

## **I. EXECUTIVE SUMMARY**

### **(i) INTRODUCTION**

1. The study (hereinafter referred to as “the Study”) focuses on the technical aspects related to patent legal status information. These aspects mostly fall into the three categories of availability, reliability and comparability of such data.
2. Patent legal status information comprises all data related to legal events or actions as defined by the respective patent law and regulations of a particular jurisdiction. The authority in charge of executing these actions is also usually in charge of informing the public about relevant legal events, such as the grant of a patent, and thereby serves as the authoritative or primary source of such information.
3. Traditionally two major primary sources of legal status data can be distinguished: Patent Gazettes and Patent Registers. Gazettes were and are sometimes still published at regular intervals in paper form, i.e. in individual editions which inform about the latest events changing the legal status of a patent application or a granted patent, e.g. a change in ownership. On the other hand, such status can change from day to day. Registers are, therefore, a kind of facility or service that records such changes and makes available up-to-date and authoritative information in a more frequent manner, ideally on a daily basis.
4. Users of patent information however often refer to secondary sources of legal status information which collect such data from primary sources, process the data and make it searchable. The important advantages of these secondary sources reside in the availability of such data in combination with patent family information allowing an effective investigation of the status of several related patent rights filed in different jurisdictions by searching through a unified interface. Disadvantages of such use of secondary sources are mainly the delay in publication and the lack of some data from primary sources.

### **(ii) ANALYSIS OF WIPO SURVEY AND OF EXISTING DATABASES**

5. For the purpose of this study, WIPO has conducted a survey on the availability of legal status data from primary sources by sending a questionnaire to Member States and Regional Patent Offices. 87 replies have been received. The detailed evaluation results are available on the website at: [http://www.wipo.int/patentscope/en/programs/legal\\_status/index.html](http://www.wipo.int/patentscope/en/programs/legal_status/index.html).
6. In summary, in jurisdictions where the patent system is already operational for a considerable time (some 40 countries), the access to legal status information is mostly sufficient and, in particular, patent registers are operational, often searchable through the internet, updated daily and the data are shared with secondary databases.
7. In many emerging economies and developing countries the situation is less favorable. In several jurisdictions registers are not operational, or operational only in the sense that only (e.g. written) requests for information and legal status data can be submitted to the Office. Registers are frequently not searchable through the internet. The range of searchable data is limited, and data are rarely shared with secondary sources. Roughly one third of the registers provide information against a fee.
8. The study has also investigated secondary sources of legal status information with a special focus on the International Patent Documentation Center (INPADOC), which is widely recognized as the leading secondary source of legal status data from which many other providers of patent information obtain or purchase legal status data. INPADOC was initiated in 1972 by WIPO and was later taken over by the European Patent Office (EPO). It currently collects legal status data from 57 jurisdictions. Input data from up to 10 different input

channels per country are retrieved and processed for standardizing the data and for complementing them with respective INPADOC family information for each patent application. The number of items and diversity of data reported from each IPO also vary. This laborious processing incurs delays of availability of the data that varies from 2 days to 3 months depending on the primary source. The processed data are up-dated weekly and available for search through various EPO patent information services, e.g. free of charge through Espacenet, or as raw data products to other IPOs or private information providers. The reliability of such data is greatly influenced by the correctness of the raw data obtained from the primary sources, their completeness and their publication frequency.

9. Other secondary sources of legal status information are WIPO's PATENTSCOPE database to the extent that it includes data of legal events of the PCT international phase and the entry into the national phase. The latter information is provided only on a voluntary basis from selected PCT Member States and with varying regularity since there is no obligation to provide such information to WIPO. The data for identifying international applications which have not entered into the national/regional phase are important to identify technologies included in the applications that are considered to have entered into the public domain.
10. Other important secondary sources of legal status information for professional use are commercial databases which obtain a lot of their raw data from INPADOC due to the cost savings with respect to collecting and pre-processing such data. However, these providers also derive some data from selected primary sources.
11. Because legal status data are in principle related to the different actions and events defined by each jurisdiction there is a large variety of such data: certain events that may occur in one jurisdiction may not have been foreseen in another; and certain events or actions that occur in the lifetime of a patent application may not even be defined explicitly, but are necessary for automated monitoring of internal procedures. The different legal definitions inevitably also limit the comparability of such data. Even rather similar events could be defined slightly differently or depend on different conditions. In view of these limitations, INPADOC, therefore, records each legal event reported from a particular country with a different code, i.e. a particular code describing a particular legal event is applied only for the patent application data of that country. INPADOC data, thus, comprises several thousand different types of legal status data. Standardization or use of unified codes that are applicable to describe events in a global manner is highly desirable, but it would require a careful comparison of the individual definitions and has not yet been undertaken.

### **(iii) CONCLUSIONS**

Based on the evaluation of WIPO survey and inputs received for the preparation of the Study, the Secretariat of WIPO suggests the following conclusions:

12. Most jurisdictions/countries that responded to WIPO's Questionnaire (some 80 countries) keep records of legal status data of patents and many IP offices make databases accessible to the public on the Internet. In this regard, public access to the information necessary for identifying inventions in the public domain appears to be met. However, many issues remain to be resolved to enhance public access to the legal status data.
13. The availability of legal status data of some 50 countries/jurisdictions (most of them are developing countries and LDCs) is limited, since many of them do not have the legal status data in digital form and national on-line registers (accordingly secondary sources do not include such data). The diversity of legal events and their changing character over time pose specific challenges to maintaining and disseminating the legal status data.

14. The availability of legal status data is better in other countries/jurisdictions (some 40 countries/jurisdictions) which provide the data in on-line patent registers on the Internet. However, there is still much room for improvement in the content and reliability of such data.
15. The availability of the data does not necessarily mean that there is an easy access to data for the identification of inventions available in the public domain. Difficulties arise from a need for visiting a number of different on-line databases to perform a global search, a need for understanding different definitions of legal events in different jurisdictions, a need for a fee payment to access legal status data in some countries, and different interfaces and languages of the existing national on-line registries when performing a global search.
16. As regards a policy of sharing and disseminating data for the public availability, the majority of countries have already adopted a policy of free of charge access to the legal status data of patents, whereas some others have not.
17. The availability of licensing information is limited in most countries.
18. The availability of information with regard to entry and/or non-entry of international applications into national/regional phase is still limited in PATENTSCOPE, since efforts to collect such data depend on voluntary participation by IP offices. Non-entry data, if used and analyzed properly, would be useful to identify inventions in the public domain.
19. The reliability of data needs to be improved, e.g. by increasing the frequency of updates and synchronizing their publication, and by implementing standardized mechanisms for error correction notifications that facilitate the updating of secondary sources of legal status data information.
20. In view of the fact that the majority of countries have national on-line registers, it is possible and feasible to create a global portal in PATENTSCOPE with links to national patent online registers.
21. Effective public knowledge of the existence and status of patent rights is essential for assisting technology transfer, either by encouraging licensing of rights which already exist, or by identifying opportunities to freely use and develop technology which is in the public domain in some or all Member States. With globalization, activities for identifying inventions in the public domain and possible licensing opportunities will continue to grow geographically and seek potential partners worldwide. If Member States see further needs for improving public access to the legal status data information of patents in this context, any WIPO project in response to those needs will require an active participation by a large majority of the Member States, mainly because primary sources must be generated and shared by each Member State.
22. The WIPO Secretariat will seek strong support from policy makers in each Member State to enhance public access to the legal status data of patents and will continue to provide technical assistance to countries where resources and capacities are too limited to create on-line patent registers in accordance with WIPO Standards.
23. The WIPO Secretariat will also create a prototype of a global portal on the WIPO website which will contain links to URLs of the existing national patent registries and will continue to enhance PATENTSCOPE in terms of its content and functions to facilitate patent information search regarding inventions in the public domain.