

Working Group on the Digital Access Service for Priority Documents

Third Session
Geneva, July 12 to 15, 2011

Summary by the Chair

AGENDA ITEM 1: OPENING OF THE SESSION

1. Mr. Francis Gurry, Director General of WIPO, opened the session and welcomed the participants, noting the importance of extending the service to new types of IP rights and encouraging global participation in the system. Mr. William Meredith (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 2: ELECTION OF A CHAIR AND TWO VICE-CHAIRS

2. The Working Group elected Mr. Don Levin (United States of America) as Chair for the session and Ms. Cynthia Madrigal Domínguez (Mexico) as Vice-Chair.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

3. The Working Group adopted the revised draft agenda as shown in document WIPO/DAS/PD/WG/3/1 Prov.2, noting that the record of the meeting would be a summary by the Chair, which would include all the decisions agreed, but otherwise would only outline the main issues discussed.

AGENDA ITEM 4: THE DIGITAL ACCESS SERVICE FOR PRIORITY DOCUMENTS

(a) Proposal to Extend the Service to Other Types of Documents

4. Discussions were based on document WIPO/DAS/PD/WG/3/2.
5. The Working Group agreed that the Service should be extended to other types of priority documents including trademarks, designs and utility models, noting the issues below, which would require particular consideration.
6. As at present, the extent of use of the system must be decided by each individual Office. Offices would be able to decide if and when to participate ("opt-in") for each type of IP right, depending on the types of right which they administered and the needs and priorities of the Office and any legal or technical preparations that may be necessary. The system should make participation attractive for applicants and Offices by meeting their needs easily and at low cost.
7. Noting that most Offices currently charge fees for preparing certified copies, Offices would similarly be able to charge fees for use of the service, should they wish to do so.
8. The details of exactly how the system would be extended to other types of document would require agreement on the Framework Provisions, details of system architecture and other matters.
9. A representative of users expressed support for the extension of the system not only to priority documents based on trademarks, designs and utility models, but also to other document types such as documents relating to changes of ownership, hoping that this would reduce costs and improve the use of, in particular, the Hague system.
10. The International Bureau noted that the proposal at this stage only related to priority documents for different types of application and that the possibility of establishing a similar service for other document types was a matter for future consideration by the International Bureau.

(b) Amendment of the Framework Provisions

11. Discussions were based on document WIPO/DAS/PD/WG/3/4.
12. The Working Group noted that the proposed Framework Provisions would require the currently participating Offices, which act in relation only to patent applications, to accept priority documents from the system based on utility model applications and any other types of IP right from which priority could be claimed by a patent application under the relevant national law. It was recognized that this could cause operational or system problems for these Offices and the International Bureau agreed to provide transitional measures, such as technical arrangements whereby such documents would be delivered on paper or DVD until that Office was ready to receive them directly using the system.
13. It was noted that Offices which were not actively participating in the system would be observers, rather than members if they participated in the Consultative Group, but it was considered that this was the normal arrangement within WIPO bodies and observers could participate fully in the discussions of the Consultative Group.
14. In relation to paragraph 17 of the proposed Framework Provisions, the International Bureau confirmed that a trademark document being available to the service from a participating digital library "at the request of the applicant" meant by way of a request made to the Office of First Filing to make it available through such a digital library.
15. The Working Group agreed that the Framework Provisions should be updated as proposed in document WIPO/DAS/PD/WG/3/4, taking into account the points noted above, and noting that some of the details might need to be revisited following technical discussions relating to "Route D" which would take place in the Consultative Group.

(c) Presentation of DAS Functionalities

16. The International Bureau presented a demonstration of the existing system, including the actions which needed to be taken at an Office of First Filing according to Routes A and C, the actions which the applicant needed to take using the applicant portal and the actions to be taken at an Office of Second Filing. The Office portal was also presented, as an option for smaller Offices to participate in the system without the need to automate the process of depositing and retrieving documents.

(d) Revision of the System Architecture

17. Discussions were based on document WIPO/DAS/PD/WG/3/3.
18. The Working Group agreed that the proposed system architecture met the needs of trademarks, industrial designs and utility models, subject to the following changes and points noted as particularly important:
- (i) In respect of trademarks, the system would use the same underlying technical architecture as for other IP rights, but some aspects, such as security and confidentiality, would be simplified.
 - (ii) The applicant portal in its present form may need revision if Route D is adopted. It may still have a role in providing information to the applicant about retrieval requests and success/failure status for all types of IP right.
 - (iii) There are two machine-to-machine interfaces currently available in the system, PCT-EDI and TDA, and it is proposed to maintain these two options for the new types of IP rights, including trademarks. Depending on the requirements of Offices, extensions to these mechanisms or additional interfaces may be needed.
 - (iv) The type of IP right may need to be specified in each document reference, for depositing and for accessing Offices, unless application numbers can be used to unambiguously identify the type of IP right.
 - (v) Although ST.67 is a trademark standard, it is proposed to use the industry-standard formats referenced in that standard (JPEG and TIFF) for color and grayscale images in industrial designs, as well as other IP rights. These formats should be sufficient for the immediate needs of the system and additional formats may be considered in the future.

(e) Potential for Improvements to DAS within the Existing System

19. Discussions were based on document WIPO/DAS/PD/WG/3/5.
20. The Working Group agreed that an account-based access system for applicants should be implemented by the International Bureau, including in the case of trademarks. The details of the system would be discussed in the Consultative Group, including the provision of information to applicants about retrieval requests, generation of certificates of availability, and possible inclusion of other functions such as an optional Access Control List.
21. The Working Group noted that the system may be extended to include the priority date as an additional piece of information for referencing priority documents in the system. This would further reduce the risk of incorrect priority documents being retrieved and, eventually, made available to the public through online file inspection systems. Further bibliographic data elements (applicant/inventor names, titles, etc) would not be added to the system due to confidentiality restrictions in some Offices and to the low overall utility of including such information in the system.

(f) Other Proposals for Improvement, Including “Route D” Proposals

22. Discussions were based on document WIPO/DAS/PD/WG/3/6 which was presented by the delegation of Japan.
23. The Working Group discussed the proposal in detail. During informal consultations, the legal, operational and technical aspects for the adoption of Route D were discussed in detail, including possible transition arrangements during the time when multiple routes may be operating simultaneously.
24. The Working Group supported, in principle, the introduction of Route D to replace the existing Routes A, B and C for patents, industrial designs and utility models, subject to further technical discussion within the Consultative Group and detailed analysis of the legal, operational and technical implications within each participating Office, and following a transition period.

AGENDA ITEM 5: OTHER MATTERS

25. The Working Group discussed the procedures for future work. It was agreed that the revised Framework Provisions would be circulated to all members of the Working Group for comments, and then published by the International Bureau when the necessary technical changes had been agreed.
26. The Working Group also agreed that the International Bureau would draft specific technical proposals for the extension of the DAS system to new types of IP right, for account management, access control, certificates of availability, and for the implementation of Route D. Those proposals would be discussed and eventually agreed by the Consultative Group. It was agreed to establish an electronic forum for efficient communications and consultations.

AGENDA ITEM 6: SUMMARY BY THE CHAIR

27. The Working Group noted this summary by the Chair. The list of participants will be published separately as document WIPO/DAS/PD/WG/3/INF/1.

AGENDA ITEM 7: CLOSING OF THE SESSION

28. The Chair closed the session on July 14, 2011.

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