

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

Twenty-Second Session
Tokyo, February 4 to 6, 2015

TRAINING OF EXAMINERS

Document prepared by the International Bureau

SUMMARY

1. At its 21st session, held in Tel Aviv in February 2014, the Meeting of International Authorities (“the Meeting”) discussed (i) how technical assistance activities around examiner training might be improved, (ii) the extent to which Member States could support such technical assistance activities, and (iii) the role that the International Bureau could play to facilitate international cooperation in the area of examiner training and the sharing of tools and training materials. As recommended by the Meeting at its 21st session, the present document sets out proposals for better coordination of examiner training between national Offices, taking into account questions of effective long term planning, sharing of experience in delivering effective training and matching needs for examiner training with Offices able to supply the relevant needs.

BACKGROUND

2. In 2010, the PCT Working Group endorsed a series of recommendations to improve the functioning of the PCT system, based on a study prepared by the International Bureau (document PCT/WG/3/2) and related submissions from certain Member States (documents PCT/WG/3/5 and PCT/WG/3/13). Many of those recommendations covered issues not directly related to the processing of international applications but requiring technical assistance by the International Bureau or between Contracting States to be delivered in the broad context of the PCT.

3. One of those “PCT roadmap” recommendations endorsed by the PCT Working Group where such “collective action” was seen to be required and appropriate related to the issue of “examiner training”:

“181. Consequently, it is *recommended* that national Offices which are able to offer training in search and substantive examination should consider coordinating their activities in order to provide complementary training which can bring benefits to as wide a range of recipient Offices as possible. This might include indicating the amount and type of training which they were able to offer; allowing requests for training to be matched to the courses available; and running regional rather than national training where several Offices are found to have similar language and substantive needs. The IB should consider a similar approach in relation to training in PCT procedural processes such as the work of a receiving Office.”

4. At its 21st session, based on a document prepared by the International Bureau (document PCT/MIA/21/4), the Meeting discussed:

(a) how technical assistance activities around examiner training might be improved, including a discussion of experiences, “best practices” and “lessons learnt”;

(b) the extent to which Member States could support such technical assistance activities, both individually and collectively, either directly through Offices capable of providing examiner training (including, but not limited those which act as International Authorities) or indirectly by contributing funds to support longer-term, well designed, planned and coordinated training, education and capacity-building programs; and

(c) the role that the International Bureau could play to facilitate international cooperation in the area of examiner training and the sharing of tools and training materials.

5. The discussions concluded with the Meeting recommending that the International Bureau should prepare proposals for better coordination of examiner training between national Offices, taking into account questions of effective long term planning, sharing of experience in delivering effective training and matching needs for examiner training with Offices able to supply the relevant needs (see document PCT/MIA/21/22, paragraphs 55 to 59). The present document set out such proposals.

COORDINATION OF EXAMINER TRAINING

6. As discussed in document PCT/MIA/21/4, the International Bureau has only limited capacities, both in terms of financial as well as human resources with the appropriate expertise and skills, to be able to directly help national Offices to address all of their actual training needs, notably in the area of training of examiners in search and substantive examination. The focus of the International Bureau has thus been to work towards better coordination of such training activities with Offices of Member States which are able to offer such training, notably in search and substantive examination for examiners of Offices in developing and least developed countries, with the aim of bringing benefits to as wide a range of recipient Offices as possible.

7. It is thus suggested that, for basic training in search and examination, the International Bureau should continue to act mainly as a facilitator and coordinator, rather than as a direct “service provider”, with a focus of the International Bureau’s activities on mobilizing and coordinating donor Offices’ training resources. The International Bureau would nevertheless continue to provide Offices with training in procedural issues associated with search and examination, including the use of systems to assist the access and effective use of information relating to international search and examination reports, as well as information concerning equivalent national applications elsewhere. This should be coordinated with the timing and content of more substantive training to give the best overall effect.

8. There is no “one-size-fits-all” approach when it comes to examiner training. Particularly among developing countries, approaches to patent examination vary considerably, stretching from simple registration systems to full examination. Some Offices have competencies in particular areas of technology, resulting in a narrower focus on examination procedures. While common standards among groups of countries may lead to more regional efforts at coordination, some level of national variation in both laws and procedures will always exist and will always have to be accounted for. To address these variations with the greatest efficiency, training curricula and materials should be prepared in a way that makes them maximally adaptable to different environments.

9. It is thus suggested that training should be provided in flexible, modular formats to meet divergent needs.

10. What would appear to be needed is longer-term, well-designed, planned and coordinated training, education and capacity-building programs, enabling Offices in developing and least developed countries to improve their patent examination capacities. Ideally, this should be complemented by continuing follow-up of participants. This would enable suitable refresher training to be delivered to revise and consolidate the skills learnt during the program and for the long-term benefits of the programs to be evaluated and fed back to those responsible for the delivery and design of future programs.

11. It is thus suggested that the International Bureau should develop, jointly with partner Offices, a program concept for the provision of longer term training, to be provided by donor offices willing to commit to train examiners on a longer term basis, similar to IP-Australia’s competency based in-depth Regional Patent Examination Training (RPET) program presented during the 21st session of the Meeting.

12. It is further suggested that the International Bureau should develop, jointly with partner Offices, a plan to improve coordination of examiner training between national Offices, taking into account questions of standardized curricula, long-term planning, sharing of training experiences, and matching needs for examiner training with donor Offices. That plan might include proposals:

(a) to establish and coordinate a network of national/regional donor Offices that would develop, or integrate with the existing WIPO facility, a web platform for sharing information, experiences, best practices, tools and materials;

(b) to organize a donor conference, both to communicate the good work that has been done to date by existing donor Offices, as well as to establish understandings for long-term setting of standards and expectations regarding resource contributions;

(c) to develop model training components/curriculum and a competency model, which may be used as a guide for patent Offices of developing countries in defining their needs and in designing their own training programs;

(d) to explore other ways to streamline and strengthen cooperation with existing partner institutions, such as, for example, within the framework of WIPO’s Funds-in-Trust (FITs) programs, or within the existing framework of WIPO’s International Cooperation on the Examination of Patents (ICE) service, and with other potential “donor” Offices of Member States which are able to offer such assistance, particularly those which act as International Authorities.

13. As has been recognized by Member States when endorsing the PCT Roadmap recommendation concerning the issue of examiner training, “collective action” is required and appropriate to make progress on this matter. It is thus the intention of the International Bureau to actively approach Offices which are able to contribute, particularly those which act as International Authorities, with a view to encouraging them to partner with the International Bureau in carrying out the activities set out in paragraphs 11 and 12, above.

14. As a possible next step, the International Bureau envisages organizing a brainstorming session with those partner Offices, either in the form of a physical meeting or a video conference, to commence discussions as to the best possible way forward.

15. International Authorities are invited to comment on the proposals set out in the present document.

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