

## Committee on WIPO Standards (CWS)

### Fifth Session

Geneva, May 29 to June 2, 2017

### RECOMMENDATIONS FOR THE TRANSITION PROVISION FROM WIPO STANDARD ST.25 TO ST.26

*Document prepared by the Secretariat*

1. At its reconvened fourth session held in March 2016, the Committee on WIPO Standards (CWS) agreed on the modified description of Task No. 44: “prepare recommendations for the transition provisions from WIPO Standard ST.25 to ST.26; and a proposal for the revision of WIPO Standard ST.26, if needed”. Furthermore, the CWS requested the SEQL Task Force to present a proposal for transition provisions from WIPO Standard ST.25 to ST.26 for consideration and approval at its next session. (See paragraphs 82 to 84 of document CWS/4BIS/16.)
2. As a follow-up of the decision by the CWS, the SEQL Task Force carried out discussions on possible transition provisions (Standard ST.25 to ST.26), taking into account potential impact on business and information technology (IT) systems of industrial property offices (IPOs) and applicants in national, regional and international level.
3. In view of the relevance of the transition from WIPO Standard ST.25 to ST.26 to the Patent Cooperation Treaty (PCT), the Task Force requested the International Bureau to consult the PCT membership as well as CWS membership to provide input into its work to prepare a proposal for the transition between the two Standards. To follow up the above request from the Task Force, the International Bureau issued a joint Circular C. PCT 1485/C. CWS 75, dated November 18, 2016, to IPOs in their capacity as a member of the CWS and/or in their various capacities under the PCT, and to certain non-governmental and organizations representing users of the PCT System. This Circular is available on WIPO website at: <http://www.wipo.int/export/sites/www/cws/en/circulars/2016/cws-075.pdf>.

4. Twenty-nine IPOs and two user groups had responded to the Circular. The International Bureau shared the feedback received in reply to the Circular with the Task Force and an analysis of the feedback was presented by the International Bureau at the twenty-fourth session of the PCT Meeting of International Authorities (PCT/MIA) in February 2017 (see document PCT/MIA/24/14).

5. Members of the Task Force discussed the results of the Circular C. PCT 1485/ C. CWS 75 and transition matters through several WebEx meetings and on its electronic forum. As a result of the said discussions, as leader of the SEQL Task Force, the European Patent Office (EPO) submitted a proposal titled “Recommendations for the transition provisions from WIPO Standard ST.25 to ST.26” for consideration and decision on transition provisions by the CWS at its fifth session (see the Annex to this document).

6. *The CWS is invited to:*

*(a) take note of the content of present document;*

*(b) consider and decide on the scenario for transition, as referred to in paragraph 4 of the Annex to the present document;*

*(c) consider and decide on whether the transition date should be determined with reference to the international filing date of international applications or the priority date or whether the applicant should be given the choice as referred to in paragraphs 5 to 7 of the Annex to the present document;*

*(d) consider and decide on “January 2022” for the transition, as referred to in paragraph 8 of the Annex to the present document; and*

*(e) take note of the tasks to be done by the SEQL Task Force, as referred to in paragraph 9 of the Annex to the present document.*

[Annex follows]

## RECOMMENDATIONS FOR THE TRANSITION PROVISIONS FROM WIPO STANDARD ST.25 TO ST.26

*prepared by the European Patent Office (EPO)*

### BACKGROUND

1. The Committee on WIPO Standards (CWS) requested the Sequence Listing Task Force to present a proposal for transition provisions from WIPO Standard ST.25 to ST.26 for consideration and approval at its session taking place in 2017. Following the adoption of Standard ST.26 by the CWS in 2016, the Task Force carried out one round of discussions focused on transition matters (ST.25 to ST.26).

2. In view of the relevance to the Patent Cooperation Treaty (PCT) of the transition from WIPO Standard ST.25 to ST.26, the Task Force invited the International Bureau to consult the PCT membership to provide input into its work. The International Bureau consequently issued Circular C. PCT 1485/C. CWS 75. The International Bureau shared the individual responses to the Circular with the Task Force and an analysis of the feedback received in reply to the Circular was presented by the International Bureau at the PCT/MIA in February 2017. Members of the Task Force have also discussed the transition through several WebEx meetings and on its electronic forum.

### RECOMMENDATIONS FROM THE TASK FORCE

3. Following the request of the CWS and taking into account the result of the consultation carried out by the International Bureau by means of the Circular, the Sequence Listing Task Force recommends the following:

#### Transition Scenarios:

4. In line with the opinion expressed by all Offices in reply to the Circular, the Task Force believes that the “big bang” scenario is the preferable option since it appears to provide the highest legal certainty for applicants and Offices. All Offices should therefore agree on a date for the transition from ST.25 to ST.26 for the filing of sequence listings in new applications (“the transition date”).

#### International Applications filed after the Transition Date claiming Priority from an Application with a Sequence Listing Filed in ST.25:

5. The responses to the Circular expressed differing views on whether the transition date should be determined with reference to the international filing date of international applications, the priority date or whether the applicant should be given the choice.

6. Following an in-depth analysis of the advantages and disadvantages of the three options, including the feedback provided by the PCT/MIA in February (see paragraphs 65 to 67 of document PCT/MIA/24/15), the Task Force provisionally decided that the international filing date would be the most suitable, subject to further analysis to consider potential issues of added or deleted matter due to transformation of a sequence listing from ST.25, and subject to the availability of an authoring and validation tool to assist in the transformation of the sequence listing from ST.25 to ST.26 without adding or deleting matter. A document is being prepared to perform this analysis and make appropriate recommendations for use by applicants.

7. A decision on the procedure to be followed in the national/regional phase (e.g. for divisionals) should be left to national/regional Offices.

Provisional Transition Date:

8. The Task Force tentatively agreed on January 2022 as an implementation date, provided an authoring and validation software tool is able to display and print sequence listings in a human-readable format.

FUTURE WORK OF THE TASK FORCE

9. The SEQL Task Force agreed on the following tasks:

(a) The Task Force will support the International Bureau of WIPO by providing users' requirements and feedback on the Authoring tool.

(b) The Task Force will provide support to the International Bureau of WIPO for the consequential revision of the PCT Administrative Instructions.

(c) The Task Force's efforts will in future also be directed to the revision of WIPO Standard ST.26. It is suggested that future revisions to the Standard be triggered by CWS members and not follow a pre-defined schedule.

[End of Annex and of document]