

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

Q1. Various aspects may be relevant to the concept of “quality of patents”. It may relate to, for example, quality of patent procedures and management in the office, quality of search and examination, quality of granted patents or quality of a patent system. In addition, the expression “quality of patents” may be understood differently depending on the perspectives of various stakeholders, for example, the perspectives of a patent office, an applicant etc.

The quality of patent nowadays is understood in Rospatent as the quality of process of granting of state service regarding state registration of object of patent right (an invention, a utility model, an industrial design) and granting of patent, its duplicate copy. Thus the quality is ensured by complete compliance to administrative procedures established by the legislation, including terms of their realization. Thereby, the quality of making of information search and examination is one of the aspects which is included in concept “quality of patent”.

The quality of granting of the state service is estimated according to the amount of reasonable complaints of applicants with regard to granting of state service; according to the duration of terms of application examination; according to the amount of satisfied objections on decisions of Rospatent made on the patent applications; according to the decisions of Rospatent disaffirmed by the Court on intellectual property.

The other aspect of definition of the concept “quality of patent” is the quality of patent as the quality of the document which satisfies the exclusive right of the right holder on the patent right object. It characterizes the reliability of patent with regard to its disputing by third parties.

Q2. What types of cooperation with other patent offices does your office have with respect to search and examination?

1. Rospatent cooperates with the Commonwealth countries of the independent states (further – the CIS), with search and examination experience exchanging. Rospatent releases a collaborative disk with the CIS patent documents database. This disk is shared by the CIS, Eurasian and European patent Offices (EAPO & EPO) for adding their internal search engines.

Russian-language versions of the International classifications created in Rospatent (international patent classification (IPC), International classification for Industrial Designs (ICID)) are available both to the CIS, and the Eurasian patent Office (EAPO).

2. Rospatent performs an active cooperation with 22 largest foreign patent authorities according to the Patent Prosecution Highway program - PPH. Such cooperation includes outcome of mutual patent search and examination by the authorities participating in PPH.

The active cooperation is supported between Rospatent and EPO. Within this cooperation, legal and regulatory approaches of authorities approximate in the field of search and examination. FIPS examiners continue being acquainted with EPO practice both in the field of search and examination, and in the field of classification. As a result of joint efforts of both departments since 2016, examiners from Rospatent have begun to classify the current flow of applications for inventions and utility models under the CPC Scheme.

In the information retrieval system of Rospatent uploaded the EPO data on patents from more than 90 countries (docDB). Access to the analytical system PatStat for its use during patent researches is obtained.

3. Within the framework of international exchange of patent information Rospatent received documentation of more than 100 patent Offices and sends to these Offices its documentation.

4. In addition to the public databases of several dozens of patent Offices, Rospatent examiners in cooperation with the patent offices of Japan and Korea, provided their special patent databases - AIPN and KPION.

5. Rospatent patent examiners have access to requests materials within the PPH program, and also on the WIPO, USA, Japan, Korea and EPO websites i.e. to patent examiners working products of these authorities. The PPH program allows not only to accelerate a patent proceeding, but also to improve quality of the granted patents.

6. Rospatent was chosen by 30 countries and the regional organizations as the International search authority within PCT, although the majority of international searches are carried by the applications which have been received from the USA.

7. Rospatent carries out international type searches for the Eurasian patent office (EAPO), Turkey and the CIS states within bilateral treaties.

8. Rospatent doesn't carry out searches and examinations, joint with other authorities.

Outsourcing isn't used when Rospatent carrying out patent search by applications.

Q3. When performing prior art search, patent examiners prepare search strategies and queries (for example, indications of databases and publications, classification codes, search terms and key words used) to find relevant prior art.

Rospatent examiners have to specify in patent search reports the databases used in search and other information arrays, enter classification indexes (codes) both for the search subject and for the search range.

Carrying out information search instructions recommends to Rospatent examiners to specify the search terms and keywords used at information search. Also the claim for necessary inclusion of information search strategy in search reports in Rospatent still isn't made. Since 2017 search reports are published along with requests and patents. Besides, the third parties have an opportunity to request to make certified copier of these search by applications report which were published without search report.

At present sharing of search strategy and search request by applications between other authorities isn't performed.

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

(i) Platforms and tools provided by your office

1. Rospatent examiners use for search and examination the in-house search engine PatSearch developed in Rospatent. At present, besides Rospatent examiners, this system is provided for searches to Kazakhstan patent authority examiners. Negotiations on providing access to this system to Eurasian patent office (EAPO) examiners are carried on 4 workplaces with access to this system are public for any users. They are at the disposal of the All-Russian Patent Technical Library entering into Federal institute of intellectual property (FIPS) structure.

2. The search engine for third-party users is available on the FIPS website. Access to several databases of this search engine is free, but to the others (in particular, giving full text search opportunity) – after conclusion of service contracts.

3. Besides the search engine, the section "Open Registers" containing the fullest collection of all published requests and protection documents issued by Rospatent is also available on the FIPS website (in particular, on inventions, utility models, industrial designs). "Open registers" also contains information about production progress by applications for these objects.

(ii) Platforms and tools used by your office

The in-house search engine PatSearch contains both the array of the DWPI database which is regularly purchased by FIPS and the EPO database docdb. Besides, Rospatent examiners have an opportunity to use all public databases which are freely provided on the Internet by patent authorities (about 80 databases).

The most often used foreign databases are the Espacenet and Patentscope databases. Rospatent examiners often also use Asian databases - Chinese, Japanese and Korean.

For many years Rospatent examiners had access to the STN International database for searches in structural formulas of chemical compounds.

Access to the EPO PatStat database is got for undertaking studies.

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

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

Replies to Q5 - Q6: Cooperation with EPO is the most effective for search and examination. As a result of such cooperation most of Rospatent examiners studied EPO examiners practice in searching, examining and classifying. We consider that education provided by the practicing examiners both within the narrowly focused presentations and within examiners exchanging in the scope of PPH programs is very useful.