



C.N 3159

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The International Bureau of the World Intellectual Property Organization (WIPO) presents its compliments and has the honor to refer to the attached questionnaire, which is an essential component of the Development Agenda Project, "Intellectual Property and the Public Domain" (DA\_16\_20\_01), approved by the Member States at the fourth session of the Committee on Development and Intellectual Property from November 16 to 20, 2009. It will also be used to help guide the work referred to in the recommendation agreed by the third session of the PCT Working Group, numbered 207 as quoted in the report of the meeting (paragraph 129 of document PCT/WG/3/14 Rev.).

The questionnaire seeks to investigate the availability of data related to the legal status of patent applications and granted patents. Availability and reliability of such national data are essential for determining the effective scope of the public domain in each country, i.e. to know which technology is still protected and where; or whether it is already in the public domain, or will soon be. Such information is helpful for assessing the need for licenses in the context of technology transfer, for assessing business opportunities, such as exporting, or for supporting the activities of national procurement agencies, e.g. for medicines.

The information obtained through the questionnaire will be an important input for the "feasibility study" of the above Development Agenda Project. Comprehensive replies to the questionnaire are therefore essential for the conclusions and recommendations of that study.

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The analysis of the replies to this questionnaire will also allow better planning of WIPO's support to member Offices in setting up national patent registers, and in the development of tools (e.g. a global portal in PATENTSCOPE®, which would link to those patent registers), and guidelines, e.g. for freedom-to-operate searches.

You are kindly invited to complete the attached questionnaire in light of the explanations provided, and to return it to WIPO by October 31, 2010. An electronic version of the questionnaire can be found at: [http://www.wipo.int/patentscope/en/programs/legal\\_status/legal\\_status.html](http://www.wipo.int/patentscope/en/programs/legal_status/legal_status.html)  
Please send your replies to Mr. Lutz Mailänder, Head, Patent Information Section, by e-mail to [lutz.mailander@wipo.int](mailto:lutz.mailander@wipo.int) or by facsimile: +41 22 338 97 64.



September 30, 2010

Enclosure: Questionnaire

WIPO Questionnaire  
on Availability of Patent Legal Status Data

./ Before answering the following questions, please familiarize yourself with the definitions of the terms “legal status data”, “patent register”, “patent gazette or bulletin” as explained in the attached Annex.

If you have any questions or need any additional information for completing the questionnaire, please contact Mr. Lutz Mailänder, Head, Patent Information Section by email: [lutz.mailander@wipo.int](mailto:lutz.mailander@wipo.int) or by facsimile: +41 22 338 97 64.

The following questions 1 to 16 only apply to national patent registers.  
Gazettes or bulletins are covered by questions 17 to 20.

Register – General

1. Does your national patent legislation explicitly provide for a national patent register?  
 Yes       No
  
2. Is a national patent register already operational?  
 Yes       No

If your answer to question 2 is “No”, please go to question 17. However, if the planning or the status of implementation of your national register is already advanced enough to answer the questions 3 to 16, then please also answer these questions as far as possible.

3. Has a description or guideline for the national patent register (e.g. its content, conditions of use, etc.) been published?
  - 3.1 In paper                       Yes       No
  - 3.2 Electronically               Yes       No
  
  - 3.3 If your answer to question 3.1 or 3.2 is “Yes”, please indicate the publication language(s):  
.....
  
  - 3.4 If available, please indicate the web site address (URL) for downloading or accessing the publication: .....

If the publication is not available via the internet, you are kindly asked to send a copy to WIPO to Mr. Lutz Mailänder, Head, Patent Information Section (see above contact details).

Register - Access Policy

4. Is the register accessible through the internet?     Yes       No
  - 4.1 If “Yes”, please indicate the URL: .....

4.2 If your answer to question 4 is “Yes”, please indicate whether the register is updated at periodical or non periodical time intervals:

- Daily updates  Yes  No
- Weekly updates  Yes  No
- Monthly updates  Yes  No
- Other periodical time intervals or recurring dates for updates: .....
- Updates at non periodical time intervals  Yes  No
- If non periodical, please indicate the average number of updates per year: .....

4.3 If your answer to question 4 is “Yes”, does the access require registration of the user?

- Yes  No

5. Is the register accessible or searchable electronically by the public other than through the internet (e.g. through terminals in the premises of the Office)?

- Yes  No

5.1 If your answer to question 5 is “Yes”, please explain how: .....

.....

.....

6. Can information on the legal status of an individual patent application or granted patent be retrieved by submitting a (e.g. written) request to your Office?

- Yes  No

6.1 If your answer to question 6 is “Yes”, please indicate to whom such a request should be addressed (e.g. the registrar or any other Official of the Office): .....

.....

Register - Fee Policy

7. Please indicate in the table below the different fee options for accessing the register:

		Current amount of fee if applicable
7.1 Totally free of charge	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A
7.2 Fee for individual queries	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7.3 Lump sum for subscription	<input type="checkbox"/> Yes <input type="checkbox"/> No	

7.4 If you have ticked more than one “Yes” in this question, please briefly explain the mix of fee options (i.e. when or where they are applicable; e.g. different types of inquiries): .....

.....

.....

Register - Publicly Available Content

8. Does the publicly available content of the register include legal status data related to:

- 8.1 Granted patents  Yes  No
- 8.2 Published applications  Yes  No
- 8.3 Applications before publication  Yes  No

If your answer to 8.2 is “No”, please also answer the following question.

- 8.4 Are patent applications published prior to grant?  Yes  No
9. Can data (e.g. dates) for the following legal events be recorded in the patent register and retrieved by the public if available for a particular patent application or granted patent?
- 9.1 Request for examination  Yes  No
  - 9.2 Entry into national phase of PCT applications\*  Yes  No
  - 9.3 Non-entry into national phase of PCT applications\*  Yes  No
  - 9.4 Withdrawal of application  Yes  No
  - 9.5 Rejection of application  Yes  No
  - 9.6 Appeal to rejection  Yes  No
  - 9.7 Grant of patent  Yes  No
  - 9.8 Opposition to grant  Yes  No
  - 9.9 Request for invalidation/revocation/nullification  Yes  No
  - 9.10 Granted patent has been invalidated/revoked/nullified  Yes  No
  - 9.11 Granted patent has expired, i.e. no further extension possible  Yes  No
  - 9.12 Granted patent has lapsed, i.e. renewal fee not paid  Yes  No
  - 9.13 Payment of fees (e.g. renewal)  Yes  No
  - 9.14 Any events related to examination other than final decisions, e.g. a search report or examination report has been issued  Yes  No
  - 9.15 Change of ownership  Yes  No
  - 9.16 Data related to licenses  Yes  No
  - 9.17 If your answer to question 9.16 is “Yes”, please briefly explain the data (e.g. data related to compulsory licenses, license of right, etc.): .....
  - .....
  - .....

Register - Sharing of Data with other Intellectual Property Offices or Database Providers

10. From a purely legal (and not technical) perspective, would your Office be able to share legal status information (including those of PCT national phase entries where applicable), for the purpose of including it in databases and making it available to users of patent information with:
- 10.1 WIPO  Yes  No
  - 10.2 Other interested IPOs  Yes  No
  - 10.3 Commercial patent information providers  Yes  No
11. If your answer to question 10.1 is “No”, please indicate the legal issues that currently prevent such sharing, and/or conditions that would allow such sharing with WIPO: .....
- .....
12. Does your Office already share legal status data on a regular basis with:
- 12.1 WIPO  Yes  No
  - 12.2 Other IPOs, e.g. EPO’s INPADOC database  Yes  No
  - 12.3 Commercial patent information providers  Yes  No
13. If your answer to question 11.1 is “Yes”, are there any restrictions or conditions for the inclusion of such data in WIPO’s Patentscope® database?
- Yes  No

\* Only applicable to countries who are members of the PCT

13.1 If your answer to question 13 is "Yes", please indicate a contact person for further clarification of any such restrictions or conditions:

Name: .....  
Position: .....  
Telephone: .....  
Email: .....

14. If your answer to question to 10.1 is "Yes" and 12.1 is "No", from a purely technical perspective, would your Office be able to share legal status information with WIPO?

Yes  No

14.1 If your answer to question 14 is "Yes" please indicate the respective contact person:

Name: .....  
Position: .....  
Telephone: .....  
Email: .....

14.2 If your answer to question 14 is "No", please indicate the technical problems or necessary technical developments or any potential support that can be given by WIPO: .....

.....  
.....

#### Register - Error Correction

The following question applies only to electronic patent registers that are directly accessible by the public, and target only corrections of incidental errors that occurred during data capturing, i.e. errors that had to be corrected with a subsequent update of the register after their detection:

15. Are corrections of erroneous legal status data notified or indicated as such in the electronic register?

Yes  No

The following question applies only to Offices that exchange the data with other Offices:

16. Do corrections trigger a separate notification in the exchange data?

Yes  No

#### Gazettes or Bulletins

The following questions refer explicitly to patent gazettes or bulletins because they may represent alternative or complementary sources of patent legal status information, or the only sources if a patent register is not operational.

17. Does your patent legislation explicitly provide for a gazette or bulletin?

Yes  No

17.1 If "Yes", please indicate the name of the gazette or bulletin: .....

17.2 Is the patent related gazette or bulletin part of a general government gazette or bulletin, i.e. a publication that covers also official notifications other than notifications related to intellectual property rights?

Yes  No

18. Is the gazette or bulletin published electronically, e.g. in PDF format?

Yes  No

18.1 If "Yes", since when has it been published electronically? .....

18.2. Is the electronic publication accessible and/or available for download via the internet?

Yes  No

18.3 If "Yes", please indicate the URL: .....

19. Is the gazette or bulletin published on paper?

Yes  No

19.1 If "No", up to what date was the gazette or bulletin published on paper? .....

20. If your answer to question 18 or 19 is "Yes", please indicate whether the gazette or bulletin is published at periodical or non periodical time intervals:

Weekly publications  Yes  No

Monthly publications  Yes  No

Other periodical time intervals or recurring dates for publication: .....

Publication at non periodical time intervals  Yes  No

If non periodical, please indicate the average number of publications per year: .....

Further explanations:

Please add on a separate sheet any explanations that you may consider necessary with respect to each of the above questions. Please indicate for each explanation to which question it relates.

21. Are further explanations attached to this questionnaire?  Yes  No

Contact person

Please indicate below a contact person in case further clarifications are necessary.

Name: .....

Position: .....

Name of IP Office: .....

Name of Country: .....

Telephone: .....

Email: .....

Fax: .....

[Annex follows]

Annex to WIPO Questionnaire  
on Availability of Patent Legal Status Data

## Background

This questionnaire is related to the following 'feasibility study' requested by WIPO's Development Agenda Project DA\_16\_20\_01 (see paragraph 3.2 of document CDIP/4/3 Rev):

*"The Study would analyze the feasibility of WIPO supporting IP Offices that wish to establish a national database containing the legal status of national patents so that the register may enhance public access to the information necessary for identifying inventions in the public domain. The study also includes the possibility of creating a global portal in PATENTSCOPE®, which would link to those patent registers."*

For the purpose of this study, the present questionnaire intends to investigate the availability and reliability of patent legal status data from national patent registers and patent gazettes or bulletins. The results of this questionnaire, e.g. web site address (URLs) of national patent registers, their content, access options, etc. will be made available for public use and will also serve to establish guidelines for researching the legal status of members of a patent family.

The study will also be used to help guide the work referred to in the recommendation agreed by the third session of the PCT Working Group, numbered 207 as quoted in the report of the meeting (paragraph 129 of document PCT/WG/3/14 Rev.):

*"207. It is recommended that the IB work with national Offices to deliver effective patent status information covering not only PCT applications and subsequently granted patents but also normal national applications, including information concerning opposition of patents (pre and post-grant), revocation and lapse of patents, issuance of compulsory licenses, etc. This information would be integrated into a search system allowing technology which has fallen into the public domain to be identified more readily. The IB would take up a pilot project to develop an integrated system for automatic updating of the status of the application by linking it with national offices/organizations."*

## Definition of legal status data

Legal status data is one out of three types of data related to an individual patent application, apart from the bibliographic data and the technical disclosure. Legal status data usually refer to actions or events defined by the patent law or patent regulations that define the status of a pending patent application or of a granted patent, e.g.:

- whether examination has been requested,
- whether an application is deemed to be withdrawn,
- whether a patent has been granted,
- whether an opposition has been filed,
- whether a particular renewal or maintenance fee has been paid,
- whether a patent has lapsed, etc.

The term legal status data refers, in this questionnaire, to the legal status of any national patent applications, i.e. of nationals or foreigners, claiming or not claiming any priorities, and any national phase entries according to the Patent Cooperation Treaty (PCT).

For the purpose of this questionnaire, it is irrelevant whether the legal status of a patent may change, e.g. that a particular status may be restored or depend on the passing of certain deadlines.



Definition of sources of legal status data: Gazettes/Bulletins and National Registers

Traditionally, three different ways of officially publishing information related to national patent applications and granted patents can be distinguished:

Patent Gazettes or Bulletins, which are published as separate issues on specific dates for the purpose of informing the public about patent applications that have been filed or/and patents that have been granted (see, e.g. WIPO Standard ST.18). Once published the content of a particular issue of the gazette or bulletin is not updated.

Patent Registers for the purpose of informing the public about the current legal or administrative status of a pending application or granted patent, i.e. legal events or actions.

Document Publication of full patent applications (e.g. 18 months after filing date) or full granted patents.

The main sources of legal status data are patent gazettes/bulletins and patent registers. In modern IT environments, these three different sources of patent information have often been merged into a single electronic publication platform.

However, for the purpose of this questionnaire, “patent register” has a very broad meaning irrespective of its specific implementation. It is meant to be any electronic or non-electronic facility or service that allows the public to retrieve either directly (e.g. via the internet) or indirectly (e.g. via written request or a physical visit to the premises of the IPO) up-to-date information on the legal status related to published national patent applications or patents.

As such, any facility that is used and accessible by officials of an IP Office only for internal purposes such as recording patent data, monitoring actions and events, etc., is not considered as a “patent register”. Such facilities could be as simple as Excel spreadsheets that are regularly updated, or manually maintained paper records for internal use only.

However, for the purpose of this questionnaire, such an internal facility of an IP Office would be considered a patent register if the general public, and not just the applicant, could obtain up-to-date legal status information on a specific national patent application or a granted patent by contacting the Office and requesting such information. The Office would then provide this information based on the internal facility.

The patent register is considered **operational** if, at the time of answering this Questionnaire, such requests regarding the legal status of national patent applications and/or granted patents can be submitted and processed.

[End of Questionnaire and of Annex]