

Replies from the European patent office to WIPO Questionnaire on the term “Quality of Patents” and Cooperation between patent offices in Search and Examination

As requested in C.8625 dated 16 January 2017, please find enclosed the EPO’s replies to the Questionnaire on the term “Quality of Patents” and Cooperation between Offices in Search and Examination.

Q1:

In the EPO the term “quality of patents” has a broad meaning. Most importantly, a high quality patent must meet the prescribed legal provisions (e.g. EPC, PCT) including any relevant/binding case law.

Moreover, the EPO believes that the patent grant process itself should offer the highest possible level of legal certainty. In the EPO’s view, this means that the prior art search, with accompanying written opinion, should be issued as soon as possible to the applicant and identify the most relevant documents pertinent to the case along with any reasoning and objections regarding the patentability of the claimed subject matter. Subsequent office actions should be issued in a timely manner and they should be comprehensive.

The public needs information such that also the search and opinion are available to public at publication.

To achieve these objectives, the EPO provides extensive training of its highly qualified examiners to ensure that search and examination is conducted in an efficient and consistent manner with predictable outcomes. Training in advanced search tools ensures that prior art is efficiently accessed from high quality databases using state-of-the-art tools resulting in consistent citing of the most relevant documents.

By taking the above steps, the EPO fulfils its role within the European patent system of meeting the needs of patent applicants and serving the broader public interest.

Q2:

The EPO has extensive cooperation with the national patent offices of the EPC member states. In particular:

- The EPO organises every year several classroom trainings on search and examination issues, e.g. clarity, unity, inventive step, for the staff of IP offices and other public bodies, as well as the PATLIB centres (see [EPO website](#));
- The EPO shares its examiner search tools and public databases with the National patent offices of the EPC member states;

- The EPO carries out searches for the following National patent offices: France, The Netherlands, Turkey, Belgium, Luxembourg, Greece, Cyprus, Italy, Malta, Lithuania and San Marino. Furthermore, international type searches under Art. 15(5) PCT are carried out on request of the applicant for Switzerland, Denmark, Finland, Norway, The Netherlands and Belgium.

The EPO's professional patent search tool (EPOQUE), which provides access to the EPO's search and documentation databases, is also shared with two regional organisations as well as with the National patent offices of fourteen non-member states: EAPO (Eurasian patent office), Russia, SIPO (State Intellectual Property Office), Ukraine, Norway, OAPI (Organisation Africaine de la Propriété Intellectuelle), Egypt, Morocco, Saudi Arabia, Tunisia, Brazil, Canada, Colombia, Mexico, Malaysia, Singapore, Australia. The sharing agreement includes also classroom training for the use of the patent search tool.

Under Section III(2) of the Protocol on Centralisation, the EPO and the other European ISAs are establishing agreements for the purpose of harmonising search activities in Europe under the PCT. Under these agreements, the EPO transmits to participating European ISAs, for the purpose of harmonisation, a number of international applications to be searched annually (so-called "harmonisation files"); the EPO remains however responsible for carrying out the international search.

Moreover the EPO is involved in the third pilot phase of the IP5 Collaborative Search & Examination pilot project. The aim is to allow examiners from different regions and with different language capabilities to work together to establish one high quality international search report and written opinion, benefitting from input from examiners from all participating offices. More information about the pilot is available in Document [PCT/WG/9/20](#) (Collaborative Search and Examination Third Pilot, PCT Working Group, 17-20 May 2016)

The EPO has also established Patent Prosecution Highway (PPH) Agreements with 11 national patent offices. EPO work products can be used by the other IP5, as well as the patent offices of Australia, Canada, Columbia, Mexico, Singapore, Israel, and Russia for the fast-track of patent applications (two additional PPH agreements with Malaysia and the Philippines will enter into force in 2017).

Q3:

The EPO has always included the areas of technology searched in the European (supplementary) search reports in the form of a list of IPC symbols up to the sub-class level.

Furthermore, starting from 01.11.2015, the EPO, as a pilot project, is supplementing all search reports established in the EPO with an annex "Information on Search Strategy". This annex presents the databases searched, classification symbols used

and the keywords reflecting the subject of the search in a manner which is rapidly understood by a person not skilled in the art of patent searching.

All search reports established in the EPO are publically available through the European Patent Register.

Q4:

(i)

The EPO shares its search results with other Offices through several media:

- Raw data (DOCDB) that can be acquired by other Offices and integrated in their search and examination applications.
- Web Services: EPO Open Patent Services (OPS)
- Espacenet: public patent search system that provides access to search results.
- The European Patent Register: public access tool to EPO's file data.
- Common Citation Document (CCD): an interface delivering the citation data held by the EPO.
- EPOQUE Net: the EPO search tool delivered to over 40 Offices that gives access to various types of data, including citations.
- One Portal Dossier: Web Service covering citation information used by mainly IP5 Offices and also delivered to the public under Global Dossier.
- WIPO CASE: the EPO is a providing Office.

Some of those tools are more dedicated to an Office usage (OPD and EPOQUE Net) while others are open to the public and consequently can also be used by patent offices.

EPO's Examination information is shared via:

- One Portal Dossier: Web Service covering file wrapper data used by mainly IP5 Offices and also delivered to the public under Global Dossier.
- The European Patent Register: public access tool to EPO's file data.
- WIPO CASE: the EPO is a providing Office.

(ii)

The EPO accesses search information from other Offices via:

- EPOQUE: EPO's internal search system providing comprehensive access to citation data from around 30 patent authorities via the master patent database DOCDB.

- One Portal Dossier: EPO accesses citation Web Services of IP5 Offices and WIPO CASE providing Offices under an interface giving access to this data.
- Citation data are also integrated in various tools and applications used by examiners to author search reports and communications.

The EPO accesses examination information from other Offices via:

- One Portal Dossier: EPO accesses examination information from IP5 Web Services and WIPO CASE providing Offices under a dedicated interface giving access to this data.
- In some cases examiners also access such data under the public file wrapper interfaces of Offices not delivering their data via OPD or WIPO CASE.

Q5:

Harmonisation in the field of patent classification is a pillar of the cooperation between offices in search and examination. Currently 25 patent offices worldwide have decided to classify in the Cooperative Patent Classification system established by the EPO and the USPTO in January 2013 (in addition to the EPO and the USPTO, 16 EPO member states and 7 non-member states: SIPO, KIPO, Rospatent, INPI, Brazil, IMPI Mexico, ILPO and EAPO). The use of a common and highly refined classification system contributes to increasing the quality of searches of patent offices. The latter also undergo dedicated training and can share the classification results. Undeniably, the CPC has increased the quality of searches, especially in Asian languages, as SIPO and KIPO are now also using this system. SIPO classified 1.1 million newly filed invention patent applications in 2016; KIPO, in addition to the classification of all newly filed patent applications in 2016 has started the reclassification of the entire backfile.

Another initiative that has contributed to increased quality of searches at the EPO is the One Portal Dossier (OPD) which provides EPO examiners with access to search and examination results from the IP5 and to the WIPO CASE providing offices. A link between the OPD and WIPO CASE was established in June 2016 for examiners' access to file wrappers and since November 2016 public access was guaranteed via the Global Dossier.

The Common Citation Document (CCD) initiative has contributed to more comprehensive searches by providing EPO examiners with access to citation results from multiple offices, in a common format and in a single location. The CCD was launched by the Trilateral Offices in 2011 and now counts on the IP5 full participation. Currently over 28 million publications with over 223 million patent citations and almost 34 million non-patent citations are stored in the CCD. Enriched

citation data including information on categories, passages and relevant claims are now also included.

Q6:

Depending on the structure of a patent office, training needs may vary. In smaller offices where applications are coming mainly from abroad, training on re-use of work products by other offices may be the most suitable type of capacity building. Here several examples can be mentioned within the WIPO framework, such as for instance the WIPO CASE Work Sharing seminars where the EPO have sent experts to inform on retrieval and re-use of work results.

Other patent offices having a larger domestic filing activity may wish to prioritise training in search and examination using state-of-the-art tools. Exchange platforms are regularly organised between EPO examiners and EPC national patent offices in certain technical fields. Additionally offices using EPOQUE receive as part of the sharing agreement classroom training for the use of the patent search tool.