

Meeting of International Authorities under the Patent Cooperation Treaty (PCT) Working Group

Eighteenth Session
March 15 to 17, 2011, Moscow

PCT Minimum Documentation: Chinese Patent Documents

Document prepared by the International Bureau

SUMMARY

1. The Meeting is invited to make recommendations on a proposal of the State Intellectual Property Office of the People's Republic of China to add Chinese patent documents to the PCT minimum documentation.

BACKGROUND

2. In a letter from the Commissioner of the State Intellectual Property Office of the People's Republic of China dated January 31, 2011, reproduced in the Annex, the State Intellectual Property Office of the People's Republic of China proposes that the Meeting should discuss the addition of Chinese patent documents to the PCT minimum documentation. The extent of the relevant documentation is set out in the letter and will be further described in a separate background document which will be made available to the International Authorities during the Meeting.

LEGAL BASIS

3. The national patent documents which form a part of the PCT minimum documentation are defined by Rule 34.1 as follows:

“34.1 *Definition*

“(a) The definitions contained in Article 2(i) and (ii) shall not apply for the purposes of this Rule.

“(b) The documentation referred to in Article 15(4) (“minimum documentation”) shall consist of:

“(i) the “national patent documents” as specified in paragraph (c),

“(ii) the published international (PCT) applications, the published regional applications for patents and inventors’ certificates, and the published regional patents and inventors’ certificates,

“(iii) such other published items of non-patent literature as the International Searching Authorities shall agree upon and which shall be published in a list by the International Bureau when agreed upon for the first time and whenever changed.

“(c) Subject to paragraphs (d) and (e), the “national patent documents” shall be the following:

“(i) the patents issued in and after 1920 by France, the former *Reichspatentamt* of Germany, Japan, the former Soviet Union, Switzerland (in the French and German languages only), the United Kingdom, and the United States of America,

“(ii) the patents issued by the Federal Republic of Germany, the Republic of Korea and the Russian Federation,

“(iii) the patent applications, if any, published in and after 1920 in the countries referred to in items (i) and (ii),

“(iv) the inventors’ certificates issued by the former Soviet Union,

“(v) the utility certificates issued by, and the published applications for utility certificates of, France,

“(vi) such patents issued by, and such patent applications published in, any other country after 1920 as are in the English, French, German or Spanish language and in which no priority is claimed, provided that the national Office of the interested country sorts out these documents and places them at the disposal of each International Searching Authority.

“(d) Where an application is republished once (for example, an *Offenlegungsschrift* as an *Auslegeschrift*) or more than once, no International Searching Authority shall be obliged to keep all versions in its documentation; consequently, each such Authority shall be entitled not to keep more than one version. Furthermore, where an application is granted and is issued in the form of a patent or a utility certificate (France), no International Searching Authority shall be obliged to keep both the application and the patent or utility certificate (France) in its documentation; consequently, each such Authority shall be entitled to keep either the application only or the patent or utility certificate (France) only.

“(e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese, Korean, Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, the Republic of Korea, the Russian Federation and the former Soviet Union as well as those patent documents in the Spanish language, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than six months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

“(f) For the purposes of this Rule, applications which have only been laid open for public inspection are not considered published applications.”

4. For Chinese patent documents to be added to the PCT minimum documentation, a decision of the PCT Assembly would be required to amend Rule 34 so as to specifically list the relevant Chinese patent documents in Rule 34.1(c) and to add Chinese to the languages listed in Rule 34.1(e). Any such decision would need to take into account the relevant range of document dates and types which should be included and the date from which it would be practical to bring such a rule change into force.

5. *The Meeting is invited to make recommendations on the proposal by the State Intellectual Property Office of the People's Republic of China set out in the Annex to this document.*

[Annex follows]

ANNEX

LETTER FROM THE COMMISSIONER OF THE
STATE INTELLECTUAL PROPERTY OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Dr. Francis Gurry
Director General
World Intellectual Property Organization (WIPO)
34, chemin des Colombettes, Geneva, Switzerland

January 31, 2011

Dear Dr. Francis Gurry,

I have the pleasure to write to you regarding the incorporation of the Chinese patent documentation into the PCT Minimum Documentation.

We would like to put forward the proposal, at the forthcoming 18th session of the Meeting of International Authorities under the PCT in March, 2011, that the Chinese patent documentation be incorporated into the PCT Minimum Documentation. These Chinese patent documents to be incorporated are the Chinese Patent Inventions published and issued as well as Utility Models issued in and after 1985. For years, China has made unremitting efforts and necessary preparations for this incorporation. Thus, we look forward to a positive consideration of this proposal by the PCT member states.

In recent years, the number of patent applications and that of PCT applications in China have been increasing remarkably. By 31 December 2010, an accumulated total amount of patent applications in China, including inventions, utility models and industrial designs, has exceeded 7.04 million. In the field of PCT applications, China is experiencing the fastest growth in the world, ranking the 4th among all countries in terms of PCT filings in 2010.

China has developed advanced technologies not only in certain traditional fields such as traditional Chinese medicines and botanical pesticides, but also in some new technical areas, for instance, digital communication, telecommunication and high-speed trains. Over the past two years, 20% of the total of PCT applications in the field of digital communications have come from China.

Over years, we have been publishing the Chinese patent documents in different data format, and provided them to 48 foreign IP offices and relevant international organizations, including 9 PCT international search authorities and international preliminary examination authorities.

Furthermore, we have a professional team for processing patent documentation data, such as titles and abstract re-writing, the IPC re-classification and key words processing of the Chinese patent documents, the work of which ensures more efficient use of the patent documentation by users. It is also witnessed that the Chinese patent documents have been increasingly cited in the PCT search reports. Moreover, with online operation of the English Search System for Chinese Patent Documentation and the Chinese-English Machine Translation System for Chinese Patent Documentation, global users have easier and more prompt access to English abstracts and machine-translated descriptions of the Chinese patent documents.

We are sure that incorporation of the Chinese patent documentation into the PCT Minimum Documentation will enable patent examiners to search more comprehensive prior art, thereby resulting in higher efficiency and qualification of PCT searches.

Sincerely yours,

TIAN Lipu
Commissioner
The State Intellectual Property Office of the People's Republic of China

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