

Questionnaire on the Term “Quality of Patents” and Cooperation between Patent Offices in Search and Examination

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The answers to this questionnaire have been provided on behalf of:

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Q1. How does your office understand the term “quality of patents”?

Our office understands the term “quality of patents” to mean the protection granted to those inventions that actually meet the requirements of patentability, i.e., novelty, inventive level and industrial application.

This means that firstly, the patent application filed must be examined based on the following criteria, listed in order of priority:

- (i) ensure that the patent application does not claim traditional knowledge as protectable subject matter;
- (ii) ensure that the patent application does not claim patentability exclusions that are not considered inventions;
- (iii) ensure that the patent application does not claim inventions that are considered non-patentable; and
- (iv) ensure that the patent application does not claim products or processes that are already patented.

A patent application involving any one of the aspects listed in points (i), (ii), (iii) and (iv) above, this will entail the immediate rejection of the patentability of the claimed invention.

If the scope of the application passes the above-mentioned tests, a thorough examination of patentability will be conducted. This entails an exhaustive search of the state of the art, both in patent and non-patent literature. Undoubtedly, the key element in granting patents is the quality of the prior art report.

The office’s technical analysis seeks to ensure the proper use of the patent system, avoiding the proliferation of patents that protect minor, and in some cases obvious, variants of existing drugs or processes (e.g., changes in the formulation of drugs, salts, esters, ethers, isomers, polymorphs of existing molecules and combinations of a known drug with other known drugs).

The grant of high-quality patents means rejecting inventions with low patentability standards; avoiding double patenting; maintaining stimulus for genuine innovation; avoiding superfluous patents and thereby incentivizing competition by obviating the negative effects of granting patents for developments that lack inventiveness.

Q2. What experiences does your office have with respect to cooperation with other patent offices in the area of search and examination?

Cooperation may include, for example, access to the documents or databases of other offices; re-use of search and examination results obtained by other offices; use of expertise and resources available in other offices; entering into collaborative agreements for search and examination; outsourcing search and examination tasks, etc.

Ecuador has signed several cooperation agreements. Currently, the best modes of implementation and planning are being analyzed; this is why there are as yet no established processes and specific results. However, Ecuador has entered into certain cooperation commitments, as reflected by the following agreements:

- (A) cooperation agreements between SENESCYT, the IEPI and SIPO (China) where the intellectual property office has agreed to share methodologies, procedures and experience in patent examination and to exchange non-confidential documentation on intellectual property and patent data, as mutually agreed by the parties;
- (B) PPH PROSUR, whereby Ecuador has agreed with the intellectual property offices of Argentina, Chile, Brazil, Paraguay, Uruguay, Colombia and Peru to share inter-office patentability examinations whenever applications match and to make search and examination results available;
- (C) IBEPI: an international program within the framework of Ibero-American cooperation, with the objective of promoting the strategic use of industrial property as a tool for the development and integration of Ibero-American societies; and
- (D) PROSUR: a regional solution concerning trademarks, patents, utility models and industrial designs which, through the exchange of data and information systems, will increase the efficiency and quality of search, examination and decision-making processes adopted by various South American industrial property offices.

Q3. When performing online prior art search, patent examiners prepare a set of search queries to find relevant prior art. Does your office share (for example, via an official website), or exchange, such search queries with other offices?

Yes, we establish search strategies which include the following:

1. Thematic or subject-matter search, which consists in combining keywords and CIP codes, using filters and logical (Boolean) operators.

To define keywords, it is necessary to identify the synonyms, acronyms, abbreviations and sentences that are related to the topic to be analyzed.

To identify the CIP code for a specific topic, one of the appropriate ways is to access the official WIPO website, which allows searching with a key word and delivers in response all the CIP codes associated with the word. Once some CIPs are identified, it is advisable to browse the same section and class to evaluate the context in which it is found, or to find other codes related to the subject.

Logical operators (and, or, not, near) make it possible to combine or exclude search terms.

2. Searches starting from the applicants and inventors.
3. Searches starting from the reference or identification numbers of the patent (publication no., application no., patent no.).
4. Dates (priority date, filing date of the application, date of publication, date of grant).

At the moment, our office does not share or exchange strategies and search terms with other collaborating offices.

Q4. In order to facilitate the cooperation, what kinds of platforms and tools to share information on search and examination are available in your office? Such platforms and tools include, for example, WIPO CASE, databases allowing other offices to retrieve information and external databases used to retrieve information.

(i) Platforms and tools provided by your office;

(ii) Platforms and tools used by your office

We do not share any search and examination information concerning patentability with other offices.

Q5. What are the impacts of such cooperation to your office? If your office has different types of cooperation and each type of cooperation has different impacts, please indicate them separately.

As stated in previous questions, our office maintains cooperation agreements that allow for sharing patent information. However, we do not have any kind of participation with other offices for the time being.

Q6. What kinds of capacity-building and trainings are required for cooperation between patent offices in search and examination? Please indicate any specific capacity-building needs to conduct such cooperation successfully.

In this context, capacity-building is understood to mean the various activities and training courses that enable employees in offices to increase their knowledge and develop their skills to ensure effective inter-office cooperation in search and examination.

1. Establish international cooperation initiatives incorporating training programs and the exchange of examiners with participating offices.
2. It is considered that proper cooperation should utilize permanent channels of communication that are easy to access and very open, so that examiners in different countries can rely on these and resolve search and examination queries expeditiously.
3. In the view of Ecuador, there is an evident need to establish specific contacts with other offices for direct communication.

Such initiatives would encourage the inter-office participation of examiners; assist examiners in making better-informed decisions by providing additional information on the state of the art and the analytical findings of other examiners; generate the exchange of IP information; reduce processing delays by avoiding replication of efforts in prior art searches; and have other benefits.

[End of Questionnaire]