medium-sized enterprise under Article 15 of the Act on the Promotion of Technology Innovation of Small and Medium Enterprises;

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<sup>75</sup> Information presented by the Delegation of the Republic of Korea during SCP/34. See also the submission made by KIPO to SCP/35.

- (viii) patent applications filed by an enterprise selected as an exemplary company in terms of the employee invention compensation system under Article 11-2 of the Invention Promotion Act;
- (ix) patent applications filed by a small or medium-sized enterprise with the certification for management of intellectual property under Article 24-2 of the Invention Promotion Act;
- (x) patent applications concerning the results of national research and development programs under subparagraph 1 of Article 2 of the National Research and Development Innovation Act;
- (xi) patent applications which serve as a basis of a priority claim under treaties (limited to cases where a patent is being processed by a foreign patent office, upon a priority claim based on the relevant patent application);
- (xii) international patent applications on which KIPO conducts international search, as an ISA under the PCT, pursuant to Article 198-2 of the KPA;
- (xiii) patent applications under which an invention is being practiced, or being prepared to be practiced, by the patent applicant;
- (xiv) patent applications on which the Commissioner of KIPO has agreed with the Commissioner of any foreign patent office to conduct preferential examination;
- (xv) patent applications in which a person who intends to file an application for an expedited examination requested a specialized agency, designated and publicly notified as a specialized agency for search and classification, to conduct a prior art search with respect to the invention described in the patent application, and has requested the specialized agency to notify the Commissioner of KIPO of the search results;
- (xvi) patent applications filed by any of the following persons: a) a person aged 65 years or older; or b) a person whose health problem is likely to incapacitate him or her from following the procedure relating to a patent until a decision is rendered as to whether to grant a patent or to reject a patent application, unless it undergoes expedited examination.

*Expedited examination of a patent application deemed necessary for disaster prevention, response, recovery, etc.*

121. *Grounds/Qualification:* Grounds for qualification under this accelerated examination program are established in Article 61, subparagraph 3 of the KPA, and include the following:

- (i) patent applications directly related to products for medical treatment and disease control under subparagraph 21 of Article 2 of the Infectious Disease Control and Prevention Act;
- (ii) patent applications directly related to disaster safety products certified under Article 73-4 of the Framework Act on the Management of Disasters and Safety;
- (iii) patent applications subject to public notice given by the Commissioner of KIPO for a specified period of applying for an expedited examination to respond to an emergency situation caused by disaster.

### *Prioritized Examination of COVID-19 related patent applications*

122. In the Republic of Korea, prioritized examination of COVID-19 related applications falls under the provision mentioned above, whereby the Commissioner of KIPO is able to decree a specific time period in response to emergencies caused by disasters, within which applications concerning technologies that provide solutions and aid are afforded a prioritized examination.

123. The following specific time periods were put into place by the Commissioner via public notice, to allow for these requests in response to COVID-19:

- 1<sup>st</sup> public notice (June 23, 2021 ~ June 22, 2022): applications regarding COVID-19 vaccines.
- 2<sup>nd</sup> public notice (June 23, 2022 ~ June 22, 2023): applications regarding COVID-19 vaccines and medicines.

124. Applicants who filed patent applications concerning these technologies were able to receive a first office action within three months after acceptance of accelerated examination. The payment of a fee was required, i.e., 200,000 KRW for a COVID-19 related patent application and 100,000 KRW for a COVID-19 related utility model application. Startups within three years of their founding were able to have 70 per cent discount on the fee within 10 cases on a yearly basis.

### RUSSIAN FEDERATION

125. In April 2020, the Russian Federal Service for Intellectual Property (Rospatent) launched a pilot program for prioritized examination of applications related to technologies aimed at combating viruses and related diseases (pneumonia), also referred to as the Fast-Track Examination Procedure, to support the development of scientific and technological solutions playing a key role against COVID-19.<sup>76</sup>

126. In 2021, Rospatent extended the list of prioritized areas for the Fast-Track Examination Procedure to include the following:

- antiviral therapy;
- vaccines against viral infections;
- diagnostic test systems for infectious diseases and their components;
- respiratory medical products (e.g. ventilators, inhalers, intubation tubes);
- personal protective equipment (e.g. medical masks, respirators, protective suits);
- sterilizing and disinfecting technologies;
- genome editing technologies;
- smart information systems for medicine and healthcare;
- telemedicine; and
- supercomputer technologies.

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<sup>76</sup> Information presented by the Delegation of the Russian Federation during SCP/34. See also the submission made by Rospatent to SCP/35.

127. The Fast-Track Examination Procedure allows the resident inventors, working in the prioritized areas of science and technology, to obtain patent protection if they are ready to commercialize their inventions. Rospatent may carry out prior art search on these applications within 10 working days. The use of the search results during the examination allows to reduce the period needed to communicate the first examination-related correspondence to the applicants up to two months for the inventions and utility models applications, and to reduce accordingly the total pendency before the final decision regarding the applications.

128. Prior art search for the Fast-Track Examination Procedure is carried out based on concluded contracts. Any applicant may use this service by paying an additional fee. The final fee to be paid depends on the number of International Patent Classification groups.

129. *Statistics:* As from April 2020 (the beginning of the COVID-19 pandemic) to February 28, 2023, Rospatent received 1,178 applications related to the technologies for combating viruses and related diseases, including 880 inventions and 298 utility models. The average timeline for the first office action during the substantive examination amounted to 28 days.

## SINGAPORE

130. The Intellectual Property Office of Singapore (IPOS) offers applicants several options to request accelerated treatment of patent applications, including the PPH and other collaborative programs.<sup>77</sup> Domestic applications are given accelerated treatment through the SG IP Fast program.<sup>78</sup> IPOS launched the SG IP FAST program in May 2020 to support the acceleration of patent applications in all technology fields. As a result of positive demand and usage in the first phase of the pilot, SG IP FAST was extended for a second phase from April 30, 2022 to April 30, 2024.

131. *Grounds/Qualification:* The application must be first filed in Singapore. The request for the grant of a patent, and the request for a search and examination report must also be filed on the same day. The request for SG IP FAST is accepted only where it is within the cap limit established by IPOS, which currently stands at 10 requests per month in general, and 2 requests per entity (individual or corporation). The application must necessarily contain 20 or fewer claims.

132. *Conditions & Fees:* The applicant must respond within two weeks from the receipt of formalities examination adverse report (if issued) and within two months from the date of receipt of the written opinion. Patent applications will be accelerated for up to two office actions. After the second written opinion, the processing of the patent application will no longer be accelerated. The applicant cannot request an extension of time limit for any matter during the patent application process. Patent applicants are not required to pay additional fees to benefit from the program.

133. *Reduced Pendency:* Under SG IP FAST, a patent may be granted within as fast as six months, subject to the complexity of the patent application. In recognition that inventions may carry with them intellectual property beyond patents, SG IP FAST also allows related trademark applications to be registered in as fast as three months, subject to the complexity of the trademark application, while related registered design applications can be registered in as fast as one month.<sup>79</sup>

<sup>77</sup> General information on the PPH can be found in Section IV, below. Other collaborative programs of IPOS can be found in Section V.

<sup>78</sup> Information presented by the Delegation of Singapore during SCP/34. See also the submission made by IPOS to SCP/35 as well as IPOS website, available at: <https://www.ipos.gov.sg/about-ip/patents/how-to-register/acceleration-programmes>.

<sup>79</sup> There is currently no cap on the number of requests for acceleration of trademark and registered design applications under SG IP FAST.



## SLOVAKIA

134. The Industrial Property Office of the Slovak Republic offers expedited examination under a single program.<sup>80</sup>

135. *Grounds/Qualification:* The Office offers accelerated examination for all types of patent applications in all technical fields in the same manner. Applicants do not have to request expedited examination of a patent application – examination of an application is expedited based on fulfilment of qualifying conditions.

136. *Conditions & Fees:* No additional fees are required; Examination of a patent application is expedited by the Office if all of the following conditions are met: (i) the request for search is filed together with the patent application; (ii) the request for substantive examination is filed within 10 months after filing of the application; (iii) the applicant requests earlier publication of the application, which implies a publication within 10 months from filing; and (iv) no documents are found in the performed search that destroy the novelty and/or inventive step.

137. *Reduced Pendency:* Patent applicants that are granted expedited examination status can expect a grant within 24 months from the filing date (an average time of patent application proceeding in 2021 was 42.2 months from filing).

138. *Statistics:* The expedited examination program was implemented on March 1, 2021. 24 per cent of patent applications filed with the Office in 2021 were qualified for expedited examination.

## SPAIN

139. In 2003, the Spanish Patent and Trademark Office (OEPM) launched a program expediting the issuance of prior art search reports. It undertook to make search reports available to patent applicants who requested expedited search reports within no more than ten months from the filing date of the application. It therefore enables the applicants to assess the patentability of their invention and, where appropriate, to consider extending protection to other countries by claiming the right of priority.<sup>81</sup> In 2013, this program was extended to encompass the accelerated grant of national patents.

140. *Grounds/Qualification:* In accordance with Law 24/2015 and the Resolution of the Head of OEPM concerning the subject issued in 2017, the accelerated grant program applies to Spanish patent applications or those international applications under the PCT entering the national phase. To benefit from the accelerated grant, applications cannot claim priority of a previous application.

141. *Conditions & Fees:* In order to request admission into the program, applicants must expressly state that they wish to do so, by checking the corresponding box on the application form, when filing a patent application. The expedited examination procedure takes the following steps.

- When an applicant submits a request to benefit from the program to accelerate the grant of patents (CAP program), the first step is to verify that:
  - the relevant fees have been paid.

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<sup>80</sup> Information submitted by IPOS to SCP/35.

<sup>81</sup> Information presented by the Delegation of Spain during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/es/scp\\_34/scp\\_34\\_i\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/es/scp_34/scp_34_i_quality.pdf). See also the submission made by OEPM to SCP/35.

- the application in question does not claim the priority of an earlier application.
- In two to three days following the receipt of the application, the minimum requirements for establishing the filing date are examined, and payment of fees is verified. In addition, the examination of the application for its possible national defense implications is conducted.
- After the completion of that stage and within 10 days from filing, the Office verifies that the patent application contains no errors revealed by the *ex officio* examination of formalities, given that the compliance therewith is necessary for the consistency in publication.
  - Where errors are detected, the Office notifies the applicant and grants them a period set under the Regulations (two months), within which the applicant is required to correct them.
  - Where that deadline passes and the corrections have not been made, the application under the expedited grant program is deemed not to have been filed. It is rejected for failure to correct the formal errors and, thereafter, the standard procedure is followed.
- The prior art report and written opinion are drafted immediately after the formality examination was conducted. The report will be made available to the applicant no later than 10 months from the filing date. The Office then proceeds to publish the patent application and the report. Under the expedited procedure, publication occurs within 18 months from the filing date. Applicants will be aware of this, as it is so stipulated in the Resolution.
- Once the application is published, the applicant has three months to reply or comment on the objections included in the written opinion. The Office decides whether to grant or refuse the patent as promptly as possible.

142. No extra fees are required for an applicant to request participation in the accelerated grant program. However, admission to the program requires that all necessary fees related to the patent application, the prior art report request, and the substantive examination be paid up front.

143. The applicants are made aware of the fact that prompt completion of all the formalities will contribute to shortening the process. In that regard, the accelerated grant procedure includes drafting of the prior art report and the examination of compliance with the patentability requirements. It does not extend to the procedure for opposition, which, under the current Spanish patent law, takes place only after the patent is granted.

144. *Reduced Pendency:* While prior art reports are meant to be issued within no later than 10 months from the filing date, the issuance of the final decision is subject to the applicant's response time and promptness to comply with the requirements.

#### *Green technology applications and applications related to COVID-19*

145. In April 2010, the Spanish government approved a strategic plan for promoting industrial property in Spain. To implement the plan, steps were taken in the green technology sector, encouraging Spanish firms to use tools for industrial property protection and boosting their competitiveness. One initiative was to promote green patent applications through an expedited procedure for granting such patents within 12 months.

146. A series of measures were taken to meet those objectives, which concern only applications filed under the program to accelerate the grant of patents (CAP program), in

particular for inventions in the field of technologies relating to environmental protection and renewable energies. In this green technology program, all patent and utility model applications could be processed from the date of filing, without having the two-month secrecy delay (for inventions with potential national defense implications). The Office tags eligible green technology applications during the admission process for priority and expedited processing. It also urges the applicants to perform the required procedure promptly.

147. Although there are provisions that allow certain technologies (mainly “green” technologies<sup>82</sup>) to be examined with priority, the provision within Law 24/2015 that could potentially extend the benefits of expedited processing to COVID-19 related applications has yet to be regulated and put into practice. Consequently, a possible provision that would have the effect of allowing “applications for patents and utility models relating to key areas of public health” to be examined out of turn as part of the program to accelerate the grant of patents is being proposed. The amendments have yet to be approved. Thus, for the time being, COVID-19 related applications are not eligible to be processed under this program.

*Statistics:* In 2021, 175 national applications and one PCT international application in the national phase in Spain benefited from the CAP program. The corresponding figures in 2020 were 184 national applications and three PCT international applications in the national phase.<sup>83</sup>

## THAILAND

148. The Department of Intellectual Property of Thailand (DIP) launched the “Target Patent Fast-Track Program”, which was announced in a Notification on May 3, 2022 and made available to the public on June 1, 2022.<sup>84</sup>

149. *Objectives & Goals:* To expedite the patent or petty patent registration process of all applications regarding medical science and public health inventions that contribute to public health solutions.

150. *Grounds/Qualification:* DIP will admit to the Target Fast-Track Program applications that relate to medical science and public health technology inventions that would be beneficial to the public and that are commercially viable. Any applicant can request admission to the Program.

151. *Conditions & Fees:* Requests for expedited examination carry no additional cost. DIP will consider a Target Fast-Track request, provided that the following criteria and conditions are met:

- (i) the request concerns a patent application that has been requested for substantive examination under Section 29 of the Patent Act B.E. 2522, or a petty patent application that has been filed for not less than three months;
- (ii) the application must be first filed in Thailand, or filed through DIP as a Receiving Office if it is an international application under the PCT;
- (iii) the application contains no more than 10 claims throughout the period of participation in the Program;
- (iv) the applicant submits the application through the e-filing system; and

<sup>82</sup> As defined and identified by the International Patent Classification, especially concerning applications classified within the “IPC Green Inventory”, available at: <https://www.wipo.int/classifications/ipc/green-inventory/home>.

<sup>83</sup> More detailed statistics are available in the presentation made by the Delegation of Spain during SCP/34. See [https://www.wipo.int/edocs/mdocs/scp/es/scp\\_34/scp\\_34\\_i\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/es/scp_34/scp_34_i_quality.pdf).

<sup>84</sup> Information submitted by DIP to SCP/35.

- (v) all the required supporting documents for the application have been completely submitted.

### UNITED STATES OF AMERICA

152. The United States Patent and Trademark Office (USPTO) currently offers several programs for accelerated examination of patent applications.<sup>85</sup> Expedited examination in the United States of America aims to reduce burdens on examiners, improve prosecution efficiency and provide applicants with the ability to prioritize their filings. The information about each of the accelerated examination programs offered by the USPTO is provided below:<sup>86</sup>

#### *Accelerated Examination (AE)*

153. Last updated in 2016, the USPTO's Accelerated Examination (AE) program corresponds to the general, non-specific program meant to cover all patent applications that are not otherwise eligible for other expedited examination programs, which are more specific in nature. This program is available at the time of filing a utility or design non-provisional application, with the exception of international applications under the PCT that have entered into the national stage.

154. *Conditions & Fees:* The following conditions need to be met for an application to be eligible for the Accelerated Examination program:

- (i) The application must be complete.
- (ii) The application must contain three (3) or fewer independent claims and twenty (20) or fewer total claims, and must not contain multiple dependent claims.
- (iii) The claims must be directed to a single invention.
- (iv) The petition must include a statement agreeing to have an interview with the examiner to discuss any outstanding issues arising in the examination process.
- (v) The applicant must provide a statement that a pre-examination search was conducted meeting certain requirements.
- (vi) The applicant must provide an AE support document that satisfies certain requirements.

155. Applications are accorded "special status" and placed on an examiner's special docket and advanced out of turn for examination, and may continue to be treated as special throughout the entire prosecution until a final disposition. A "final disposition" (any action that closes prosecution) includes the following: (i) mailing of a notice of allowance; (ii) mailing of a final Office action; (iii) filing of a notice of appeal; (iv) completion of examination as defined in regulation; (v) filing of a request for continued examination; and (vi) abandonment of the application.

156. Application, petition, fees, and replies must be filed electronically *via* the USPTO patent electronic filing system. Fees include ordinary fees and an additional petition fee that may be charged, based on the grounds to make special. A shortened statutory period for reply of two

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<sup>85</sup> Information presented by the Delegation of the United States of America during SCP/34, available at: [https://www.wipo.int/edocs/mdocs/scp/en/scp\\_34/scp\\_34\\_f\\_quality.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_34/scp_34_f_quality.pdf). See also the submission made by the USPTO to SCP/35 as well as its website, available at: <https://www.uspto.gov/patents/initiatives/accelerated-examination>.

<sup>86</sup> Not including expedited examination under the PPH available to applicants in the United States of America. General information on the PPH can be found in Section IV, below.

months for Office action other than a notice of allowance applies. Extensions of shortened statutory period are permitted, but filing a petition for an extension of time will result in the application being taken out of the AE program. A “petition to make special” fee will be required if grounds for consideration are other than that the invention will materially enhance the quality of the environment, contribute to the development or conservation of energy resources, or contribute to countering terrorism.

157. *Reduced Pendency*: The USPTO aims to provide a final decision within twelve months of the filing date of the application.

#### *Track One/Prioritized Examination*

158. *Objectives & Goals*: To provide applicants with greater control over applications concerning utility and plant patent applications, as well as promote greater efficiency in the patent examination process.

159. *Grounds/Qualification*: This expedited examination program is offered to original non-provisional utility and plant patent applications filed under 35 U.S.C. 111(a), having no more than four independent claims, thirty claims in total, and no multiple dependent claims at the time the request to participate is reviewed by the Office of Petitions, and filed on or after September 26, 2011. This program is not available for design patent applications.

160. *Conditions & Fees*: A grantable request for prioritized examination (PE) must be filed: (i) at the time of filing an original utility or plant non-provisional application, or (ii) with or after a compliant request for continued examination (RCE) in a utility or plant application, including an application that has entered the national stage under 35 U.S.C. 371. Granting of prioritization status is limited to a maximum number determined by the USPTO.<sup>87</sup>

161. The application must include:

- (i) a specification as prescribed by 35 U.S.C. 112, having at least one claim;
- (ii) any required drawings;
- (iii) an executed inventor’s oath/declaration under 37 CFR 1.63 or 37 CFR 1.64 for each inventor, or an application data sheet (ADS) meeting 37 CFR 1.53(f)(3)(i); and
- (iv) basic filing fee, search fee, examination fee, and any required excess claims fee or application size fee.

162. Applications are accorded “special status” and placed on the examiner’s special docket throughout its entire course of prosecution until a final disposition is reached in the application.

163. Utility applications and requests for utility patent applications must be filed electronically via the USPTO Patent Electronic Filing System. Petitioning for an extension of time to file a reply or a request for a suspension of action, or filing an amendment that exceeds program claim limits terminates prioritized examination.

164. *Reduced Pendency*: The USPTO aims to provide a final disposition within 12 months of the prioritized status being granted.

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<sup>87</sup> According to the presentation made by the Delegation of the United States of America during SCP/34, the limit of requests for prioritized examination being granted was 15,000 at that time.

### *COVID-19 Prioritized Examination Pilot Program*

165. *Objectives & Goals:* Provide for prioritization of examination of applications for products, processes, or technologies that are important to the national economy or national competitiveness. Focusing the USPTO's resources on those applicants that may be more resource-constrained because of the pandemic. This is considered to be a version of the Track One program.<sup>88</sup>

166. *Grounds/Qualification:* This accelerated examination program is intended for patent applications that cover a product or process related to COVID-19. The pilot program is limited to applicants that qualify for either small or micro entity status.

167. *Conditions & Fees:* The USPTO requires that the patent application complies with the following conditions to be granted prioritized examination status:

- (i) The application must be a non-continuing non-provisional application or a continuing application claiming the benefit of only one prior application which is either a non-provisional application or international application under the PCT designating the United States.
- (ii) The petition to make special must be filed electronically using the USPTO patent electronic filing system.
- (iii) The petition to make special may be filed with an RCE if it is prior to the first action, or at any time prior to final rejection where the claimed cancer immunotherapy is the subject of an Investigative New Drug (IND) application that has entered Phase II or Phase III of FDA clinical trials.
- (iv) The petition to make special must be accompanied by a request for early publication if application is unpublished. If the applicant previously filed a nonpublication request, the applicant must file a rescission thereof no later than the filing date of the petition to make special.
- (v) The request must include certification that the applicant qualifies for small or micro entity status.

168. The request must also include a certification that the claim(s) of the patent application cover a product or process subject to an applicable FDA approval for COVID-19 use, for example, Investigational New Drug (IND) Application, New Drug Application (NDA), Biologics License Application (BLA), Pre-Market Approval (PMA), Investigational Device Exemption (IDE), and Emergency Use Authorization (EUA).

169. The request must be accompanied by an Application Data Sheet (ADS), meeting the requirements of 37 CFR 1.53(f)(3)(i). The prioritized examination fee and processing fee are waived.

170. *Reduced Pendency:* The USPTO aims to be able to provide (on average) a final disposition within twelve months of the prioritized status being granted. A final disposition will

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<sup>88</sup> The USPTO is no longer accepting requests for prioritized examination filed with respect to qualifying patent applications related to COVID-19. Pending petitions will be taken in turn, in the order that the applications are in condition for examination. The USPTO will consider any pending petition with respect to an application that was filed by May 11, 2023. Applicants may instead use the Prioritized Examination (Track One) program or the Accelerated Examination program. Both the Track One and Accelerated Examination programs not only provide advancement of examination, but set a target of reaching final disposition within 12 months from the time advancement is initiated. For more information, see the following website of the USPTO: <https://www.uspto.gov/initiatives/covid-19-prioritized-examination-pilot>.

be provided within six months of the status being granted if the applicant responds within 30 days to notices from the USPTO.

#### *Cancer Moonshot Expedited Examination Pilot Program*

171. *Objectives & Goals:* To support the National Cancer Moonshot initiative launched on February 1, 2016, which seeks to cut the time it takes to review patent applications pertaining to cancer immunotherapy in half. This program also aims to reduce the cancer mortality rate by at least 50 per cent within 25 years.<sup>89</sup>

172. *Grounds/Qualification:* This program is intended for patent applications that pertain to the field of oncology (in relation to detecting and treating cancer in general) or smoking cessation. Any applicant can request for special status to be granted under this program.<sup>90</sup> The application must be a non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a) or an international application under the PCT that has entered the national stage under 35 U.S.C. 371. Concerning the claims, the application must contain no more than three independent claims and no more than 20 total claims, and must not contain any multiple dependent claims.

173. *Conditions & Fees:* The request to make special must be submitted before a first office action has been issued. The petition to make special may only be made by filing form PTO/SB/465, which must be filed electronically using the USPTO's Patent Center. The following conditions need to be met for an application to be granted accelerated examination status under this program:

- (i) The petition must include a statement that the applicant agrees not to exceed the program claim limits or add any multiple dependent claims throughout the pendency of the application.
- (ii) The petition to make special must include a statement that the application is limited to the field of oncology or smoking cessation and contains at least one method claim that meets the eligibility requirements of the pilot program (which need(s) to be identified within the request).
- (iii) The petition must include a statement that the applicant agrees not to cancel all method claims that meet the eligibility requirements of the pilot program throughout the pendency of the application.
- (iv) The petition must include a statement that if the application contains eligible product or apparatus claims, the eligible method claims depend from or are commensurate in scope with the eligible product or apparatus claims.
- (v) The petition must include a statement that, if a requirement for restriction or unity of invention is made, the applicant will agree to make an election without traverse to an invention that meets the eligibility requirements of the pilot program.
- (vi) The petition must also include a statement that the applicant agrees not to cancel all claims to the elected invention throughout the pendency of the application.

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<sup>89</sup> Information is taken from the 2022 Federal Register notice on the program, available at: <https://www.federalregister.gov/documents/2022/12/09/2022-26776/cancer-moonshot-expedited-examination-pilot-program>. See also the USPTO webpage dedicated to this expedited examination program, at: <https://www.uspto.gov/patents/initiatives/patent-application-initiatives/cancer-moonshot-expedited-examination>.

<sup>90</sup> The program was set to commence on February 1, 2023, and is scheduled to run until either January 31, 2025, or the date by which the USPTO accepts a total of 1,000 grantable petitions, whichever is earlier.

- (vii) The petition must include a statement that the application was not previously granted special status under any program.<sup>91</sup>

174. If an applicant files the petition to make special on the date of filing of the application, the application may not be filed with a nonpublication request. If the applicant previously filed a nonpublication request in the application, the applicant must file a rescission of the nonpublication request no later than the date the petition to make special is filed.

175. If the petition is granted, the application will be treated as special on the examiner's docket and will be accorded special status until a first Office action (which may be an Office action containing only a restriction requirement) is issued. After the first Office action is issued, the application will no longer be treated as special during examination.

#### *Petitions to Make Special Based on Age or Health*

176. *Objectives & Goals:* To ensure prosecution of the patent application in the event that the state of health of the inventor or joint inventor is such that he or she might not be available to assist in prosecution if it were to run its normal course. Additionally, to ensure prosecution of the patent application if the inventor or joint inventor is 65 years of age, or more.

177. *Conditions & Fees:* The applicant has to make a petition to be granted special status, accompanied by evidence showing that:

- (i) the state of health of the inventor or joint inventor is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course, such as a doctor's certificate or other medical certificate; or
- (ii) The inventor or joint inventor is 65 years of age, or more.

178. For patent applications granted special status in this program, no "petition to make special" fees are required. The USPTO provides the opportunity to file a web-based e-Petition when submitting requests to make special based on the inventor's age. This implies an immediate decision notified to the applicant.

#### *Climate Change Mitigation Pilot Program*

179. *Objectives & Goals:* This expedited examination program is designed to positively impact the climate by accelerating the examination of patent applications for innovations that reduce greenhouse gas emissions.

180. *Grounds/Qualification:* Reserved for patent applications that involve technologies that reduce greenhouse gas emissions. To qualify to participate in this program, the underlying application must not claim the benefit of more than one prior non-provisional application. Any applicant can submit the respective petition to be considered under this program.

181. *Conditions & Fees:* Applicants must use USPTO form PTO/SB/457 which contains the petition and requisite certifications to request participation in this pilot program. The form needs to be filed electronically, using the Patent Center.

182. Applicant must certify all of the following:

- (i) the claimed invention covers a product or process that mitigates climate change;

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<sup>91</sup> A petition to make special under this pilot program may not be filed in an application in which special status was previously granted under this pilot program or any other program (for example, for reasons of age or health, Patent Prosecution Highway, Accelerated Examination, Prioritized Examination, etc.).



- (ii) the product or process is designed to reduce greenhouse gas emissions;
- (iii) applicant has a good faith belief that expediting patent examination of the application will likely have a positive impact on the climate; and
- (iv) the inventor or any joint inventor has not been named as the inventor or a joint inventor on more than four other non-provisional applications in which a petition to make special under this program has been filed.

183. In addition, the petition must be accompanied by an Application Data Sheet (ADS) meeting the requirements of 37 CFR 1.53(f)(3)(i), unless previously filed. The payment of “petition to make special” fees is not required under this program.

184. Applications are advanced out of turn (special status) for first action on the merits without meeting all of the current requirements of the accelerated examination program. After the first action on the merits, the application will no longer be treated as special during examination. (e.g., will be placed on the examiner’s regular amended docket after an amendment).

#### *Patents for Humanity Award*

185. *Objectives & Goals:* This program is the USPTO’s awards competition recognizing inventors who have used game-changing technology to meet global humanitarian challenges. Participants compete in select categories, including medicine, nutrition, sanitation, household energy, living standards, green energy and COVID-19.<sup>92</sup>

186. *Conditions & Fees:* Award recipients receive public recognition and a certificate to accelerate certain procedures before the USPTO. Those procedures include examination, *ex parte* reexamination, and an *ex parte* appeal to the Patent Trial and Appeal Board (PTAB). Winners may transfer the acceleration certificate to third parties.

#### *First-Time Filer Expedited Examination Pilot Program*

187. *Objectives & Goals:* This program is designed to increase accessibility to the patent system for inventors who are new to the patent application process, including those in historically underserved geographic and economic areas.<sup>93</sup>

188. *Grounds/Qualification:* Applicant must be a micro entity filing an application for the first time before the USPTO. Application must be a non-continuing, original utility non-provisional application that does not claim the benefit of the filing date of any prior-filed non-provisional U.S. applications or international applications under the PCT designating the United States under 35 U.S.C. 120, 121, 365(c) or 386(c).

189. *Conditions & Fees:* In order to participate in this program, the applicant must file a petition to make special for a qualifying patent application<sup>94</sup>, by filling out Form PTO/SB/464, *via* the Patent Center, certifying all of the following:

- (i) the inventor or, where there are joint inventors, each joint inventor has not been named as the sole inventor or a joint inventor on any other nonprovisional application.

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<sup>92</sup> See the submission by the USPTO to SCP/35.

<sup>93</sup> Information is taken from the USPTO’s webpage on the “First-Time Filer Expedited Examination Pilot Program”, available at: <https://www.uspto.gov/initiatives/first-time-filer-expedited-examination-program>.

<sup>94</sup> The USPTO will accept petitions to make special under this program until March 11, 2024, or until 1,000 patent applications have been granted special status under this program, whichever occurs earlier. See other restrictions and limitations at the USPTO’s website regarding the program.

- (ii) the applicant and the inventor or, where there are joint inventors, the applicant and each joint inventor qualify for micro entity status under the gross income basis requirement.<sup>95</sup>
- (iii) the inventor or, where there are joint inventors, each joint inventor, named on the application is reasonably trained on the basics of the USPTO's patent application process.

190. The application must be complete under 37 CFR 1.51, no later than the date the petition to make special under this program is filed. The petition to make special may be filed at a later date, so long as it is filed before the examiner sends a first Office action.

191. Payment of all appropriate fees is required prior to or concurrently with the filing of the petition to make special under this program. The applicant is not required to pay the fee under 37 CF 1.17(h).

192. *Statistics:* As of September 5, 2023, 27 applications have been granted special status under this program.

#### *Government Request for Expedited Examination*

193. The USPTO may advance patent applications directed to inventions deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason.

#### EUROPEAN PATENT OFFICE (EPO)

194. Applicants at the EPO who require fast-track, i.e., expedited patent procedure, can request accelerated prosecution of European patent applications free of charge, regardless of the technology. At the EPO expedited patent procedure is possible irrespective of special/exceptional grounds or rationales.<sup>96</sup>

#### *Program for accelerated prosecution of European patent applications ("PACE")*

195. EPO applicants requiring faster search or examination can request to have their applications processed under PACE.<sup>97</sup>

196. *Objectives & Goals:* PACE enables applicants who want their applications processed rapidly to obtain the European search report plus written opinion under Rule 62(1) EPC, the first examination report and any communication under Rule 71(3) EPC within tight deadlines.

197. *Conditions & Fees:* Accelerated examination can, in principle, be requested at any time once responsibility for the application has passed to the examining division.<sup>98</sup> For international applications under the PCT entering the European phase where the EPO did also act as (S)ISA, accelerated examination can, in principle, be requested at any time.

198. Accelerated prosecution of European patent applications occurs only upon written request. Applicants are required to use the dedicated request form (EPO Form 1005), which

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<sup>95</sup> Applicant must separately and properly establish micro entity status by filing USPTO Form SB/15A (Certification of Micro Entity Status – Gross Income Basis) no later than the date that the petition to participate in this pilot is filed.

<sup>96</sup> Information submitted by the EPO to SCP/35.

<sup>97</sup> A detailed overview of the applicable PACE conditions are set out in the Notice from the EPO dated November 30, 2015, OJ, 2015 A 93, available at: <https://www.epo.org/law-practice/legal-texts/official-journal/2015/11/a93/2015-a93.pdf>.

<sup>98</sup> See Rule 10 EPC and Guidelines for Examination in the EPO, C-II, 1.

must be filed online. The EPO will issue an acknowledgment of receipt promptly. It will not process requests filed informally, i.e., without using the dedicated form, and/or on paper.

199. A request for participation in the PACE program (PACE request) may be filed only once during each stage of the procedure, i.e., search and examination, and for one application at a time. A PACE request filed during search will not trigger accelerated examination.

200. Accelerated prosecution under PACE can be provided only where practically feasible, and subject to the workload of search and examining divisions. In certain technical fields, there may be constraints due to the numbers of incoming PACE requests. Applicants requesting accelerated prosecution for all or most of their applications will, as a rule, be required by the Office to limit the number of their PACE requests by making a selection.

201. An application will be removed from the PACE program if:

- (i) the PACE request has been withdrawn;
- (ii) the applicant has requested an extension of time limits;
- (iii) the application has been refused;
- (iv) the application has been withdrawn; or
- (v) the application is deemed to be withdrawn.

In such cases, it will not be possible to restore the application to the PACE program, i.e., a second request for that application during the same stage of the procedure will not be processed. Additionally, accelerated prosecution will be suspended in the event of failure to pay renewal fees by the due date stipulated in Rule 51(1) EPC.

202. *Reduced Pendency:* With regard to the examination stage of a patent application under PACE, when accelerated examination is requested, the Office makes every effort to issue its next action within three months of the examining division's receipt of the application, the applicant's response under Rule 70a or 161(1) EPC or the request for accelerated examination (whichever is latest). EPO strives to produce subsequent examination communications within three months of receipt of the applicant's reply, provided that the application is still being processed under the PACE program.

#### IV. PATENT PROSECUTION HIGHWAY

203. The Patent Prosecution Highway (PPH) is a cooperation program that can be implemented between two IPOs, focusing on substantive examination. When two countries have reached an agreement on PPH terms, this allows an applicant to pursue examination in an Office of Later Examination (OLE) on the basis of an earlier application filed and found to be patentable in an Office of Earlier Examination (OEE). Offices that have entered into PPH agreements and have implemented these programs and procedures have been able to economize examination efforts and improve on the quality of examination, much to the benefit of the applicants and the Offices themselves.<sup>99</sup> The PPH's main focus since its inception has been work-sharing between IPOs as well as providing accelerated examination.

204. There are many different PPH programs currently in practice worldwide.<sup>100</sup> The first pilot PPH program was co-developed by the USPTO and JPO, and was first put into practice in 2006. Since then, PPH agreements and programs have been expanded and improved upon,

<sup>99</sup> See the PPH Portal webpage, available at: <https://www.jpo.go.jp/e/toppage/pph-portal/pph.html>.

<sup>100</sup> Information about the PPH as reported by different IPO's can be found on the PPH Portal website: <https://www.jpo.go.jp/e/toppage/pph-portal/links.html>.

including incorporation of work products of the International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the PCT in the PPH agreements (PCT-PPH).<sup>101</sup>

205. In general, efficiency gain and improved patent quality demonstrated by reduced actions between IPOs and applicants per disposal, higher allowance rate, and reduced rate of appeal are considered as major benefits of the PPH programs. For users, they benefit from the reduced pendency period for corresponding foreign applications and more predictability on the patentability of their inventions and possible grant of patents in OLEs.<sup>102</sup> IPOs may be able to optimize their tasks with respect to the workload they handle and refine and improve the quality of their examination practices.<sup>103</sup> A request for PPH expedited examination in a particular office generally requires no additional fees, since communication and sharing of documents relating to published applications between IPOs nowadays provides no major costs or challenges. While there are plurilateral PPH agreements (e.g., Global PPH, IP5 PPH, PROSUR-PPH and Pacific Alliance PPH), PPH initiatives have been mainly bilateral in nature.

206. In practice, the expedited examination of a patent application by virtue of a PPH agreement begins when the applicant informs the OLE that a previously-allowed and granted patent application rests with the OEE. Once the proper information has been provided, the two Offices are able to share the information and documents that are needed in order to expedite the OLEs examination period. A commonly required rule or strategy of PPH-participating offices is the commitment to provide expeditious issuance of not only first office actions but also final decisions. Additionally, the OLEs are expected to make use of search/examination-related information as provided by the OEEs to the best of their ability to improve the quality of the examination and provide justification for the cooperation between the offices.<sup>104</sup>

207. While PPH agreements are tailored to the respective IPO's needs with specific conditions and criteria, there are certain practices that are generally found in all PPH agreements. For example, the autonomy of the OLE has been carefully preserved in these agreements. Most PPH agreements will thus often stipulate that, the OEE's results cannot be imposed on the OLE, which must be able to come to its own independent results with respect to the examination of applications. Therefore, PPH agreements commonly provide conditions under which an OLE may take into consideration the examination results provided by an OEE. One example of such a condition is a correspondence between the claims in both patent applications, which can be a technically complex question in practice.

208. There are currently several types of PPH programs being applied by different IPOs, as indicated below. Some submissions of Member States to SCP/35 included information about their respective PPH agreements with other IP Offices. It is not necessarily reproduced in this document, since the PPH Portal website<sup>105</sup> as well as PCT-PPH page on the WIPO website<sup>106</sup> compile comprehensive information about PPH programs, membership and statistics. In addition, each IPO may set different requirements, criteria and procedures for various kinds of PPH agreements with varied countries. Therefore, these websites also include links to the websites of IPOs on which further details about separate requirements, procedures, guidelines and forms relating to each agreement are provided.

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<sup>101</sup> More information on PCT-PPH is available at: [https://www.wipo.int/pct/en/filing/pct\\_pph.html](https://www.wipo.int/pct/en/filing/pct_pph.html).

<sup>102</sup> See the PPH Portal webpage: <https://www.jpo.go.jp/e/toppage/pph-portal/pph.html>.

<sup>103</sup> *Idem*.

<sup>104</sup> In 2014, the seventh Plurilateral PPH Working-Level Meeting held in Singapore agreed on a common PPH Policy, which can be found at: <https://www.jpo.go.jp/e/toppage/pph-portal/docs/pph-policy-en.pdf>.

<sup>105</sup> <https://www.jpo.go.jp/e/toppage/pph-portal/pph.html>.

<sup>106</sup> WIPO PCT-Patent Prosecution Highway Program and Global PPH webpage, available at: [https://www.wipo.int/pct/en/filing/pct\\_pph.html](https://www.wipo.int/pct/en/filing/pct_pph.html).

### *PCT-PPH*

209. A number of bilateral, plurilateral and global PPH agreements incorporate work products of ISAs and IPEAs as a basis for applicants to request accelerated examination in OLEs during the national phase under the PCT. These work products can include: (i) the written opinion of the ISA; (ii) the written opinion of the IPEA; and/or (iii) the international preliminary examination report issued within the framework of the PCT, subject to certain conditions. Accordingly, an applicant receiving a favorable written opinion or international preliminary report on patentability (IPRP) from an International Authority would be able to request that a corresponding national phase entry receive expedited examination, provided that all claims in the national phase application sufficiently correspond to the claims which received a positive indication in the written opinion or IPRP. The national Office would then leverage the international phase work products to streamline patent examination in the national phase.<sup>107</sup> The PCT-PPH programs are still held and agreed upon between, or among, the parties to each PPH agreement.

### *PPH MOTTAINAI*

210. Another type of PPH-implemented program is the PPH MOTTAINAI, which was initially agreed by eight IPOs in 2011.<sup>108</sup> In summary, PPH MOTTAINAI removed certain formalities and requirements that were first introduced into PPH agreements that had been agreed-upon bilaterally. In particular, under the initial PPH agreements, the OEE must be the first office with which the relevant application was filed, i.e., the concept of the Office of First Filing (OFF). In that model, when the OFF could not finish the examination of a patent application in due time, other offices that received corresponding subsequent applications had to wait until the OFF finishes its examination work, if the other offices wished to utilize the work product of the OFF. By introducing the concept of Office of Second Filing (OSF) and allowing the examination results of an OSF to be shared with OFF, the program further optimized the examination practices and workloads of implementing offices.<sup>109</sup> Currently, the PPH MOTTAINAI is implemented by many other IPOs.<sup>110</sup>

### *Global PPH*

211. The Global PPH is one of the plurilateral PPH pilot programs.<sup>111</sup> Under the Global PPH, a request for accelerated processing can be made at any participating office based on the work products from any other participating office, covering three types of PPH programs, i.e., the normal PPH, PPH MOTTAINAI and PCT-PPH. The Global PPH operates under more standardized practices and criteria among its membership, based on unified Framework Provisions as well as common criteria and principles.

### *IP5 PPH*

212. The IP5 PPH program, initiated by the IP5 Offices<sup>112</sup> in January 2014, extends and simplifies PPH requests to the IP5 Offices.<sup>113</sup> Under this program, normal PPH, PPH MOTTAINAI and PCT-PPH are available among the five Offices. The IP5 Offices also

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<sup>107</sup> *Idem.*

<sup>108</sup> JPO (Japan), CIPO (Canada), IP Australia (Australia), PRH (Finland), ROSPATENT (Russia), SPTO (Spain), UKIPO (UK), and USPTO (USA). See <https://www.jpo.go.jp/e/toppage/pph-portal/pph-mottainai.html>.

<sup>109</sup> See PPH MOTTAINAI webpage, available at: <https://www.jpo.go.jp/e/toppage/pph-portal/pph-mottainai.html>.

<sup>110</sup> For the IPOs currently implementing the PPH MOTTAINAI, see the PPH Network webpage, available at: <https://www.jpo.go.jp/e/toppage/pph-portal/network.html>.

<sup>111</sup> See the Global PPH webpage, available at: <https://www.jpo.go.jp/e/toppage/pph-portal/globalpph.html>.

<sup>112</sup> China National Intellectual Property Administration (CNIPA), European Patent Office (EPO), Japan Patent Office (JPO), Korean Intellectual Property Office (KIPO) and the United States Patent and Trademark Office (USPTO).

<sup>113</sup> See the IP5 Patent Prosecution Highway (IP5 PPH) webpage, available at: <https://www.fiveipoffices.org/activities/ws/ip5pph>.

developed a model common PPH request form, with a uniform set of data that must be submitted by applicants.

213. An IP5 PPH request can be based on: (i) the latest PCT work product (written opinion of the ISA (WO-ISA) or international preliminary examination report (IPER)) established by one of the IP5 Offices as ISA or IPEA; or (ii) the national work product established during the processing of a national application or an international application under the PCT that has entered the national phase before one of the IP5 Offices. To be an eligible application, the above work product determines one or more claims to be patentable/allowable.

#### *PROSUR-PPH*

214. PROSUR-PPH is a plurilateral PPH agreement concluded by the IPOs of Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru and Uruguay, with special consideration towards the needs of the region. The agreement includes PPH modalities with respect to international applications under the PCT and integrates the PPH MOTTAINAI framework. In particular, applicants may use the work product of INPI Brazil and the National Institute of Industrial Property (INAPI) of Chile, as ISA/IPEA under the PCT, to expedite the examination of a patent application in any of the other PROSUR participating countries.<sup>114</sup>

#### *Pacific Alliance PPH*

215. With respect to the Pacific Alliance, whose members include Chile, Colombia, Mexico and Peru, a PPH agreement that applies among them entered into force in 2015. The program allows participating IPOs to benefit from PPH expedited examination practices, including those provided under PPH MOTTAINAI, when certain conditions are met. This initiative does not include, or make explicit reference to, eligibility of international applications under the PCT.<sup>115</sup>

## V. OTHER BILATERAL/MULTILATERAL INITIATIVES

216. With respect to other initiatives outside of expedited examination practices implemented by IPOs within their own jurisdictions or PPH agreements, several IPOs reported the implementation of other cooperation frameworks, either bilateral or multilateral, aiming to expedite patent examination procedures and reduce pendency.

#### ASEAN PATENT EXAMINATION CO-OPERATION (ASPEC)<sup>116</sup>

217. The Asian Patent Examination Co-operation (ASPEC) program is a regional patent work-sharing program launched in 2009 among the nine IP Offices of the members of the Association of Southeast Asian Nations (ASEAN) at the time, namely, Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, the Philippines, Singapore, Thailand, and Viet Nam. The ASPEC program is useful for applicants keen to file multiple patent applications for the same invention in the ASEAN region. Applicants may use the written opinions<sup>117</sup> or search and

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<sup>114</sup> PROSUR press release, available at: <https://prosur.org/en/novedad/prosur-initiates-the-implementation-of-the-agreement-that-will-allow-applicants-an-accelerated-patent-procedure-pph/>. See also the information regarding the implementation and extension of the program which is available at the website of each respective country's intellectual property office.

<sup>115</sup> The Memorandum on the understanding and implementation of a PPH initiative between member states of the Pacific Alliance, available at: <https://www.indecopi.gob.pe/documents/20791/368017/MOU+PPH,+Alianza+del+Pacifico.pdf/e1fe3cc7-c8c9-4543-b688-4f5231dbcb83>.

<sup>116</sup> See the webpage of IPOS at <https://www.ipos.gov.sg/about-ip/patents/how-to-register/acceleration-programmes>.

<sup>117</sup> For ASPEC, a Written Opinion is an acceptable search and examination result for all participating IP Offices, except the IP Office of Thailand.

examination reports issued by a participating IP Office to accelerate the patenting process in any of the other participating IP Offices.

218. Two new ASPEC pilot programs were further introduced in August 2019 to provide added benefits for applicants.

(i) ASPEC Acceleration for Industry 4.0 Infrastructure and Manufacturing (ASPEC AIM)

- Benefits to applicants: A shorter and committed turnaround time of six months to receive the first office action for an ASPEC request filed for an industry 4.0 patent applications.
- Duration of the pilot project: Initial period of two years, starting from August 27, 2019, which was extended for 2 years until August 26, 2023.
- Cap: Up to 50 eligible applications per year, shared between the participating IP Offices.

(ii) Patent Cooperation Treaty ASPEC (PCT-ASPEC)

- Benefits to applicants: An additional choice of relying on the international preliminary examination reports or written opinions under the Patent Cooperation Treaty (PCT), issued from an ISA/IPEA in ASEAN as the first IP Office, for acceleration in other participating IP Offices.
- Duration of the pilot project: Initial pilot period of three years starting from August 27, 2019, which was extended for three years until August 26, 2025.
- Cap: Up to 100 eligible applications per year, shared between the participating IP Offices.

219. To participate in these programs, applicants must have corresponding patent applications filed at the first and second participating IP Offices. It means that all claims filed in the second IP Office must sufficiently correspond to allowable/patentable claims referred to in the search and examination documents from the first IP Office. The Request for ASPEC must be supported by the search and examination documents of the corresponding application from the first IP Office. To qualify for ASPEC AIM, the patent application must be classified with an eligible IPC code relating to an Industry 4.0 invention. It should be noted that applicants are allowed to submit both the PCT-ASPEC and ASPEC AIM requests simultaneously to the participating IP Office.

### COLLABORATIVE SEARCH AND EXAMINATION (CS&E)<sup>118</sup>

220. IPOS has established a CS&E pilot program with the Intellectual Property Office of Viet Nam (IP Viet Nam) that will provide innovators with enhanced prior art search and examination results based on the combined expertise from both IP Offices. It is designed to speed up the patent process for those interested to obtain patent protection in both countries.

221. The CS&E program is complimentary during the pilot duration from March 1, 2023 to February 28, 2025. Applicants will benefit from an accelerated first office action, i.e., the CS&E report will be issued within 10 months from the date of receipt of the request for CS&E.

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<sup>118</sup> See the webpage of IPOS at <https://www.ipos.gov.sg/about-ip/patents/how-to-register/acceleration-programmes>.

222. The number of CS&E requests will be capped at 20 requests per year for an initial duration of two years. This cap is shared between IPOS and IP Viet Nam, with a further cap of two requests per month and a restriction of two requests per applicant (individual or corporate) per month. Any unutilized number will be rolled over to the following month, subject to a maximum cap of four per month.

223. To be an eligible application for CS&E pilot program, an applicant must first file an application in Singapore or Viet Nam, i.e., no priority claim and not a divisional application. The applicant shall file a Request for the Grant of a Patent, a Request for Search and Examination Report and a Request for CS&E on the same day. The application should contain 20 or fewer claims, including three or fewer independent claims. During the CS&E procedure, if a formalities examination adverse report is issued, applicants must respond within two weeks from its receipt.

#### EXTENDED COLLABORATIVE SEARCH PILOT (CSP)

224. The Expanded Collaborative Search Pilot (CSP) program provides applicants who cross-file with the USPTO and the JPO or the KIPO with search results from each partner IP office early in the examination process. It is designed to accelerate examination and provide the applicant with more comprehensive prior art by combining the search expertise of the USPTO and the JPO or the KIPO examiners in different languages before issuing a first Office action.<sup>119</sup> In the Extended CSP pilot model, examiners of the participating Offices carry out the examination of the corresponding application concurrently, and share the examination reports each other with the partner Office. Applicants do not need to pay a fee to participate in the CSP.

225. The USPTO, in partnership with the JPO and the KIPO, is extending the Expanded CSP for an additional two years, through October 31, 2024. Based on the feedback received from the applicants participated in the Pilot, an enhanced petition option for participation in the Extended CSP has been introduced. In particular, the new petition modality allows an applicant to file a combined petition in either the USPTO or one of the partner IP offices rather than separate petitions in each office. Further enhancements include a more user-friendly layout, the addition of multilingual text, and a foundation for data collection that both satisfies the petition requirements and streamlines the process for partaking in the Expanded CSP program.<sup>120</sup>

226. The submission by the JPO detailed the CSP between the USPTO and JPO (US-JP CSP). The examiners of both Offices each examine an application filed with respective Offices to share search results and opinions, and expeditiously provide initial examination results to the applicant during the same time period.

227. A patent application filed with the JPO (hereinafter “JP application”) is eligible for the US-JP CSP if it has a corresponding application filed with the USPTO (hereinafter “US application”) and meets the requirements set by the JPO. Similarly, the corresponding US application needs to satisfy the requirements set by the USPTO.<sup>121</sup> The JPO and the USPTO also accept unpublished applications into the US-JP CSP. The eligible JP application has a total of 20 or fewer claims including three or fewer independent claims. The US application must include

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<sup>119</sup> Information taken from the submission made by the USPTO to SCP/35. See also the published Federal Register Notice cited by the USPTO for the program: <https://www.govinfo.gov/content/pkg/FR-2023-01-18/pdf/2023-00799.pdf>. See also a presentation by the representative of the USPTO at SCP/27, which includes the Expanded CSP program ([https://www.wipo.int/edocs/mdocs/scp/en/scp\\_27/scp\\_27\\_i\\_cooperation\\_united\\_states\\_of\\_america.pdf](https://www.wipo.int/edocs/mdocs/scp/en/scp_27/scp_27_i_cooperation_united_states_of_america.pdf)).

<sup>120</sup> Information regarding the program and the conditions of its extension can be found in the USPTO’s Federal Register concerning the initiative, at: <https://www.govinfo.gov/content/pkg/FR-2023-01-18/pdf/2023-00799.pdf>.

<sup>121</sup> Information about specific requirements are available at the USPTO website: <https://www.uspto.gov/patents/search/international-protection?MURL=collaborativesearch>.



independent claims that substantially correspond to all independent claims of the JP application. A decision as to whether the independent claims contained in the JP and US applications substantially correspond to each other will be made on a case-by-case basis. In general, when an independent claim of the JP application has the same scope as that of the US application, they are considered as substantially corresponding to each other.

228. Where the JP application is ready for examination, a copy of the corresponding claims of the US application must be submitted to the JPO, if the US application is unpublished at the time of when the applicant files a request for the US-JP CSP. If the JP application is not ready for examination, a JPO staff will contact the applicant, or the applicant can check the status of their application *via* either making an online viewing request or accessing J-PlatPat on the JPO website.

229. To participate in the US-JP CSP, the earliest priority date of the independent claims of the JP application must be the same as that of the US application. Furthermore, both the JP and US applications must have the earliest priority date or filing date of March 16, 2013 or later.

230. For the JP application, a request for examination must be submitted before, or at the same time as, requesting the US-JP CSP. One request for the US-JP CSP shall be filed for one application, although a group of technically related applications, consisting of five or fewer applications, can be covered in one request.

231. It is not possible to participate in the US-JP CSP, if the Collective Examination for IP Portfolio Supporting Business Strategy, Accelerated Examination or Super-Accelerated Examination has already been requested with respect to the same application. However, an application will still qualify for the US-JP CSP if the request is withdrawn.

#### THE VANCOUVER GROUP

232. CIPO reported that the Vancouver Group (Australia, Canada and the United Kingdom) has been constantly sharing and collaborating on patent initiatives including application processing, quality, searching and training. In addition, CIPO stated that it has entered into many bilateral memorandums of understanding with other jurisdictions, which also include knowledge-sharing components.<sup>122</sup>

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<sup>122</sup> Information presented by the Delegation of Canada during SCP/34.