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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

ASSEMBLY

Twelfth Session (8th Extraordinary)*
Geneva, September 24 to 28, 1984

AMENDMENT OF THE AGREEMENT CONCLUDED BETWEEN
THE INTERNATIONAL BUREAU AND
THE EUROPEAN PATENT ORGANIZATION

Memorandum of the International Bureau

1. The Government of the United States of America has decided to take the legislative action required for a withdrawal of its declaration under Article 64(1) of the Patent Cooperation Treaty (PCT) that the United States of America shall not be bound by the provisions of Chapter II of the PCT.

2. The United States Patent and Trademark Office informed the International Bureau that it will not be in a position before 1987 to assume the task of acting itself as International Preliminary Examining Authority, in particular because of the time-consuming preparations, both as regards further legislative action and administrative measures, required for this task. Therefore, that Office has contacted the International Bureau and the European Patent Office (EPO) indicating its intention to specify initially only the EPO as competent International Preliminary Examining Authority for international applications filed with it by residents and nationals of the United States of America.

* *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at pct.legal@wipo.int

3. The present Agreement between the International Bureau and the European Patent Organization provides in its Article 3(2)* for an undertaking of the EPO to act as an International Preliminary Examining Authority for all international applications filed with the receiving Offices of, or acting for, all Contracting States of the PCT Union provided the receiving Office specifies the EPO for that purpose.

4. The EPO has confirmed its readiness to act as International Preliminary Examining Authority also for international applications filed by nationals and residents of the United States of America with the United States Patent and Trademark Office. However, desiring to best deploy its resources within the overall system of the PCT and the European Patent Convention, the EPO proposed that Article 3(2) of the Agreement concerning the competence of the Authority be amended by providing that it undertakes to act as International Preliminary Examining Authority only for international applications with respect to which the EPO, the Austrian or the Swedish Patent Office acts or has acted as International Searching Authority.

5. Since such limitation is not covered by the present text of the Agreement, the EPO and the International Bureau agreed to amend Article 3 thereof as follows:

“Article 3

Competence of Authority

(1) [No change]

(2) Subject to paragraph (3), the Authority undertakes to act as an International Preliminary Examining Authority, provided that the receiving Office specifies the Authority for that purpose, for all international applications which are filed with the receiving Offices of, or acting for, all Contracting States and with respect to which the Authority, the Royal Patent and Registration Office of Sweden or the Austrian Patent Office acts or has acted as an International Searching Authority.

(3) [No change]”

6. Consequential to the deletion of Rule 55.2 of the Regulations under the PCT adopted by the Assembly on February 3, 1984, which concerned the translation of the international application for the purposes of international preliminary examination, the International Bureau and the European Patent Organization have agreed to delete at the same time the obsolete last sentence of the present text of Article 3(2) of the Agreement.

* Article 3(2) reads as follows:

“(2) Subject to paragraph (3), the Authority undertakes to act as an International Preliminary Examining Authority for all international applications filed with the receiving Offices of, or acting for, all Contracting States provided the receiving Office specifies the Authority for that purpose. In respect of international applications filed in the languages specified in Annex A, the Authority shall carry out examination without requiring translations of such applications”.

7. Amendments to the Agreement require under its Article 18(1) approval by the Administrative Council of the European Patent Organization and subsequent approval by the Assembly.

8. The Administrative Council of the European Patent Organization approved the amendment on June 8, 1984, at its 18th meeting, held in Munich.

9. The Assembly is invited to approve the amendment to Article 3 of the Agreement as shown in paragraph 5, above.

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