

PCT FEE REDUCTIONS

Responses to Circular C. PCT 1515

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C. PCT 1515

August 2, 2017

Madam,
Sir,

This Circular is addressed to your Office in its capacity as a receiving Office, International Searching Authority, International Preliminary Examining Authority and/or designated/elected Office under the Patent Cooperation Treaty (PCT). It is also being sent to certain organizations that are invited to attend sessions of the PCT Working Group as observers.

The purpose of this Circular is to invite proposals for issues to be discussed in a workshop relating to PCT fee reductions for universities, to be held during the eleventh session of the PCT Working Group in 2018.

Background

At its tenth session, the PCT Working Group discussed a document prepared by the delegation of Brazil (see document PCT/WG/10/18) proposing a fee reduction for international applications filed by universities from certain countries, notably developing and least-developed countries. The discussions are summarized in paragraphs 27 to 32 of document PCT/WG/10/24, as follows:

“27. Discussions were based on document PCT/WG/10/18.

“28. The Delegation of Brazil introduced the proposal in document PCT/WG/10/18.

“29. Many delegations and regional groups supported the proposal, mentioning the positive effect of reduction of fees for universities in developing countries. Other delegations agreed that the ability of universities to participate effectively in the PCT System was important and it was recognized that this new proposal had incorporated certain concerns expressed in the previous meeting. Nevertheless, some States were not able to support the proposal at this stage for a variety of reasons.

“30. The Chair proposed that efforts be made to advance discussions on the issue before the next session of the Working Group. The International Bureau should send a Circular before the end of July offering interested parties an opportunity to propose issues to be discussed in a workshop to be held during the next session of the Working Group. Such issues might include:

- (a) issues which had been raised in this session, such as definitions of “university”, financial impact or the relationship with the existing fee reductions;
- (b) sharing of Member States’ national or regional fee reduction programs; and
- (c) other measures which might be considered as additions or alternatives to fee reductions as ways of stimulating innovation by universities in developing countries and elsewhere.

“31. The responses should be made publicly available and may serve as the basis of both the agenda of the workshop and further proposals by Member States.

“32. The Working Group invited the International Bureau to issue a Circular as set out in paragraph 30, above, and to convene a workshop, to be held during the next session of the Working Group.”

Submission of Proposals

Your Office is accordingly invited to propose issues to be discussed in the workshop to be held during the eleventh session of the Working Group in 2018. The proposals may be accompanied by background material, such as information concerning national definitions, fee reductions or other incentives and assistance which might be relevant. The proposals and background material need not be complete or formal at this stage, provided that the general scope is clear.

Replies to this Circular should be returned by September 30, 2017, preferably by e-mail to the Secretariat of the PCT Working Group (pct.wg@wipo.int). Responses received will be made publicly available and will form the basis of a draft agenda for the workshop. That draft agenda will also be made available for discussion by interested parties and any more formal documentation required will be invited to be submitted well in advance of the workshop.

Yours sincerely,



Francis Gurry
Director General

C. PCT 1515

Le 2 août 2017

Madame,
Monsieur,

La présente circulaire est adressée à votre office en sa qualité d'office récepteur, d'administration chargée de la recherche internationale, d'administration chargée de l'examen préliminaire international ou d'office désigné ou élu en vertu du Traité de coopération en matière de brevets (PCT). Elle est également envoyée à certaines organisations invitées à assister aux sessions du Groupe de travail du PCT en qualité d'observatrices.

L'objet de la présente circulaire est d'inviter les parties intéressées à présenter des propositions de questions à examiner dans le cadre d'un atelier sur les réductions de taxes du PCT pour les universités qui se tiendrait pendant la onzième session du Groupe de travail du PCT en 2018.

Informations générales

À sa dixième session, le Groupe de travail du PCT a examiné un document établi par la délégation du Brésil (voir le document PCT/WG/10/18) contenant une proposition de réduction de taxes pour les demandes internationales déposées par les universités de certains pays, notamment les pays en développement et les pays les moins avancés. Les délibérations sont résumées aux paragraphes 27 à 32 du document PCT/WG/10/24, comme suit :

“27. Les délibérations ont eu lieu sur la base du document PCT/WG/10/18.

“28. La Délégation du Brésil a présenté la proposition figurant dans le document PCT/WG/10/18.

“29. De nombreuses délégations et groupes régionaux ont appuyé la proposition, évoquant l’effet positif d’une réduction des taxes pour les universités des pays en développement. D’autres délégations ont convenu qu’il était important que les universités aient les moyens de participer efficacement au système du PCT et que cette nouvelle proposition tenait compte de certaines préoccupations exprimées lors de la précédente session. Néanmoins, certains États n’étaient pas en mesure d’appuyer la proposition à ce stade pour diverses raisons.

“30. Le président a proposé que des dispositions soient prises pour faire progresser les discussions sur cette question avant la prochaine session du groupe de travail. Le Bureau international devrait envoyer une circulaire avant la fin juillet pour donner aux parties intéressées la possibilité de proposer des questions à examiner dans le cadre d’un atelier qui se tiendrait pendant la prochaine session du groupe de travail. Ces questions pourraient inclure :

“a) les questions soulevées pendant la session en cours, telles que les définitions du terme “université”, l’incidence financière ou le lien avec les réductions de taxes existantes;

“b) le partage des programmes nationaux ou régionaux de réduction des taxes mis en œuvre par les États membres; et

“c) d’autres mesures pouvant être prises en considération en complément ou en remplacement des réductions de taxes pour stimuler l’innovation par les universités des pays en développement et ailleurs.

“31. Les réponses devraient être rendues publiques et pourraient servir de base pour l’établissement à la fois de l’ordre du jour de l’atelier et de nouvelles propositions des États membres.

“32. Le groupe de travail a invité le Bureau international à diffuser une circulaire, comme indiqué au paragraphe 30 ci-dessus, et à convoquer un atelier qui devrait se tenir pendant la prochaine session du groupe de travail.”

Présentation de propositions

Au regard de ce qui précède, votre office est invité à proposer des questions à examiner dans le cadre de l’atelier qui se tiendra pendant la onzième session du groupe de travail en 2018. Ces propositions peuvent être assorties d’informations générales, notamment en ce qui concerne les définitions nationales, les programmes de réduction de taxes ou d’autres mesures d’encouragement et d’aide qui pourraient être utiles. Il n’est pas nécessaire à ce stade que les propositions et les informations générales soient exhaustives ou en bonne et due forme, pour autant que l’objet général soit clair.

Les réponses à la présente circulaire doivent être envoyées le 30 septembre 2017 au plus tard, de préférence par courrier électronique, au secrétariat du Groupe de travail du PCT (pct.wg@wipo.int). Les réponses reçues seront rendues publiques et serviront de base pour l’établissement du projet d’ordre du jour de l’atelier. Le projet d’ordre du jour sera également mis à la disposition des parties intéressées pour examen, et ces dernières seront invitées à soumettre tout autre document officiel requis suffisamment tôt avant la tenue de l’atelier.

Veillez agréer, Madame, Monsieur, l’assurance de ma considération distinguée.

Le Directeur général :



Francis Gurry

C. PCT 1515

2 de agosto de 2017

De mi consideración:

La presente circular se remite a su Oficina en su calidad de Oficina receptora, Administración encargada de la búsqueda internacional, Administración encargada del examen preliminar internacional u Oficina designada o elegida en el marco del Tratado de Cooperación en materia de Patentes (PCT). También se envía a determinadas organizaciones invitadas a asistir a las reuniones del Grupo de Trabajo del PCT en calidad de observadores.

Por conducto de la presente circular se solicita la presentación de propuestas relativas a las cuestiones que se analizarán en un taller sobre la reducción de las tasas del PCT para las universidades, que se celebrará durante la undécima reunión del Grupo de Trabajo del PCT, en 2018.

Antecedentes

En su décima reunión, el Grupo de Trabajo del PCT analizó un documento preparado por la delegación del Brasil (véase el documento PCT/WG/10/18) en el que se proponía una reducción de las tasas para las solicitudes internacionales presentadas por las universidades de determinados países, en especial los países en desarrollo y países menos adelantados. Los debates celebrados se resumen en los párrafos 27 a 32 del documento PCT/WG/10/24, a saber:

“27. Los debates se basaron en el documento PCT/WG/10/18.

28. La delegación del Brasil presentó la propuesta que figura en el documento PCT/WG/10/18.

29. Muchas delegaciones y grupos regionales se mostraron partidarios de la propuesta, al mencionar el efecto positivo de la reducción de tasas para las universidades de países en desarrollo. Otras delegaciones convinieron en que es

importante que las universidades puedan participar eficazmente en el Sistema del PCT y se reconoce que esta nueva propuesta ha incorporado algunas de las preocupaciones expresadas en la reunión anterior. No obstante, algunos Estados no pueden respaldar la propuesta en esta etapa por diversas razones.

30. El presidente propuso que se hagan esfuerzos para promover los debates sobre la cuestión antes de la siguiente reunión del Grupo de Trabajo. La Oficina Internacional deberá enviar una Circular antes de que finalice el mes de julio en la que se ofrezca a las partes interesadas la oportunidad de proponer cuestiones de debate en un taller que se celebrará durante la siguiente reunión del Grupo de Trabajo. Entre esas cuestiones podrían figurar las siguientes:

- a) cuestiones que han sido planteadas en la presente reunión, como las definiciones de “universidad”, la incidencia financiera o las relaciones con las reducciones de tasas existentes;
- b) la puesta en común de los programas nacionales o regionales de reducciones de tasas de los Estados miembros; y
- c) otras medidas que puedan considerarse como complementos o alternativas a las reducciones de tasas a fin de estimular la innovación en las universidades de países en desarrollo y en otras instancias.

31. Las respuestas deberán ponerse a disposición del público y podrán servir de base para el programa del taller y para otras propuestas de los Estados miembros.

32. El Grupo de Trabajo invitó a la Oficina Internacional a que envíe una circular, según se expone en el párrafo 30, y a que convoque un taller, que se ha de celebrar durante la siguiente reunión del Grupo de Trabajo”.

Presentación de propuestas

Por consiguiente, se invita a su Oficina a proponer cuestiones para su análisis en el taller que se celebrará durante la undécima reunión del Grupo de Trabajo, en 2018. Las propuestas se podrán complementar con documentación de referencia, como información sobre las definiciones nacionales, las reducciones de tasas u otros incentivos y asistencia que pueda ser de interés. Las propuestas y la documentación de referencia no tienen que ser exhaustivas ni conformes a ninguna norma en concreto en esta fase, siempre y cuando el alcance general esté claro.

Las respuestas a la presente circular deberán enviarse a más tardar el 30 de septiembre de 2017, preferiblemente por correo electrónico dirigido a la Secretaría del Grupo del Trabajo del PCT (pct.wg@wipo.int). Las respuestas recibidas se divulgarán públicamente y servirán de base para elaborar el proyecto de programa del taller. Ese proyecto de programa también se divulgará para su examen por las partes interesadas, y la presentación en su debida forma de la documentación necesaria se solicitará con suficiente antelación al taller.

Aprovecho la oportunidad para saludarle muy atentamente.



Francis Gurry
Director general

AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI) *(Translation E)*

I have just become aware of the circular. I would also like to point out that OAPI has already discussed the issue along these lines. The discussions resulted in a 50% fee reduction for universities and research centers. The working group could draw upon this regional example to encourage and support universities and research centers in developing countries.

AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI) *(Original F)*

ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (OAPI)

Je viens juste de prendre connaissance de la circulaire. Aussi je voudrais relever que l'OAPI a déjà mené une réflexion dans ce sens. Ces réflexions ont abouti à la réduction des taxes d'enregistrement de 50 % pour les universités et centres de recherche. Le groupe de travail pourrait s'inspirer de cet exemple régional pour inciter et encourager les universités et centres de recherche des pays en développement.



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“29” September 2017

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In response to the Circular C.PCT 1515

Dear Madam, Sir,

Thank you for the invitation to propose issues to be discussed in a workshop relating to PCT fee reductions for universities, to be held during the eleventh session of the PCT Working Group in 2018.

We would like to support the proposal, mentioning the positive effect of reduction of fees for universities in developing countries. It seems very important to include issues indicated in paragraph 30 of document PCT/WG/10/24:

- (a) issues which had been raised in this session, such as definitions of “university”, financial impact or the relationship with the existing fee reductions;
- (b) sharing of Member States’ national or regional fee reduction programs; and
- (c) other measures which might be considered as additions or alternatives to fee reductions as ways of stimulating innovation by universities in developing countries and elsewhere.

to be discussed in a workshop to be held during the upcoming session of the PCT Working Group.

With readiness for further fruitful cooperation.

Sincerely,

Gunel Sevdimaliyeva

Acting Director General
Patent and Trademark Office

State Committee for Standardization, Metrology and Patent
of the Republic of Azerbaijan

Brazil

Introduction

Brazil wishes to share the following thoughts with a view to convening a workshop on PCT fee policy to encourage patent filing by universities.

Governments' incentives to increase the role of universities in innovation

The role of innovation for the long-term prosperity and development of countries is based in sound economic theory. The term "creative destruction"¹ describes the process by which innovation (technical progress) disrupts long-standing arrangements and frees resources to be deployed elsewhere, which ultimately fosters long-term sustainable economic growth.

Universities have become increasingly important components of science and innovation policies in developed and developing countries in the past twenty years. As a response to the growing importance of knowledge in national and regional innovation systems and to the recognition of the role of universities in inventing and transferring knowledge and technology in a cost-effective and creative manner, innovation systems have been depending more and more on institutions of higher education. Universities have been performing different roles in innovation systems: (i) "antennae" for adopting external knowledge and mediator for local knowledge circulation; (ii) sources of highly qualified labor; (iii) knowledge providers in university-industry linkages; and (iv) incubators for academic spin-off companies².

A range of government-related factors is identified in specialized literature as having contributed to this expanded role of universities in science and innovation. Enacted in the United States in 1980, and seen as landmark legislation, the Bayh-Dole Act³ stimulated university-industry technology transfer and research collaboration. It sought to facilitate patenting and licensing of inventions by US universities based on federally-funded research.⁴

Over the following years and decades, many other developed and developing countries have implemented legislative reforms and policies that contributed to bolster the role of universities in the development of intellectual property (IP) products. Measures targeted at fee reductions to universities' filings are currently used among the largest PCT members⁵.

¹ This term coined by Joseph Schumpeter in "Capitalism, Socialism and Democracy" in 1942.

² Examples: Silicon Valley, Route 128, Cambridge/UK, Medicon Valley, Munich.

³ The Bayh-Dole Act granted recipients of federal R&D funds the right to patent inventions and license them to firms. With this Act, not only major research universities have expanded their role, but also regional universities have helped to create new firms through commercialization of their technologies. Although patenting in US universities did occur prior to the passage of this law, it was far from systematic.

⁴ This is complemented by a reduction of 50% in a range of fees for universities, including the filing and maintenance of fees. The PCT Search Fee for search carried by the USPTO as International Authority is also subject to the 50% reduction.

⁵ EPO (https://www.epo.org/applying/international/guide-for-applicants/html/e_ga_e_x_3.html);

USPTO (<https://www.uspto.gov/web/offices/pac/mpep/mpep-9015-appx-l.html#d0e301581>);

JPO (http://www.japaneselawtranslation.go.jp/law/detail_main?re=02&vm=02&id=2749);

Canada (<https://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr04203.html>);

Brazil (http://www.inpi.gov.br/legislacao-1/resolucao_129.pdf).

Remaining challenges to expand the participation of universities in innovation

Measures adopted by many governments to stimulate the participation of their universities in development of IP products and services have, among other factors, contributed to a steady increase in the number of patents filed in the PCT by those institutions – from approximately one thousand filings in 1990 to more than 17 thousand in 2015. From 1980 to 2013, the annual growth rate of PCT university applications has been higher (17%) than other applications (12.7%)⁶.

Notwithstanding the public efforts, the share of universities in total PCT applications remains low (5, 9% in 2015), since they still face many challenges in the process of patent filings, in all countries, whether developing or developed. This is shown in a study recently published by the European Commission (“Patent costs and impact on innovation”⁷), which highlighted patent costs as the main barrier for patenting by universities in the US, UK, Germany, France, Spain, Sweden, Poland, India, South Korea, Japan and China⁸.

Based on such evidence, and to complement the policies adopted at the domestic level, Brazil has tabled a proposal at WIPO, with a view to facilitating access of universities to PCT applications and thus foment the advancement of innovation and dissemination of technology.

Brief background to the Brazilian Proposal and suggestion of issues for the workshop

Studies presented during previous sessions of the PCT (PCT/WG/7/6, PCT/WG/8/11 and PCT/WG/10/2) have shown that universities, whether from developing or developed countries, are more price-sensitive than other applicants. Based on that, Brazil tabled a *first proposal* for a fee reduction for universities and public research organizations from certain countries (PCT/WG/9/25). The document received support from potential beneficiary countries during the ninth session. Others showed openness for discussing a broader fee reduction that included developed countries. Still others expressed doubts about the definition of public research organizations. During the 2016 WIPO General Assemblies, the document PCT/WG/9/25 received broad support. In particular, Members of four Regional Groups declared their approval of the proposed fee reduction.

Taking into consideration suggestions made by other members states, the Brazilian Delegation circulated a *revised proposal* (PCT/WG/10/18), which focuses on universities and excludes public-research institutions from potential benefits. This new proposal is based on a tiered approach: in the first stage, the approval of an amendment to the Schedule of Fees establishing a fee reduction of at least 50 per cent for universities from certain countries, notably (but not exclusively) developing and least developed countries; in a second stage, during a session of the Working Group, Member States would evaluate the results of the new fee policy to increase filings by universities and decide on whether to increase the discount fee and/or extend it to universities from other developed countries. Nonetheless, some States were not ready support the proposal at that stage.

⁶ “Estimating the Global Patenting in Public Research Organizations”, see reference below.

⁷ http://ec.europa.eu/research/innovation-union/pdf/patent_cost_impact_2015.pdf.

⁸ Other less important factors mentioned in the survey were the complexity of the patent system, lack of information and language barriers.

Issues to the workshop

With a view to shedding light on some aspects of the Brazilian proposal to help clarify remaining doubts from some delegations, Brazil proposes the discussion of the following issues in the workshop to be held during the next session of Working Group:

- a) Assessment of the main barriers faced by universities in the ten largest PCT receiving offices. The idea is to present a quantitative and qualitative analysis about the impact of costs to universities in PCT applications;
- b) Assessment of financial impact on the PCT revenue deriving from fee reductions in patent filings for universities in developed and developing countries. The presentation of data contemplating different scenarios of fee reduction for universities can contribute to the debate since member states will have access to more information. This, in turn, should help them reach a common understanding on the percentage of reduction that would bring the best benefit to the universities contemplated without affecting the cost-recovery function of PCT fees.

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Chile *(Translation E)*

Dear Sir/Madam,

Please find hereunder, as requested, the comments of the National Institute of Industrial Property (INAPI) of Chile on PCT Circular No. 1515 dated August 2, 2017, which invited our Office to propose issues for discussion in the workshop on PCT fee reductions for universities, to be held during the eleventh session of the PCT Working Group in 2018.

- (1). As we stated in the last session of the Working Group, we initially support the proposal because we believe that it will give universities in developing countries, such as those in Latin America, the incentive to use the patents system and the PCT System, encouraging these institutions to file applications. For example, INAPI already applies reduced fees for national and/or foreign universities in its role as an ISA/IPEA.
- (2). It is therefore essential to discuss during the workshop what the definition of a “university” should be and whether this benefit should be extended to technical higher education organizations (technical education institutes), which are very closely linked to universities in many cases. In our opinion, it should be the prerogative of each Receiving Office (RO) to determine whether the applicant is considered a university and it should be the responsibility of the RO alone to decide whether to request documentation to confirm that the applicant is a university, without affecting the PCT Assembly’s ability to issue general guidelines for ROs to establish a uniform description across all ROs. This flexibility is important to ensure that WIPO does not define criteria or generate an administrative burden for applicants by requiring the filing of additional documentation. In Chile, universities have special status and are therefore easily recognized. At INAPI, we apply discounts for universities in our ISA/IPEA work and we require them to submit a document to confirm their university status. However, we very often take a practical approach in this regard, particularly if it is Chilean universities – which are therefore known to us – that regularly file patent applications.
- (3). Given our experience, we think that it would be a good idea if WIPO examined the possibility of creating a training programme for universities only on patenting strategies, including under the PCT, that would include seminars, workshops and online courses for staff working in such institutions, particularly technology transfer and licensing offices, in countries that require such training. We believe that Latin America is still greatly lacking in these areas. In fact, PCT fee reduction does contribute to protecting innovation, but is not alone a measure that directly promotes innovation in universities. However, it does protect innovation. It must therefore be complemented by implementing other measures that stimulate and promote innovation and technological development in these institutions.
- (4). Lastly, we take the view that the workshop must include further discussion about the countries to which the rate reduction for universities would apply. The list of countries, drawn up by WIPO, to which the 90% reduction for natural persons applies could be a good starting-point. However, this is a matter that must be considered in conjunction with the percentage of rate reduction to be applied.

We hope that you find our comments useful and we remain at your disposal for further information.

Chile (Original S)

Estimados Señores:

Junto con saludarlos, y de acuerdo a lo requerido, les hacemos llegar los comentarios de INAPI a la Circular C. PCT 1515 de fecha 02/08/2017 en la que se invita a nuestra Oficina a proponer cuestiones para analizar en el taller sobre la reducción de las tasas del PCT para las universidades, que se celebrará durante la undécima reunión del Grupo de Trabajo, en 2018.

1) Al respecto, tal como lo hemos planteado en la última reunión del Grupo de Trabajo, apoyamos la propuesta inicialmente, ya que creemos que incentivará el uso del sistema de patentes y del PCT para universidades de países en desarrollo, como los latinoamericanos, promoviendo la presentación de solicitudes de estas instituciones. Una muestra de ello, es que INAPI ya aplica una reducción de tasas para las universidades nacionales y/o extranjeras en su cometido como ISA/IPEA.

2) En tal sentido, creemos, que es fundamental dentro del workshop contemplar la discusión sobre lo que se contemplaría como definición de "Universidad" y también si este beneficio debe o no extenderse para organizaciones de enseñanza superior de carácter técnico, (institutos de educación técnica) que incluso en muchos casos están estrechamente vinculadas a las universidades. En nuestra opinión debiera ser prerrogativa de cada Oficina Receptora (OR) el considerar si el solicitante es una universidad o no, y que sea sólo atribución de las RO pedir o no documentación para acreditarlo, sin perjuicio que la Asamblea PCT establezca lineamientos generales dirigidos a las RO para establecer una calificación uniforme en todas ellas. Esta flexibilidad, creemos es importante para que no sea OMPI la que deba definir criterios ni generar al solicitante una carga administrativa con la presentación de documentación adicional. En Chile, las universidades tienen un estatuto especial y por consiguiente su reconocimiento es fácil de hacer. En el caso de INAPI, nosotros aplicamos descuentos para universidades en nuestra labor ISA/IPEA, y requerimos que nos presenten un documento para que nos acrediten tal condición, pero muchas veces aplicamos cierto criterio práctico al respecto, sobretodo cuando son universidades chilenas, y por ende conocidas, que presentan solicitudes de patentes de manera regular.

3) Dada nuestra experiencia, creemos que una buena idea podría ser que OMPI evaluara la posibilidad de crear un programa de formación en estrategias de patentamiento que incluya el PCT, enfocado sólo para universidades y que contemple la realización de seminarios, talleres y cursos en línea, para personal que trabaja en este tipo de instituciones, particularmente oficinas de transferencia tecnológica y licenciamiento, en países que lo requieran. Creemos que en Latinoamérica aún existen grandes falencias en estas materias. De hecho, la reducción de tasas PCT contribuye, pero no es por sí sola una medida que directamente fomente la innovación en las universidades, pero sí la protección de la innovación, por lo que se hace necesario complementar e implementar otras medidas que alienten y fomenten la innovación y el desarrollo tecnológico en estas instituciones.

4) Finalmente, nos parece que dentro del workshop, no puede dejar de discutirse respecto de los países a los cuales se le aplicaría esta reducción en la tasa para universidades. En tal sentido, creemos que la lista de países confeccionada por OMPI a la que les aplica la reducción del 90% a las personas naturales, puede ser un buen instrumento para utilizar, en forma inicial, pero es un tema que se debe analizar, a nuestro parecer, junto con el porcentaje de reducción de tasa que se aplicaría.

Esperamos que nuestros comentarios sean de vuestra utilidad, y desde ya quedamos a su disposición para lo que necesiten.

China (Translation E)

Proposals by SIPO for Issues to be Discussed in the Workshop Relating to PCT Fee Reductions for Universities

Proposed issue 1: The difficulties and problems of the universities in filing the PCT application

Proposed issue 2: Measures to encourage university innovation in various countries

[Background] The discussion of the first issue would help to better understand the difficulties and problems faced by universities from different countries in filing PCT applications and to address them through appropriate means. The discussion of issue 2 would help to compare and analyze the impacts of different incentive measures on university innovation. SIPO has conducted surveys on the status of the implementation of PCT system in China for several consecutive years. According to the survey of 2016, high cost is still a major obstacle affecting Chinese users in submitting PCT applications. At present, WIPO's fee reduction policy is only for individual applicants. As a result, our users, especially universities, public research institutions, small and medium-sized enterprises and microenterprises, hope to see the scope of reduction of the official fees expanded in the international phase. 69.0% of the universities and research institutions indicated that they would submit more PCT applications if the scope of reduction is enlarged, and that the higher the reduction is, the more obvious its effects on the willingness to file.

The above is for your reference.

China (Original C)

SIPO 关于面向大学的专利合作条约费减

研讨班议题的意见建议

建议议题一：大学在 PCT 申请中面临的困难和问题(The difficulties and problems of the university in filing the PCT application)

建议议题二：各国激励大学创新的措施(Measures to encourage university innovation in various countries)

【背景材料】议题一的讨论有助于切实了解各国大学在 PCT 申请中面临的困难和问题，并采用恰当的手段予以解决。议题二的讨论有助于比较分析不同激励措施对于大学创新的促进作用。SIPO 已连续多年开展 PCT 制度在中国实施状况调查，2016 年的调查显示，费用高依然是影响中国用户提交 PCT 申请的重要障碍。目前 WIPO 的费用减免政策仅针对个人申请人，我国用户尤其是高校、公共研究机构和中小微企业，希望适当扩大国际阶段官费减免范围。如果扩大减免范围，69.0%的高校和科研院所用户表示会提交更多的 PCT 申请，而且费用减免比例越高，对申请意愿的促进作用越明显。

上述意见，供参考。

Denmark

In response to Circular PCT 1515 please find below some general issues which could be discussed in a workshop.

PCT fee reductions for and their impact on WIPO's economy

- What is the impact of fee reductions for WIPO's income?
- How can it be ensured that the fee reductions will have a limited financial impact on WIPO's income?
 - Ceilings?
 - What is definition of a "university"?
 - And how can it be ensured that such a fee reduction will not be misused?

Additional issues

- To what extend (ratio) is research & development work leading to patents that are financed or co-financed by private companies?
- Would other measures other than fee reductions have a greater impact on the number of PCT filings from universities, for example but not limited to
 - better research framework conditions
 - awareness
 - greater interaction with private sector
 - promoting use of cheaper national patent systems in order to establish a solid decision basis before pursuing a more expensive and complex PCT system
 - Are there any lessons learned from universities filing large number of patents?
- What is proportion of the PCT filing fee compared to other costs associated with filing a PCT application?

GNV/MINEC/COM/DH/228/18

Geneva, February 26, 2018

Dear Mr. Richardson,

I am writing to you regarding Circular No. C. PCT 1515, with a view to answering the questions posed, as received from the Intellectual Property Registry of the National Registration Center of El Salvador, which is the Patent Office and in charge of dealing with PCT matters.

(a) Definition of university

The legislation of El Salvador defines a university in article 22 of the Higher Education Law (Legislative Decree No. 468/2004), which states:

“Universities are institutions dedicated to academic education for careers, with multidisciplinary studies in the sciences, arts and technology.”

(b) National or regional fee reduction programs

National industrial property legislation does not provide for any fee reductions. There is currently no program or project to reduce fees in favor of universities, since the power to grant tax breaks and incentives or any other incentives intended to promote scientific and other activities is vested in the Legislative Assembly, pursuant to Article 131(11) of the Constitution of the Republic of El Salvador. Accordingly, any fee reduction project or program must be introduced through legal reforms.

(c) Other complementary or alternative measures to fee reductions to stimulate innovation in universities

As a means of encouraging scientific and technological innovation in universities, El Salvador has the following instruments:

- National Innovation, Science and Technology Policy

Specific Objective 2

Strengthening scientific research in universities and R&D&I centers

Strategy (c)

Results-based stimulus for research centers, universities and public and private companies for the development of R&D&I

- Law on Higher Education (Legislative Decree No. 468/2004)

Incentives

Article 48

For as long as they retain accredited status, higher education institutions shall enjoy the following incentives:

(b) receive, as a matter of priority, subsidies or support from state programs, especially when directed at scientific research.

- Law on Scientific and Technological Development (Legislative Decree No. 234/2012)

Incentives and Stimuli

Article 20

The Vice-Ministry of Science and Technology, with the support of CONACYT (the National Council for Science and Technology), shall create the incentives and other stimuli considered appropriate to encourage achievements in innovation, science and technology.

In preparing its annual budget, CONACYT shall include allocations to cover the expenses necessary for granting such incentives; it shall also lay down the relevant regulations as well as the number of grants and the amounts thereof.

- National Plan for Scientific and Technological Development

Its specific objectives include contributing to the creation and/or search for financial instruments and incentives available to the various programs and activities that foster scientific and technological development and innovation in the country.

I would like to take avail myself of opportunity to reiterate the assurances of my consideration and esteem.



MISIÓN PERMANENTE DE EL SALVADOR
ANTE LA ORGANIZACIÓN MUNDIAL DE COMERCIO
GINEBRA, SUIZA

GNV/MINEC/COM/DH/228/18

Ginebra, 26 de febrero de 2018.

Estimado Señor Richardson:

Atentamente me dirijo a usted en relación a la circular C. PCT 1515.

Al respecto, traslado a usted a continuación las respuestas a las preguntas planteadas, tal como se han recibido por parte del Registro de la Propiedad Intelectual del Centro Nacional de Registros de El Salvador, que es la Oficina de Patentes y encargada de la tramitación del PCT.

a) Definición de universidad

La definición de universidad dentro de la legislación de El Salvador, se encuentra en el artículo 22 de la Ley de Educación Superior (Decreto Legislativo 468/2004), en el cual se establece:

“Son universidades, las dedicadas a la formación académica en carreras con estudios de carácter multidisciplinario en las ciencias, artes y técnicas.”

b) Programas nacionales o regionales de reducción de tasas

La legislación nacional de propiedad industrial no contempla la reducción de tasas en ningún caso. No se cuenta por el momento con algún programa o proyecto de reducción de tasas a favor de las universidades, pues la competencia para otorgar beneficios e incentivos fiscales o de cualquier naturaleza para promover las actividades científicas, entre otras, corresponde a la Asamblea Legislativa, conforme al artículo 131 ordinal 11° de la Constitución de la República de El Salvador; por tanto, cualquier proyecto o programa de reducción de tasas debe pasar por una reforma de ley.

c) Otras medidas complementarias o alternativas a la reducción de tasas para estimular la innovación en las universidades.

Como marco para incentivar la innovación científica y tecnológica en las universidades, El Salvador cuenta con los siguientes instrumentos:

- Política Nacional de Innovación, Ciencia y Tecnología
Objetivo específico 2
Fortalecimiento de la investigación científica en universidades y centros de I+D+i
Estrategia c)
Estímulo con base en resultados a los centros de investigación, a las universidades y a las empresas públicas y privadas para el desarrollo de la I+D+i
- Ley de Educación Superior (Decreto Legislativo 468/2004)
Incentivos
Artículo 48
Las instituciones de educación superior, mientras mantengan la condición de acreditadas, gozarán de los siguientes incentivos:

- b) Recibir prioritariamente subsidios o apoyos de programas estatales, especialmente dirigidos a la investigación científica.
- Ley de Desarrollo Científico y Tecnológico (Decreto Legislativo 234/2012)
Incentivos y Estímulos
Artículo 20
El Viceministerio (de Ciencia y Tecnología) con apoyo del CONACYT (Consejo Nacional de Ciencia y Tecnología), creará los incentivos y otros estímulos que se consideren convenientes para incentivar los logros en innovación, ciencia y tecnología.
El CONACYT deberá incluir en sus presupuestos anuales, las asignaciones relativas a los gastos necesarios para otorgar los incentivos; de igual manera, dictará las disposiciones reglamentarias del caso, así como el número de premios y la cuantía de los mismos.
 - Plan Nacional de Desarrollo Científico y Tecnológico
Dentro de sus objetivos específicos, contempla la contribución a la creación y/o búsqueda de los instrumentos financieros e incentivos que estén a disposición de los diferentes programas y actividades que permitan el desarrollo científico y tecnológico y de la innovación en el país.

Sin más sobre el particular, aprovecho la ocasión para renovar las muestras de mi consideración y estima.

Atentamente,



Francisco A. Lima Mena
Embajador
Representante Permanente

Señor
Michael Richardson
Director de la División de Desarrollo de Operaciones del PCT
OMPI

European Patent Office (EPO)

1. The EPO thanks the IB for inviting International Authorities for submitting proposals and information concerning national definitions and fee reductions with regard to the suggestion by Brazil to apply fee reductions for certain applicants.
2. As regards the EPO, fee reductions for certain applicants are granted under Rule 6 EPC.
3. The European filing or European examination fee shall be reduced by 30% if a European patent application or a request for examination is filed by an applicant having his residence or principle place of business in (or nationality of) an EPC Contracting State with an official language other than English, French or German in that respective official language, accompanied by a translation into any of the official languages of the EPO within one month.
4. Beneficiaries of the reduction are
 - **natural persons**
 - **SMEs**
 - **non-profit organisations, universities or public research organisations.**
 - i. SMEs are defined in the Rule itself by reference to the (EU) Commission recommendation 2003/361/EC of 6 May 2003 as published in the Official Journal of the European Union L 124, p. 36 of 20 May 2003.
 - ii. "Non-profit organisations" are organisations not allowed by their legal form or statutes, under the relevant law, to be a source of income, profit or other financial gain to their owners, or – if allowed to make a profit – there is a legal or statutory obligation to reinvest the profits made in the interest of the organisation.
 - iii. "Universities" are to be understood as "classical" universities, meaning institutions of higher education and research, under the relevant law. However, comparable entities, such as secondary or higher education establishments, will be considered to be universities.
 - iv. "Public research organisations" are entities such as universities or research institutes that are organised under public law and, irrespective of how they are financed, have the primary goal of conducting fundamental research, industrial research or experimental development and of disseminating the results by way of teaching, publication or technology transfer. All profits must be reinvested in carrying out these activities, in disseminating the results or in teaching.
5. In case of multiple applicants, each applicant shall be an entity or a natural person within the meaning of above.

Germany

The German Patent and Trade Mark Office proposes the following topics (bold type) with corresponding issues that could be discussed in a workshop during the eleventh session of the PCT Working Group regarding the Brazilian proposal in document PCT/WG/10/18:

- Further clarification of the proposal
 - Definition of the term “university”. Shall public and/or private universities be comprised? Which authority shall be competent to evaluate the status of “university”?
 - Relation between the existing fee reduction provision No 5 lit. b) Schedule of Fees and the proposed No 6. What will be the consequence, if a university is eligible for a fee reduction according to both provisions?
 - Estimated number of universities (public/private) that would be eligible for fee reductions in a breakdown per Contracting State.
- Further clarification of the feasibility of the proposal
 - Register of “universities” eligible for fee reductions required? Register of applicants required in order to verify the numbers of applications already filed per applicant per year? Which organization would manage these registers and bear the costs?
 - Measures to prevent misuse of the proposed fee reduction provision?
- Fee reductions for universities at national level
 - Experiences of Contracting States with fee reductions for universities.
 - Effects of fee reductions for universities in terms of number of additional applications, quality of additional applications, benefit for society.
- Other measures which might be considered as alternatives to fee reductions as ways of stimulating innovation by universities



AIPPI's comments on fee reductions for universities

Prepared by Standing Committee on PCT

About AIPPI

The International Association for the Protection of Intellectual Property (Association Internationale Pour la Protection de la Propriété Intellectuelle ("AIPPI")), is an international organization, founded in 1897, dedicated to the development, improvement, and legal protection of intellectual property. AIPPI is a politically neutral, non-profit organization headquartered in Switzerland having over 9,000 members representing over 125 countries and operating mainly through National Groups in many of those countries and other regions.

The members of AIPPI include intellectual property lawyers, patent, copyright and trademark attorneys, and patent agents in corporate and private practice throughout the world, as well as academics and other persons interested in intellectual property, and including members from North America, South America, Europe, Asia, Australia and Africa. AIPPI is organized into 67 National and 2 Regional Groups, and its members participate by joining one of these groups.

AIPPI promotes the protection of intellectual property on a national and international basis by studying and comparing existing laws and proposing new laws and international and regional treaties and agreements relating to intellectual property. In its long history, AIPPI has adopted more than 700 Resolutions and Reports. AIPPI's Resolutions are published in English, French and German, and are provided to international and national intellectual property organizations around the world. The presentation of these Resolutions and Reports to international Governmental Organizations, such as the World Intellectual Property Organization ("WIPO"),

has contributed considerably to the development, improvement and harmonization of the international protection of intellectual property.

Response to Circular 1515

AIPPI thanks WIPO for this opportunity to comment on the issues raised in Circular 1515. This response has been prepared by the AIPPI Standing Committee on PCT (“SCPCT”) and has been approved by the AIPPI Bureau.

Circular 1515 invites proposals for issues to be discussed in the workshop to be held during the eleventh session of the WIPO PCT Working Group in 2018. Circular 1515 also invites submission of background material, such as information concerning national definitions, fee reductions, and other incentives or assistance. Complete or formal proposals are indicated as not necessary at this stage.

In response to this invitation, the SCPCT has canvassed its membership and generated the attached chart summarizing treatment of universities by certain national and regional patent offices. This chart is not exhaustive; it reflects only those countries or regions where a committee member was available to respond within the relatively short time available for this consultation. Therefore, while the SCPCT considers the chart useful for comparison of certain national practices, it is not a thorough representation of practices of all AIPPI National Groups and Independent Members.¹ The chart is primarily based on local rules and practice guidelines, but in some cases the content represents the general analysis of a local patent practitioner who provided the information based on his/her experience with government fee reductions for universities and the local patent office.

AIPPI suggests the topics of: 1) the definition of a “university”; 2) the financial impact of fee reductions for certain universities; and 3) impact of the contemplated fee reductions on the ability of such universities to participate in the PCT as appropriate topics for discussion during the workshop.

¹ Should additional time be available and if it would be useful to WIPO, the SCPCT would be pleased to engage in a more rigorous study of this topic through consultation with its National Groups and Independent Members.

C. PCT 1515.- PCT fee reductions for Universities

Country / Jurisdiction	Issues raised/Definition	Nat'l fee reduction programs	PCT fee reductions	Other measures
Argentina	No issues have been raised. There is no a definition for what should be considered a University.	Universities are entitled to a 50% discount of the PTO fees.	Argentina is not a member of PCT	
Australia	There is no a definition for what should be considered a University.	Universities receive no special treatment under IP laws, such as reduced patent fees or small entity status.		
Brazil			PCT Patent and Utility Model Applications filed by nationals (individuals) of Brazil are entitled to a 90% reduction of certain fees	
Canada	No issues have been raised. There is not a definition for what should be considered a University.	Universities are deemed "small entities."		
Chile	No issues have been raised. There is no a definition for what should be considered a University.	No fee discounts at all. Under Article 18 bis applicants who lack financial means may obtain registration without the need to pay fees of any kind. To enjoy such benefit, the applicant must file a sworn statement declaring lack of financial means, together with the documents required by the Regulations.	PCT Patent and Utility Model Applications filed by nationals (individuals) of Chile are entitled to a 90% reduction of certain fees. Chile as ISA/PEA makes a reduction of fees to Universities.	INAPI started a Support Program for the patenting of Chilean inventions abroad via the PCT, working with the CORFO, Corporación de Fomento de la Producción (Production Development Corporation).
Colombia	No issues have been raised. There is no a definition for what should be considered a University.	Colombian public or private Universities, natural person who lack of economic means, national micro, medium or small business (known as mipyme) and non-profit entities, have a 25% discount over the official fees related to the substantive examination request in Colombia	PCT Patent and Utility Model Applications filed by nationals (individuals) of Colombia are entitled to a 90% reduction of certain fees. 25% discount of the transmittal fee for PCT applications filed before the National Patent Office	The Colombian Government created in 2014 a National Patent Fund, to stimulate the filing of patent applications by national residents (including private and public universities) This national patent fund has financed between 30 to 80% of the official fees and professional fees involved in a patent application process (including search of prior art, drafting and filing of a patent application in Colombia).
Costa Rica		A 70% discount of the official fees and annuities for individual inventors, micro and small business entities (as defined by a specific internal law), public entities of higher education and research and technology institutes of the public sector.	PCT Patent and Utility Model Applications filed by nationals (individuals) of Costa Rica are entitled to a 90% reduction of certain fees	
Ecuador	No issues have been raised. Universities must produce an affidavit confirming their legal existence issued by its country of origin	Payment of the Examiners fees shall also be deferred. If the deferred Examiner's fees are not paid on time, the application will be declared lapsed.	PCT Patent and Utility Model Applications filed by nationals (individuals) of Ecuador are entitled to a 90% reduction of certain fees	The formalities for accessing the discount are quite strict, and no electronic documents are acceptable. Few cases access the discount. Formalities should be reviewed.
El Salvador	No issues have been raised. There is no a definition for what should be considered a University.	El Salvador does not have any type of reduction of fees	PCT Patent and Utility Model Applications filed by nationals (individuals) of El Salvador are entitled to a 90% reduction of certain fees	To imitate models such as the Mexican scheme allowing fee reductions to educational institutions, individual inventors; would promote the use of the system of protection of patents, inventions and utility models.
Europe		As far as the European Patent Convention is concerned, according to Rule 6(4), where a natural or legal person having their residence or principal place of business within a Contracting State having a language other than English, French or German as an official language, or a national of that State who are resident abroad, files a European patent application or a request for examination in a language admitted in said provision, the filing fee or examination fee shall be reduced by 30%. This reduction applies to (a) small and medium-sized enterprises; (b) natural persons; or (c) non-profit organisations, universities or public research organisations.		
Guatemala	No issues have been raised. There is no a definition for what should be considered a University.		PCT Patent and Utility Model Applications filed by nationals (individuals) of Guatemala are entitled to a 90% reduction of certain fees	
Honduras			PCT Patent and Utility Model Applications filed by nationals (individuals) of Honduras are entitled to a 90% reduction of certain fees	
Italy		Pursuant to Article 2 of the Italian Law Regulations universities (either public or private), public research organisations, and the Ministries of Defence and Agricultural, Food and Forestry Policy are exonerated from payment of official fees for filing and for recordation of assignment concerning patents and utility models.		
Japan	Definitions of universities are found in Basic Act on Education and School Education Act.	Universities are entitled to: - Examination fee is reduced by 50% - Issue Fee and Maintenance fees up to 10th year are reduced by 50%. - Accelerated Examination Program Foreign universities are entitled to receive the special treatment above, provided they submit a certificate to JPO to prove that they shall be considered as a university under Japanese Industrial Technology Enhancement Act.		Regarding the underdeveloped university discount, it is of course preferable to have discount for universities in many countries. That way, we can encourage and stimulate universities to have more patents. However, most of the cost they need to spend for filing a patent application comes from attorney's fees. Unless there is a way to support universities to pay attorney's fees, the reduced official fees may not have a remarkable impact on encouraging universities to file and get more patents.
Mexico	No issues have been raised. There is no a definition for what should be considered a University.		PCT Patent and Utility Model Applications filed by nationals (individuals) of Mexico are entitled to a 90% reduction of certain fees	The fee reduction scheme adopted by the Mexican Industrial Property Institute is a good model.
New Zealand	No issues have been raised. In the NZ Education Act 1989 at section 159(1), a university is defined.			
Nicaragua			PCT Patent and Utility Model Applications filed by nationals (individuals) of Nicaragua are entitled to a 90% reduction of certain fees	
Panama			PCT Patent and Utility Model Applications filed by nationals (individuals) of Panama are entitled to a 90% reduction of certain fees	

Country / Jurisdiction	Issues raised/Definition	Nat'l fee reduction programs	PCT fee reductions	Other measures
Peru	No issues have been raised. There is no a definition for what should be considered a University.		PCT Patent and Utility Model Applications filed by nationals (individuals) of Peru are entitled to a 90% reduction of certain fees	The fee model fixed by MIPPI regarding Patents, Utility Models, Industrial Designs, and Mask Works Applications filed by educational institutions seems to be a good model which would benefit all small business or eventual individual users of the system.
Poland	No issues have been raised.	Universities do not enjoy any "special treatment" as far as the official fees in patent procedure are concerned.		
South Korea		When the applicant falls within the scope of a "public research institute", the Korean Intellectual Property Office (KIPO) reduces the official fee for filing a patent application, request for examination, registration fee (annual fees from the first to the third year) by 50%, and the annual fees from the fourth to the ninth year by 30%. The term "public research institute" includes certain research institutes, certain other entities.		
Turkey	University is not defined for fee reduction.	Universities residing/operating in Turkey like any other Turkish citizens, Turkish based private sector and public sector are entitled to benefit from a specific support programme under code 1502 coordinated by TUBITAK (The Scientific and Technological Research Council) and Turkish Patent & Trademark Office.	PCT Patent and Utility Model Applications filed by nationals (individuals) of Turkey are entitled to a 90% reduction of certain fees	
U.S.A.	The definition of "University" is found in MPEP 509.02 Small Entity	Universities are entitled to fee reductions as "small entities"		

Japan

1. Definitions of “university,” financial impact or the relationship with the existing fee reductions

(1) Definitions of “university”

In Japan, fee reduction measures on granting patents for universities is stipulated under the Industrial Technology Enhancement Act¹. This Act is designed to provide for various policy measures to enhance the R&D capabilities of relevant entities, including universities, and to strengthen their capacities of commercializing technologies resulting from their R&D activities.

Under the Act, entities eligible for fee reductions include the “universities and colleges” and “researchers at universities and colleges” (provided that their inventions are recognized as “employee inventions”), and are defined respectively as follows (Article 17 (1) of the Act):

(a) Researchers at universities and colleges:

- University presidents, vice presidents, deans, professors, associate professors, assistant professors, lecturers, assistants or other staff members exclusively engaged in research activities, of universities and colleges;
- College presidents, professors, associate professors, assistant professors, lecturers, assistants or other staff members exclusively engaged in research activities, of national colleges of technology; and
- Directors or staff members exclusively engaged in research activities, of the Inter-University Research Institute Corporations.

(b) Universities and colleges:

- Universities and national colleges of technology, which are stipulated under Article 1 of the School Education Act or Inter-University Research Institute Corporations² stipulated under Article 2 (3) of the Act of National University Corporations.

¹ Act No. 44 of April 19, 2000. Provisional translation is available at:
<http://www.japaneselawtranslation.go.jp/law/detail?id=2117&vm=04&re=01&new=1>

² Public research bodies established as “research institutes for the common use of all the universities” for the purpose of promoting cooperative research activities among different universities as well as enhancing the overall level of research, through providing facilities such as large-scale advanced equipment or a large amount of academic data or documentation, which could not possibly be procured or maintained by a single university.

In addition to the above, entities eligible for fee reductions include those universities and colleges which succeeded the rights to employee inventions created by persons and entities eligible for fee reductions.

(2) Financial impact on or the relationship with the existing fee reductions

As stated by our delegation during the previous sessions of the PCT Working Group, around 76% of the WIPO's revenue comes from fee income financed by users of the PCT system. Therefore, the JPO believes that we should be very careful in adopting any new proposal which might give preferential treatment only to users in some countries.

As applicants including universities in least developed countries (LDCs) are currently eligible for 90% reduction on international filing fee, supplementary search handling fee and handling fee (Schedule of Fees, item 5. (b)), they would be entitled to two types of fee reductions if the proposal is adopted as is. Therefore, the scope of proposal should be appropriately addressed to avoid this possible duplication.

The current proposal by the delegation of Brazil suggests that the eligible countries could be the same as those defined for individual users under Schedule of Fees, item 5 (a). However, countries which fall under this category include those that cannot be categorized as developing countries. This does not seem to be consistent with the objective of the proposal, i.e. to "increasing the diversity in the geographical composition of demands for patent protection and of PCT international application filing activities³." If additional fee reductions measures are to be introduced in response to the Brazilian proposal, it is not appropriate to apply the criteria of the item 5 (a).

2. National fee reduction programs

In Japan, when persons or entities satisfy the requirements as "researchers of universities and colleges" and "universities and colleges" as in 1 (1) stated above, they are eligible to receive fee reductions in examination request fees and patent fees, as follows:

- Examination request fees: 50% reduction
- Patent fees: 50% reduction in fees for payments in the first to tenth years

³ PCT/WG/10/18, paragraph 1.

Also, among the fees under the PCT system collected by the JPO, there is a reduction measure on the international search fees by two thirds. Nonetheless, universities are not eligible for this fee reduction program.

3. Other measures which might be considered as additions or alternatives to fee reductions as ways of stimulating innovation by universities in developing countries and elsewhere

Promoting innovations in universities is a multifaceted issue in which several ministries and agencies have been engaged, and fee reductions are only a small part thereof. For example, a recent Intellectual Property Strategic Program formulated by the Cabinet includes the following measures for the purpose of facilitating more effective collaboration between government, industry, and academia:

Intellectual Property Strategic Program 2016 (excerpt)

<<Enhancing the Functionality of Industry-Academia/Inter-industry Collaboration>>

- (Local Innovation Ecosystem Creation Program)

In order to create a distinctly Japanese innovation ecosystem which contributes to regional revitalization, establish project production teams at local universities which will seek out local, homegrown technology seeds, will introduce excellent technology seeds from the outside, will offer business project proposals to core local companies, and will engage in joint research with core local companies. (Short-term, Medium-term)

(Ministry of Education, Culture, Sports, Science and Technology)

- (Stronger Support for Venture Business Creation)

Provide entrepreneur education; encourage the creation of hypothetical applications for technology seeds from the basic research phase; push for verification of these hypothetical applications, continuing through hearings with customers, to raise awareness of practical applications; and promote transitioning to the startup phase and the Program for Creating START-ups from Advanced Research and Technology (START) innovation creation support project. (Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

<<Strengthening University IP Strategies>>

- (Development of Proof of Concept Support Measures)

In order to facilitate the commercialization of university research results via SMEs, support proof of concept (POC) implementation to verify the feasibility of new research ideas. (Short-term, Medium-term) (Ministry of Education, Culture, Sports, Science and Technology)

URL: http://www.kantei.go.jp/jp/singi/titeki2/kettei/chizaikeikaku20160509_e.pdf

Response to C.PCT 1515 (KIPO)

□ Answer to the Survey (KIPO)

o If international application fee exemption is applied to universities in the member states, please classify “University” by sort.

- According to University Establishment and Operating Regulations, “University” is classified into University, University of Industry, University of Education, Community College(Vocational College), Open University, University of Science and Technology, and etc. based on the approval of Ministry of Education.

※ Relevant provisions : Article 2 of Higher Education Act of Korea, University Establishment and Operating Regulations (<http://www.law.go.kr>)

- **(Statistics, as of the end of 2016)** Universities(189), Graduate University(46), Community College(Vocational College), and others(59)
(☞ Source : <http://kess.kess.kedi.re.kr>)

o Fee Exemption/Reduction Programs of the member state (KIPO)

Fee Exemption/Reduction Programs	Subjects
Exempted from an application fee, an examination request fee and the first 3 years' patent registration fee	A medical care beneficiary according to the National Basic Living Security Act, a man of national merit and his family members, a patriot (for independence) for the Fatherland and his family members, a war veteran and his family members, the disabled, students, the general public aged 6~19 years old, and etc. (limited to (up to) 10 applications per person per year)
Reduction of an application fee, an examination request fee and the first 3 years'	Individuals or SMEs(70%) ¹⁾ , Joint applications for joint research with SMEs(50%) ²⁾ , Public research institutions(50%), Local governments(50%), Exclusive organizations(50%), Enterprises of middle standing(30%),

patent registration fee	the general public aged 19~30 years old(85%) ¹⁾ , the general public over 65 years old(85%) ¹⁾
Reduction of an examination request fee	Provided that an ISR of KIPO is enclosed(30%); an ISR and an IPER enclosed(70%), an ISR of the EPO enclosed(10%)
Reduction of a trial request fee	Trial request fee paid: 1) to determine the scope of patent rights of either individuals or SMEs(70%), 2) to determine the scope of patent rights of exclusive organizations(50%)
Reduction of an accelerated examination request fee	SMEs(70%), the general public aged 19~30 years old(85%), the general public over 65 years old(85%), Public research institutions(50%), Exclusive organizations(50%), Enterprises of middle standing(30%)(limited to (up to) 2 applications per year)

1) Up to 20 applications(per year) are exempted from relevant fees, however, if patent filings are over 20, 30% fees are exempted

2) The first 3 years' patent registration fee is not subjected to the fee exemption program.

※SMEs, enterprises of middle standing, public research institutions and exclusive organizations are defined according to sub-regulations of the Basic Act on Small and Medium Enterprises and the Local Autonomy Act, and etc.

o What should be further studied to discuss standing issues?

- By supplementing 2015 research results of the IB, supporting documents should be prepared to prove that fee exemption causes an increase in patent application filings of universities in the developing countries.

Kyrgyzstan

We would like to thank you for giving us this chance to submit proposals according to the Circular C. PCT 1515 dated August 2, 2017 to be discussed in the workshop to be held during the eleventh session of the Working Group in 2018.

According to the "Regulations on fees for patenting of inventions, utility models, industrial designs, selection inventions, registration of trademarks, service marks, appellation of origin of goods, providing the right for using of appellation of origin of goods and registration of patent attorney" approved by the resolution of Government of the Kyrgyz Republic dated October 3, 2016 № 523 (<http://patent.kg/index.php/ru/legislation/sublegislation/polozheniya.html>), to the bodies which are sole authors of invention, utility models, selection inventions and requiring a patent to the own name or a sole owner of a patent for invention, utility model, selection inventions, are provided with following benefits on payment of fees.

- non-commercial organizations, including scientific - search organizations and universities, independently from their location are paying 10% of fees.

Moldova

Madam, Sir,

AGEPI supports the proposal to introduce a 50% PCT fee reductions for the universities.

In the Republic of Moldova, according to pct. 2 of Note to the Classified List of Services with Legal Significance in the Field of Intellectual Property Protection, adopted by Government Decision No. 774 of 13.08.1997 with subsequent amendments and additions organizations in the field of science and innovation (including universities) pay only 5% of the amount of patent fees and have exemptions from payment of fees for maintenance of patents for the first five years.

- The financial impact together with the creation of preventive actions in order to prevent abuses of the system are also two very important issues that should be addressed. In this regard, several options should be taken into consideration as for example: limiting the number of applications per university or per country, doing a short pilot program, limit the fee reduction to a specific annual budget, etc.
- One very important question is who will check the compliance of requirements in order to grant the fee reductions: for example, if it is the ROs job then this would result in the increase of their workload, especially in the absence of clear guidelines with clear requirements. Consequentially, it could produce a lack of harmonization throughout the contracting states. One possible solution could be if WIPO was the one be responsible for the compliance checking and the granting of an *a priori* "fee reduction status".

Yours sincerely



Leonor Trindade

President of the Directive Council

Russian Federation

In reply to the Circular C.PCT 1515 please be advised on the following opinion of the Federal Institute of Industrial Property of the Russian Federation.

a) definition of the term “university” and issues related to financing

The term “university” is usually used to denote an institution of higher education that provide training for specialists in many fundamental and applied sciences. Universities also often carry out research activities. Many modern universities function as educational and scientific complexes. Universities accommodate several faculties which represent the totality of various disciplines constituting the basis of scientific knowledge.

There are several types of State universities in Russian Federation: Federal Universities, National Research Universities, Basic Regional Universities, as well as the universities holding a special status (MSU and SPbSU).

Universities are financed from the state budget.

b) patent fee concessions/discounts for universities

Such programs are currently not available.

c) other means aimed at stimulating innovation activities of Russian developers, including universities

In 2017, a subsidy (grant) program was announced aimed at compensation to Russian producers of expenses related to registration of IP rights abroad. The said program was offered by the Russian Export Center functioning under the Ministry of Industry of Russia based on Decree of the Government of the Russian Federation dated 15.12.2016 No 1368.

Subsidies are granted in order to compensate actual costs incurred within the current financial year due to:

- drafting, filing and processing international applications;
- payment of fees related to filing and processing of international applications;
- drafting, filing and processing national and (or) regional applications abroad;
- payment of fees set out by applicable legal acts of foreign national and regional offices related to examination of applications, grant of patents and maintaining such patents in force for the period of first three years.

The volume of compensation is limiter (between 70 and 100% of the total payments).

It is provided for return of subsidies if any agreements with regard to the IP rights in question are concluded with foreign partners.

As for the proposal to offer 50% PCT fee concessions to educational institutions from certain countries, notably developing and least developed countries, the Russian Office considers that this proposal should be supported as an efficient way to encourage protection of innovations developed by such institutions.

Slovakia

The Industrial property Office of the Slovak Republic (hereinafter "IPO SR"), is sending information, which was required by the IB WIPO via circular C.PCT 1515, concerning national definition of "university" and the relationship with the existing fee reductions.

Under the Act No. 131/2002 on higher education and on the Change and Supplements to some acts, there are three types of higher education institutes (Section 2, paragraphs 12 to 16):

1. The university type of higher education institutions shall provide education in the study programmes of all the three levels with a significant portion of study programmes of the second level and study programmes of the third level. The study programmes shall be carried out in connection with activities of higher education institutions in the field of science, technology or art, and in compliance with the current state and development of such fields. The term of "university" or the derived forms hereof may be used only in the name of university type of higher education institution.
2. The non-university type of higher education institutions shall be named professional higher education institutions; they shall provide higher education mostly in the study programmes of the first level.
3. The university type of higher education institution that shall achieve outstanding results in the field of science and technology as well as at implementing the study programmes of the third level, is a research university (Section 53).

Higher education institutions are legal entities carrying out research and development with the seat in the territory of the Slovak Republic (Section 2 (11)).

According to Act No. 131/2002 on higher education and on the Change and Supplements to some acts, (Sections 16 and 89) the Public Higher Education Institutions are funded from the state budget, municipal budgets and subsidies from the budgets of municipalities and higher regional self-government units, tuition fees, intellectual property revenues, own funds, entrepreneurial activity, revenues from donations from domestic natural persons and legal entities and foreign natural persons and legal entities, legacy revenues and loans from banks and private sources (private universities) and other sources (for example Act No. 396 Coll. on Education Support Fund).

The financing of the State Higher Education Institutions (Section 42) are funded according to special Regulations (section 90), there are no tuition fees paid, unless further set down otherwise (Section 92 (4)).

The Private Higher Education Institutions shall secure financing of its educational, research, development or artistic and other creative activities itself. The Ministry of education, having received a standpoint of the representative bodies of higher education institutions (Section 107, Clause 1) and with the Government consent may, upon request, grant subsidies to a private higher education institution for implementing its accredited study programmes, for research, development or artistic activities as a non-purpose direct support, and for development of the higher education institution. A private higher education institution may be provided special-purpose funds for solution of research and development projects; the way of their allotment is set out by a special regulation (Section 91).

Act No.145/1995 Coll. on Administrative Fees does not rank higher education institutions as subjects which are exempted from fees in respect of filed applications in the field of industrial property rights and their processing related to these applications.

Only colleges, which are fully funded from the state budget, are exempt from administrative fees before the IPO SR.

The IPO SR provides all applicants with a 50% discount on the charges, which are included in the schedule of fees only in the case of electronic submission, up to a maximum of 70 EUR. Other discounts are not provided by the IPO SR for higher education institutions.

Full text of the [Act No. 131/2002 on higher education and on the Change and Supplements to some acts](#), you can see on the follow address:

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=83784

http://www.unipo.sk/public/media/files/docs/u/eng/act_131_29_11_2005.pdf

Switzerland

Other measures which might be considered as alternatives to fee reduction as ways of stimulating innovation by universities in developing countries:

It is questionable whether a fee reduction for universities would result in the desired effect of significantly increasing applications by this category of applicants. WIPO's estimate regarding the fee elasticity is low overall. Thus fee reductions seem **not to be the right way** to encourage patent applications by universities. Therefore, we are of the opinion that **other measures** would be more conducive to stimulate Patent filings by universities. In this context, the following questions could be discussed:

- a. Are universities aware of the PCT system and its possibilities? What could be done to **increase** such **awareness**?

For universities to file patent applications, they need to have a sound understanding of Patent law and to be aware of prior Patents as well as different ways of Patent filing (national, regional or international).

- b. How can the **quality** of patents filed by universities be encouraged?

To achieve this goal, universities (as well as any other applicants) would need to be able to count on assistance already in a very early stage of the process. This is significant since the goal should not be to solely focus on quantity of filings, but attention needs to be given also to their quality, for universities to be successful with their Patent after filing.

In our country, some **universities have dedicated units that provide assistance** in all matters related to patent filings, but also in the subsequent steps of successfully bringing the results of research to the market (e.g. <https://www.unitectra.ch/de>). Such units support the university community in all questions relating to research contracts with industry, inventions, patent applications and licensing. They thus support young entrepreneurs in the early stage of founding their own companies, thereby promoting not just patent filings, but also their actual contribution to innovation.

A national program, also offers **Assisted Patent Searches for the Promotion of Research and Innovation** (<https://www.ige.ch/en/services/searches/patent-searches-in-general/basic-searches/assisted-searches/patent-search-for-research-innovation.html>). For a modest fee, a researcher in a public research institution can profit from the knowledge of a Patent examiner in a given specialized field during a whole day. The examiner provides information on patents in general, on procedures for patenting and carries out searches together with the researcher in public patent databases. This provides the researcher with a broad overview of the state of the art in the technology sector of interest. The researcher will also be able to assess whether his/her invention is new and whether it is worth patenting it. Adapting such an approach to countries with less expertise, could be achieved for example through a **train- the trainer** approach offered by WIPO.

Timely qualified advice can also be provided by private actors upon initiative of public authorities. In our country, this is done through the **"IP Advisory Network"** (<https://www.ige.ch/en/protecting-your-ip/patents/before-you-apply/patent-attorneys/the-ip-advisory-network.html>). Participating patent attorneys provide advice free of charge for up to 45 minutes on issues concerning patent protection. During this initial consultation, the most pressing questions can be clarified, and it can be discussed whether a further consultation would be useful. This service enables universities and other inventors new to patents to find out which patent protection – if any – would be useful.

According to our national experience, receiving qualified advice at low cost before the Patent application can save time and money and thus encourage quality filings by universities. Adequate guidance leads to greater savings than any fee reduction would achieve.

Issues which had been raised in the Working Group and which should be further discussed in the workshop:

Definition of universities:

The **definition** of a university varies widely, even within some countries. This raises a number of questions:

- a. Who would decide if an applicant is a university or not?
- b. Would the decision be up to WIPO or every member state itself?
- c. If WIPO had to deal with this question, what would this entail for the workload for the IB?
- d. If every single Member State is taking this decision for applicants from its territory, there would be a high risk of inequality of treatment between institutions of different countries;
- e. it also opens doors for misuse. Some institutions could try to declare themselves as universities even though they do not fulfill the criteria.

Financial impact:

It is questionable whether the fee reduction would result in the desired effect of more applications. The WIPO estimate **fee elasticity** is low overall.

Turkey

Dear Sir/Madam,

In the Circular No 1515, the offices are invited to propose issues to be discussed in the workshop to be held during the eleventh session of the Working Group in 2018 and the proposals may be accompanied by background material, such as information concerning national definitions, fee reductions or other incentives and assistance. In accordance with the Circular, please find below the responses of TURKPATENT:

As PCT filings from universities in developing countries are more price sensitive than other users, filings in the PCT system by these universities could be stimulated by fee reductions. This will also motivate the universities to cooperate with industry in technology transfer and commercialization of their inventions and as a consequence this will promote the innovation by universities. As the potential beneficiary of the proposal, Turkey see merit in the proposal to incentives the Universities for innovation. In this regard we welcome the discussions on the fee reductions for universities from certain countries and workshop to be held in next session of the working group.

In this regard, the new Industrial Property Law of Turkey, which was entered into force on the January 10, 2017, introduce one of the significant amendment. According to the IP Law No 6769, ownership of inventions originating from universities are given to the universities themselves rather than the academicians and the academicians shall receive at least one third of the income generated from the commercialization of the invention.

Article 121 of IP Law No 6769 relates to the inventions originating from Higher Education Institutions, i.e. universities. In this article, Higher Education Institutions are defined by giving reference to the article 3 (c) of the Law No. 2547 on Higher Education. In accordance with of article 3 (c) of Law No. 2547 Higher Education, higher education institutions are defined as follows:

- Universities,
- Institutes of High Technology and
- Faculties or Colleges, conservatories, Research and Application Centres under the bodies of Universities or Institutes of High Technology
- Post-secondary Vocational Schools under Institutes of High Technology
- Non-profit Foundation Universities or Post-secondary Vocational Schools

In addition to the above, Higher Education Institutions under Ministry of National Defence and Ministry of Interior are also covered under the definition of Higher Education Institutions under Article 121 of IP Law No 6769.

Currently, there is not any fee reduction programs specifically for patent filings from universities. However, after the entry into force of IP Law No 6769, TURKPATENT has received proposals/requests from Universities and Technology Transfer Offices (TTO) at the meetings and consultations regarding the fee reductions for patent filings from universities. Therefore, it is expected that the fee reductions for patent filings from universities will be on our agenda of the future work plan.

Sincerely Yours,

United Kingdom

UK IPO response to C. PCT 1515 on issues to be discussed in a workshop relating to PCT fee reductions for universities, to be held during the eleventh session of the PCT Working Group in 2018.

Current UK position

- The UK is committed to supporting universities with the development of their IP. As such we continue to engage in the development of this proposal.
- On current information, the UK is concerned that the benefits of a fee reduction would not be proportionate to the costs. In addition, we do not think that encouraging the proliferation of filings is the best way to achieve the intended outcome of increasing innovation in developing countries.
- Domestically, the UK does not offer fee reductions as a way of stimulating innovation in universities. Instead we encourage collaboration between universities and businesses, using tools like the Lambert toolkit, and by assisting both universities and industry with their IP knowledge and IP commercialisation strategy.

UK proposals for issues to be discussed at the workshop

- Cost: PCT/WG/10/2 estimates the loss of income due to a 50% fee reduction would be CHF 1,058,000. However, there is currently no understanding of the likely administration and IT costs. These are needed to fully estimate the overall costs.
- Vs benefits: PCT/WG/10/2 predicts a 50% fee reduction would generate 138 additional filings per year. However, should the benefits be measured solely by an increase to PCT filings:

- It is not clear whether these additional filings represent patent applications that would not otherwise have been made, or whether they are patent applications that would have been filed via the Paris route in the absence of a fee reduction. In the case of the latter, is there any clear evidence that universities would greatly benefit from using PCT over the Paris route?
- It has previously been pointed out that an increase to patent filings would logically give universities more opportunities to leverage their IP with businesses. While we do not entirely disagree with this statement we would question whether a significant number of the additional filings would result in commercially successful patents? We have three main concerns:

Firstly, a fee reduction may lead to universities filing an increased number of lower quality patent applications (for example without the assistance of a patent attorney) which would not result in a significant number of additional patents granted.

Secondly, a fee reduction may lead universities to filing an increased number of patent applications with no commercialisation strategy. Sometimes less is more.

In the UK, for example, universities file less patent applications now than they have done historically in order to maximise their income over costs. In our view, the aim should be to increase the number of inventions which are commercially viable.

Thirdly, in the UK, university income from collaboration agreements with private industry is almost ten times¹ that of the sale of Intellectual Property. As such, an increase to patent filings may not be needed or represent value for money. For this reason, in the UK, we assist universities on the terms of their collaboration agreements before any IP is generated (further details below under Lambert Toolkit).

- Evaluation. We agree that if this proposal is taken forward then it should be for a trial period. This poses the fundamental questions of what does success look like? And how to properly evaluate it? E.g what proportion of the additional filings resulted in patents granted / or related commercially successful inventions?
- The definition of a university: As proposed by Brazil, each country would submit to IB their list of accredited universities. The UK list of officially recognised universities includes both publicly and privately funded universities².

We could agree to this approach but would like clarity as to whether this would include higher education bodies whose degrees are awarded by an accredited university?

- Alternative /additional incentives: The UK assists in the following ways:

Tools for universities

- **Lambert Toolkit**: provides guidance and model IP ownership and licensing agreements to facilitate quicker negotiations between universities and companies undertaking collaborative research projects.
- **IP Asset Management Guide**: for Universities, which is aimed at assisting senior university managers to set strategies to make the most of the IP created by their staff and students;
- **IP for Research**: helps PhD students and early career researchers navigate the knowledge exchange and commercialisation environment;
- **IP Tutor** is an online course specifically designed for students;
- **IP Tutor+** enables lecturers to engage confidently with their students on IP;
- **Case studies** on the importance of IP on social media to increase IP awareness;
- **Blogs** on a range of IP topics;

¹ [Higher Education Business and Community Interaction survey 2014 -2015](#)

² [List of officially recognised universities or colleges](#)

Tools for businesses

- **IP Equip**, a free, e-learning tool to help advisors identify assets which may be protected by IP rights, and the associated **IP Equip App**;
- **IP Health Check**, a free online tool that allows business to identify and add value to their IP. By answering a series of simple questions, users can receive a tailored confidential report; and
- **IP Master Class** is an intensive IP advisor training course which takes 3 days to complete. An online course is also available.
- **IP seminars and workshops** on IP for businesses and advisors in order to build IP capability.

For further details or clarification on any of the above issues raised please contact Michael.Sherlock@ipo.gov.uk

United States of America

United States Patent and Trademark Office

Circular PCT C 1515

Response of the United States to Circular C 1515 regarding the issues to be discussed in a workshop on PCT fee reductions and measures to stimulate innovation by universities

The proposal which led to the workshop planned for the 11th session of the PCT Working Group, was resubmitted by Brazil at the last (10th) PCT Working Group. Its stated goals were to stimulate the use of the PCT System by universities and to increase the geographical diversity of PCT international application filing activities.

As we indicated in the past, we support the goal of promoting innovation by universities. In our view, universities are very important in conducting basic and applied research which can lead to new products and services. Effective programs for encouraging and promoting these activities by universities should be developed domestically and in the international arena.

The proposal in document PCT/WG/10/18 seeks to stimulate innovation by universities through the reduction of certain PCT filing fees. However after reviewing the proposal in view of the background of studies and data presented by WIPO on fee elasticity, we have reservations about this proposal.

We do not support proposed PCT fee reductions that are only directed to applicants from certain countries. In the case of applicants from least developed countries (LDC) and certain other developing countries (DC), significant discounts on the PCT international filing fee are already provided by the existing system of incentives. All applicants from LDCs enjoy a 90% reduction in PCT international filing fees. Natural person applicants from a number of listed developing countries also enjoy a 90% international filing fee discount.

The United States, however, may support such a fee discount if applied to universities in all countries and shown to be cost effective. It is proposed that WIPO income losses can be reduced by imposing a ceiling on the number of filings per university applicant that would be eligible for the fee discount. Implementing such per-applicant ceiling scheme could be complex, however, and might make it more difficult for WIPO to monitor whether the fee discounts are claimed properly. This latter point is of great concern, since data presented by WIPO suggests a recent significant increase in the number of fee reductions which were improperly claimed. We want to avoid facilitating further increases in the number of such inappropriate claims.

Although we generally support the idea of reducing PCT filing fees for universities as an incentive, we believe that many questions regarding the effectiveness and the practical ability to implement such a fee reduction scheme will have to be answered before we could support the proposed fee reductions.

We are open to learn of any other proposals by which a robust system using per-applicant numerical caps or other measures to limit WIPO's losses due to charging reduced fees might be implemented.

We also continue to be interested in exploring the alternative of providing an "across the board" fee reduction for all applications. Such a reduction could be feasible in view of any excess fees that WIPO collects.

Fee discounts in the US

The USPTO offers fee discounts to applicants designed to encourage patenting and innovation. The principal fee discounts benefit *small entities* and *micro entities*. These discounts are applicable to both domestic patent fees and PCT fees, and include fees for filing, searching, examining, issuing, appealing, and maintaining national patent applications and patents, as well as fees for searching and examining international applications under the Patent Cooperation Treaty.

Small entities are entitled to a 50% fee discount. They include universities, nonprofit organizations, individual inventors, and small business concerns with fewer than 500 employees, as long as they do not assign, license or otherwise convey an interest in the invention to a non-small entity, or have an obligation to do so. The complete definition of small entity is found in 37 CFR 1.27.

Micro entities are entitled to a 75% fee discount. To qualify, applicants must meet the criteria for small entity, and in addition must meet one of two separate criteria: an innovation and income-based criterion, or an institution of higher education criterion. The specific requirements to qualify are found in 37 CFR 1.29.

The current USPTO fees for all applicants and the discounted fees for those applicants that qualify as small and micro entities are listed on the USPTO website, at the following address:

<https://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule>