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Questionnaire Regarding the Implementation of the Patent Law Treaty (PLT)

January 2015

This questionnaire is intended to gather information on how the PLT is implemented at the national/regional level, and to share such information with current and future PLT Contracting Parties, as well as with patent practitioners and the public.

The national and regional patent offices of the PLT Contracting States are invited to complete this questionnaire.

The completed questionnaire should be returned by any of the following means:

- e-mail : plt.forum@wipo.int
- facsimile : +41-22-338-8830
- mail : WIPO, 34, chemin des Colombettes, 1211 Geneva, Switzerland

Please provide contact details:

Country/Name of Office: Canadian Intellectual Property Office

Name: Rachel Mainville-Dale

Title: Manager, Patent Policy.....

Telephone: 819-635-6891

E-mail: rachel.mainville-dale@canada.ca

Q1 Filing date

Q1-1 For the purpose of obtaining a filing date, an applicant may file an application on paper or "as otherwise permitted by the Office". If your Office accepts applications filed in a form or by a means other than on paper, for the purpose of the filing date (for example, on-line filing), please provide a brief explanation regarding the acceptable form or means, and describe whether such form or means, for the purpose of the filing date, are different from the form or means applicable to applications accepted by your Office for the purpose of processing the application after according the filing date.
[Reference: PLT Article 5(1)(a)]

A1-1 An application for a patent can be filed online through the CIPO website, by fax, or by submitting electronic media. Acceptable electronic media are 3.5 inch diskette, CD-ROM, CD-R, DVD, and DVD-R. Documents, other than sequence listings, submitted online or on electronic media are accepted in TIFF and PDF format, or in a format viewable using "Stellent Quick View Plus 8.0.0", provided that it is replaced by a document in TIFF or PDF format. Sequence listings can initially be provided in TIFF, PDF or ASCII format but if not in ASCII, they must be replaced with an ASCII document. These forms and means are equally acceptable for filing an application as well as for processing the application after according a filing date.

Q1-2 Does your Office accept a drawing as the element referred to as "a part which on the face of it appears to be a description" in PLT Article 5(1)(a)(iii)?
[Reference: PLT Article 5(1)(b)]

A1-2

Yes

No

Q1-3 For the purpose of according the filing date, a Contracting Party shall require information allowing the identity of the applicant to be established or information allowing the applicant to be contacted by the Office, or the both. What is the requirement of your country?
 [Reference: *PLT Article 5(1)(c)*]

- A1-3 Information allowing the identity of the applicant to be established
 Information allowing the applicant to be contacted by the Office
 Both information allowing the identity of the applicant to be established and information allowing the applicant to be contacted by the Office

Q1-4 Does your Office accept evidence allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Office as the element referred to in PLT Article 5(1)(a)(ii) ("indications allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Office")?
 [Reference: *PLT Article 5(1)(c)*]

- A1-4 Yes No

Q1-5 For the filing date to be determined under PLT Article 5(6)(b), which of the optional elements referred to in PLT Rule 2(4) are required by your Office?
 [Reference: *PLT Rule 2(4)*]

- A1-5 A copy of the earlier application
 A copy of the earlier application and its filing date, certified as correct
 A translation of the earlier application
 The missing part of the description or missing drawing must be completely contained in the earlier application
 The application must contain an indication that the contents of the earlier application were incorporated by reference
 An indication as to where the missing part of the description or the missing drawing is contained in the earlier application or in the translation

Q1-6 For a reference to a previously filed application to replace the description and any drawing for the purpose of the filing date under PLT Article 5(7), which of the requirements referred to in PLT Rule 2(5) are required by your Office?
 [Reference: *PLT Rule 2(5)*]

- A1-6 The reference to a previously filed application must indicate the filing date of the previously filed application
 A copy of the previously filed application
 A copy of the previously filed application, certified as correct
 A translation of the previously filed application
 The reference mentioned in PLT Article 5(7)(a) shall be to a previously filed application that has been filed by the applicant or his predecessor or successor in title

Q2 Representation

Q2-1 In addition to the procedures referred to in PLT Article 7(2)(a) and (b), are there any procedures before the Office that an applicant, owner or other interested person may carry out himself without, for example, a local representative? If yes, please list those procedures.
 [Reference: PLT Article 7(2)]

A2-1 If an applicant is the inventor and no transfer of the application has been recorded, the applicant (or the common representative, if there are joint applicants) may carry out any procedure himself or herself without a local representative. In any other case, an applicant (or the common representative) may carry out himself or herself any of the following procedures without a local representative: filing an application and paying the application fee, paying maintenance fees, requesting national phase entry, signing a small entity declaration, reinstating an application that is deemed abandoned for failure to pay a maintenance fee, requesting a recordal of a transfer, requesting a change in name, submitting reference to a previously filed application, submitting an addition to the specification and drawings, and participating in an interview with the Office staff. An owner or other interested person may carry out himself or herself any procedure without a local representative.

Q2-2 Where a single power of attorney relating to more than one application or patent of the same person is filed, does your Office require that a separate copy of the single power of attorney be filed for each application and patent?
 [Reference: PLT Rule 7(2)(b)]

A2-2 Yes No

Q3 Forms and Means of Communications

Q3-1 Does your Office permit the filing of communications by telegraph, teleprinter, telefacsimile or other similar means of transmittal? If yes, does your Office require that the original of such communication, accompanied by a letter identifying the earlier transmission, be filed on paper?
 [Reference: PLT Rule 8(2)(c)]

- A3-1 The filing of communications by telegraph, teleprinter, telefacsimile etc. is not permitted
- The filing of communications by telegraph, teleprinter, telefacsimile etc. is permitted, and the original of the communications by telegraph, teleprinter, telefacsimile etc. is required
- The filing of communications by telegraph, teleprinter, telefacsimile etc. is permitted, and the original of the communications by telegraph, teleprinter, telefacsimile etc. is not required.
 Of this list, only the filing of communications by tele facsimile is permitted.

Q4 Relief in Respect of Time Limits

Q4-1 Which form of relief in respect of time limits does your Office provide?
 [Reference: PLT Article 11(1), (2) and (4)]

- A4-1 Extension of time limits requested prior to the expiration of the time limit
 Period of extension: discretionary, depends upon circumstances
 Amount of fee: \$200.00
 Note that PLT Article 11 has no application in Canada since there are no time limits fixed by the Office. Extensions of time are, however, available under certain circumstances to many time limits fixed by the legislation.
- Extension of time limits requested after the expiration of the time limit
 Time limit to file a request for extension:

 Time limit to comply with the unfulfilled requirement:

 Amount of fee:

- Continued processing
 Time limit to file a request for continued processing:

 Time limit to comply with the unfulfilled requirement:

 Amount of fee:

Q4-2 Which actions are excluded from the relief as described in A4-1?
[Reference: PLT Article 11(3) and Rule 12(5)]

A4-2 No extensions of time are available for the following actions: complying with a notice requiring a translation of a description or a previously filed application, paying the application fee, requesting priority, paying maintenance fees for applications, requesting the addition to a specification or drawing, requesting restoration of priority, requesting examination and paying the fee for examination, paying the final fee, providing the original application number required to file a divisional application, providing the name of the international depository authority, requesting the Commissioner to furnish a sample biological deposit to an independent expert, requesting corrections, paying maintenance fees for patents, requesting the reversal of the deemed expiry of a patent, delivering a counterstatement in abuse of rights cases, requesting reinstatement, entering national phase in Canada, and paying the additional fee in respect of late national phase entry.

Q5 Reinstatement of Rights

Q5-1 Under which circumstance does your Office reinstate the rights of the applicant or owner as referred to in PLT Article 12? In addition, please provide a brief explanation of the applicable standard.
[Reference: PLT Article 12(1)]

- A5-1 Failure to comply with the time limit occurred in spite of due care required by the circumstances having been taken
- Failure to comply with the time limit was unintentional

In general, all that is required to reinstate the rights of an applicant or owner is a request for reinstatement, compliance with the requirements in respect of which the time limit applied, and payment of a fee. However, in cases of failure to pay maintenance fees or failure to request examination (when reinstatement is requested after 6 months from the due date to request examination), the Commissioner must determine that the failure occurred in spite of the due care required by the circumstances having been taken in order for reinstatement to occur.

Q5-2 What is the time limit for making a request for reinstatement of rights?
[Reference: PLT Rule 13(2)]

A5-2 For applications, 12 months after the day on which the application is deemed abandoned. For failure to pay a maintenance fee for a patent, 12 months after 6 months after the due date.....

Q5-3 Does your Office require a fee to be paid? If yes, please indicate the amount.
[Reference: PLT Article 12(3)]

- A5-3 Yes Amount: \$200.00..... No

Q5-4 Which actions are excluded from the reinstatement of rights?
[Reference: PLT Article 12(2) and Rule 13(3)]

A5-4 Requests for reinstatement under PLT Article 12(1) and time limits referred to in PLT Articles 13(1), (2) or (3).

Q6 Restoration of Priority Rights Where the Filing of the Subsequent Application was Delayed

Q6-1 Under which circumstance does your Office restore the right of priority where the subsequent application was not filed within the priority period?
[Reference: PLT Article 13(2)]

- A6-1 Failure to file the subsequent application within the priority period occurred in spite of due care required by the circumstances having been taken
- Failure to file the subsequent application within the priority period was unintentional

Q6-2 In order to restore the right of priority, what is the time limit within which the subsequent application shall be filed?
[Reference: PLT Rule 14(4)]

A6-2 Two months from the filing date on which the priority period expired.

Q6-3 Does your Office require a fee to be paid? If yes, please indicate the amount.
[Reference: PLT Article 13(4)]

A6-3 No.....

Q7 Restoration of Priority Rights Where the Filing of a Copy of the Earlier Application was Delayed

Q7-1 In order to restore the right of priority where a copy of the earlier application was not filed within the time limit, does your Office require a declaration or other evidence in support of the request for restoration of priority rights?
[Reference: PLT Article 13(3) and Rule 14(6)(b)]

- A7-1 Yes No

Q7-2 Where the filing date of a copy of the earlier application was delayed (for example, a copy of the earlier application has not been filed within 16 months from the priority date), in order to enjoy restoration of priority right, what is the time limit within which such delayed copy of the earlier application shall be filed?
[Reference: PLT Rule 14(6)(b)]

A7-2 Three months from the date on which the person who made the request is provided with that copy by the Office with which the earlier application was filed.....

Q7-3 Does your Office require a fee to be paid? If yes, please indicate the amount.
[Reference: PLT Article 13(4)]

A7-3 No.....

Q8 Request for Recordation of Change in Name or Address

Q8-1 Where a single request for recordation of change in name or address relating to more than one application or patent of the same person is filed, does your Office require that a separate copy of the single request be filed for each application and/or patent?
[Reference: PLT Rule 15(3)(b)]

- A8-1 Yes No

Q9 Request for Recordation of Change in Applicant or Owner

Q9-1 Does your Office require the following elements to be contained in the request for recordation of change in applicant or owner?
 [Reference: PLT Rule 16(1)(b)]

- A9-1 A statement that the information contained in the request is true and correct
 Information relating to any government interest

Q9-2 Which documentation relating to the basis of the change is required by your Office under the following circumstances?
 [Reference: PLT Rule 16(2)(a) to (c)]

A9-2

For all circumstances, no documentation is required if the request for recordation is made by the applicant or owner. If the request for recordation is made by the transferee, evidence of the transfer is required but there are no specific requirements about the nature of the evidence.

The change results from a contract:

The change results from a merger or from the reorganization or division of a legal entity:.....

The change results from any other ground (ex. by operation of law or a court decision:

Q9-3 Where the change in applicant or owner is in the person of one or more but not all of several co-applicants or co-owners, does your Office require that evidence of the consent of the other co-applicants or co-owner to the change be provided to the Office?
 [Reference: Rule 16(2)(d)]

- A9-3 Yes No

Q9-4 Where a single request for recordation of change in applicant or owner relating to more than one application or patent of the same person is filed, does your Office require that a separate copy of the single request be filed for each application and/or patent?
 [Reference: PLT Rule 16(5)]

- A9-4 Yes No

Q10 Request for Recordation of a License or a Security Interest

Q10-1 May a license or a security interest in respect of a patent application or a patent be recorded under the law of your country?
 [Reference: PLT Rule 17(1)]

- A10-1 Recordation of a license Yes No
 Recordation of a security interest Yes No

Note: There is no provision for the recordation of a license or a security interest but one can register any document relating to a patent or an application including a document relating to a license or a security interest.

If one or both of the answers is(are) "Yes", please proceed to **Q10-2**. If both answers are "No", please skip to **Q11**.

Q10-2 Does your Office require the following elements to be contained in the request for recordation of a licence (or a security interest)?

[Reference: PLT Rule 17(1)(b)]

- A10-2 A statement that the information contained in the request is true and correct
- Information relating to any government interest by your country
- Information relating to the registration of the license (security interest)
- The date of the license (security interest) and its duration

Q10-3 Which documentation relating to the basis of the license (or security interest) is required by your Office under the following circumstances?

[Reference: PLT Rule 17(2)]

A10-3

The license (security interest) is a freely concluded agreement:

The license (security interest) is not a freely concluded agreement (ex. operation of law or a court decision):

Q10-4 Where the licence (or security interest) is a freely concluded agreement, does your Office require that any applicant, owner, exclusive licensee, co-applicant, co-owner or co-exclusive licensee who is not party to that agreement give his/her consent to the recordation of the agreement?

[Reference: Rule 17(2)(b)]

A10-4

Q10-5 Where a single request for recordation of a license (or security interest) relating to more than one application or patent of the same person is filed, does your Office require that a separate copy of the single request be filed for each application and/or patent?

[Reference: PLT Rule 17(5)]

A10-5 Yes No

Q11 Request for Correction of a Mistake

Q11-1 Does your Office prescribe the following requirements with respect to a request for correction of a mistake?

[Reference: PLT Rule 18(1)(b) to (d)]

- A11-1 The request shall be accompanied by a replacement part or a part incorporating the correction
Note: This applies in some cases
- The request shall be subject to a declaration by the requesting party stating that the mistake was made in good faith
Note: This is only required for corrections relating to the identity of the applicant
- The request shall be subject to a declaration by the requesting party stating that such request was made without undue delay following the discovery of the mistake
- The request shall be subject to a declaration by the requesting party stating that such request was made without intentional delay following the discovery of the mistake

Q11-2 Where a single request for the correction of a mistake relating to more than one application or patent of the same person is filed, does your Office require that a separate copy of the single request be filed for each application and/or patent?

[Reference: PLT Rule 18(3)]

A11-2 Yes No

[End of questionnaire]