

Patent Cooperation Treaty (PCT) Committee for Technical Cooperation

Twenty-Sixth Session
Geneva, September 23 to October 2, 2013

REPORT

adopted by the Committee

INTRODUCTION

1. The PCT Committee for Technical Cooperation (“the Committee”) held its twenty-sixth session in Geneva from September 23 to October 2, 2013, during the same period as the forty-fourth (19th ordinary) session of the Assembly of the PCT Union (“the Assembly”), held in the context of the fifty-first series of meetings of the Assemblies of the Member States of WIPO. The list of participants in those meetings is contained in document A/51/INF/3, noting that all States members of the Assembly of the PCT Union and all International Searching and Preliminary Examining Authorities (“International Authorities”) are members of the Committee.

ELECTION OF A CHAIR AND TWO VICE-CHAIRS

2. Ms. Susanne Ås Sivborg (Sweden) was elected Chair of the Committee; Mr. Tian Lipu (China) and Mr. Toomas Lumi (Estonia) were elected as Vice-Chairs.

ADOPTION OF THE AGENDA

3. The Committee unanimously adopted the draft agenda set out in document PCT/CTC/26/1.

ADVICE TO THE ASSEMBLY OF THE PCT UNION ON THE APPOINTMENT OF THE STATE INTELLECTUAL PROPERTY SERVICE OF UKRAINE AS AN INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT

4. Discussions were based on document PCT/CTC/26/2.
5. The Delegation of Ukraine, in introducing the request by the State Intellectual Property Service of Ukraine (“the State Service”) to be appointed as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the PCT, expressed its sincere appreciation to the Director General of WIPO, Mr. Francis Gurry, for the assistance given in the promotion of successful cooperation which had been established between WIPO and Ukraine, as well as to the Secretariat for its consultations and participation in the preparatory work towards the appointment of the State Service as an ISA and IPEA, and to the Offices of the PCT Member States which had given their support and assistance in the process. The detailed technical aspects of appointment and grounds for the request for an appointment as an ISA and IPEA were presented in documents PCT/CTC/26/2 and PCT/A/44/4 Rev.
6. The Delegation stated that Ukraine had steadily acquired the reputation of a State with high intellectual potential and a modern system of legal protection of intellectual property. The executive authority sequentially implemented state policy aimed at ensuring high quality in all of the processes associated with the legal protection of intellectual property. Obtaining the status of ISA and IPEA would be an important confirmation of the necessary high skilled human resources and strong technical capability, would enhance the protection of intellectual property and would facilitate the conditions for the development of innovative entrepreneurial activity.
7. The Delegation continued by stating that it was very important to note that the initiative to seek appointment had received full support from both the governmental and non-governmental institutions, as well as from the inventors’ community in Ukraine as a way of strengthening the innovation component of the Ukrainian economy. The country had positioned itself as an active party in inter-state relations in the sphere of intellectual property. In the period from 1992 to 2012, over 96,000 applications for inventions had been submitted. Among them, nearly 31,000 had been filed under the PCT procedure by foreign applicants entering the national phase in Ukraine. Within the period from 1992 to 2012, over 60,000 patents for inventions had been registered; almost 16,000 patents had been granted on the basis of applications filed under the PCT. Furthermore, almost 1,200 applications were filed by national applicants with an aim to patent their inventions outside of Ukraine. In recent years, there had been an increase in the number of the PCT applications in Ukraine. In 2012, the State Service had received about 5,000 patent applications, 40% of which were filed under the PCT. The trend increasing numbers of PCT applications had also continued in 2013. These figures showed the active role of the State Service in the sphere of international patenting.
8. The Delegation further stated that preparatory work for the appointment of the State Service as an ISA and IPEA had commenced in 2008. A five year plan for the modernization of the patent system in Ukraine had been elaborated and successfully implemented. There were now 131 full time employees with sufficient technical qualifications to carry out searches and examination. All of the patent examiners had a specialist or master’s degree in respective technological fields, with many having extensive work experience in the institutions of the National Academy of Sciences, higher educational institutions or in various leading industries, and some holding the higher degree of doctor of sciences. In addition, all of the examiners had a second degree in the sphere of intellectual property. Concerning languages, all examiners were fluent in Ukrainian, Russian and English, and some also had sufficient knowledge of German, French, Spanish, Polish or Japanese. Experience and in-depth knowledge of the experts on a wide scope of specific subjects therefore enabled them to carry out high level searches and examination in all fields of science and technology.

9. The Delegation continued by stating that at present, the period of processing of applications for inventions in Ukraine was between 17 and 19 months, which had been stable for several years. Achieving those times while ensuring high quality of search and examination was possible due to the fact that the State Service had paid maximum attention to the continual training of the experts. New examiners had tutors. Regular meetings and training sessions for the examiners were held in order to update their competence and optimize and develop the best strategies for search procedures. Since 2007, foreign commercial databases that provided access to the PCT minimum documentation had been used in the examination process, among which the European Patent Office EPOQUENet system was an essential searching tool. An initial report on quality management systems implemented in the State Service contained detailed information about its compliance with Chapter 21 of the PCT International Search and Preliminary Examination Guidelines and was included in the Appendix to Annex II of document PCT/CTC/26/2.

10. The Delegation reported that the State Service had obtained a quality management system certificate in October 2012, which confirmed the compliance of its management system with international standard ISO 9001:2008. The State Service had successfully established a three tier system of quality control of search and examination and provided control over the timing of processing of applications and the times of responding to submitted requests.

11. The Delegation further highlighted that reduction of the pendency time of applications while maintaining the high quality of the search and examination was possible due to the high level of automation in processes. At present, 227 automated functions had been implemented in the inventions automatic system, covering the full cycle of the examination of applications for inventions. ePCT was used for record management concerning the PCT applications and an automatic procedure had been set up to notify the International Bureau about the applications entering the national phase in Ukraine. In 2010, Ukraine had completed the development and testing of an e-filing system, and this had been successfully deployed for everyday use in 2011. In 2014, procedures allowing the processing of international applications in electronic form would be implemented. These developments were sufficient to satisfy all the needs of procedures for processing national applications, and made it possible to provide resources for handling the growing number of international applications while maintaining high quality.

12. The Delegation stressed that the State Service had the necessary capacity to offer its examination services to applicants from the whole region as well as from countries around the world. Its technical capacity would complement the existing system, offering examination in all domains required by applicants. Ukraine sought better integration into the international intellectual property system, with the PCT being an essential strategic priority. Appointment of the State Service as an ISA and IPEA would thus contribute to the PCT system in general, undoubtedly further encourage use of the system in the region, and widen promotion of the system in Ukraine, resulting in an increase in PCT applications filed by applicants in Ukraine.

13. Further, the Delegation considered that appointing a new Authority could be a very important factor in avoiding increased backlogs in processing PCT filings and pendency times in the international phase of the PCT due to the overloading of work in some Authorities. The status of ISA and IPEA would further strengthen the firm commitment of the State Service to continue the overall improvement in the provision of high quality services. Such an appointment would be recognition of the constant and concerted efforts of the State Service in stimulating innovation and optimization of the patenting procedures in accordance with international standards.

14. In view of the factors indicated above, the Delegation of Ukraine requested positive consideration of the nomination concerning the appointment of the State Intellectual Property Service of Ukraine as an International Searching Authority and International Preliminary Examining Authority under the PCT.

15. The Delegation of Japan supported the appointment of the State Intellectual Property Service of Ukraine as an International Searching and Preliminary Examining Authority. On the basis of the information in the document, the Delegation considered that the State Service fulfilled the minimum requirements to be appointed as an International Searching and Preliminary Examining Authority under the PCT. The Delegation emphasized that all International Searching and Preliminary Examining Authorities needed to work to maintain and improve quality by making tireless efforts towards self-improvement. In this regard, the Delegation looked forward to the State Service taking this responsibility seriously and considered that the appointment would fulfill the important purpose of enhancing the use of the PCT system.

16. The Delegation of Austria, having studied the document and heard the information provided to the Committee by the Delegation of Ukraine, stated that it was convinced that the State Intellectual Property Service of Ukraine fulfilled the requirements to be appointed as an International Searching and Preliminary Examining Authority under the PCT. The Delegation therefore supported the Committee giving a favorable opinion to the Assembly of the PCT Union on the appointment.

17. The Delegation of Finland thanked the Delegation of Ukraine for its comprehensive presentation to the Committee and noted the hard work that the State Intellectual Property Service of Ukraine had undertaken in preparation for its new role as an International Searching and Preliminary Examining Authority. The Delegation therefore supported its candidacy and appointment as an International Searching and Preliminary Examining Authority under the PCT.

18. The Delegation of Chile, having listened to the intervention of the Delegation of Ukraine and studied the information in the document, expressed its strong support for the State Intellectual Property Service of Ukraine to be appointed as an International Searching and Preliminary Examining Authority under the PCT.

19. The Delegation of Hungary expressed its support for the request of the Delegation of Ukraine for the State Intellectual Property Service of Ukraine to be appointed as International Searching and Preliminary Examining Authority under the PCT.

20. The Chair summarized that all delegations that had taken the floor had expressed their support for the request for the State Intellectual Property Service of Ukraine to be appointed as International Searching and Preliminary Examining Authority under the PCT. The Chair therefore wished to propose that the Committee should give a positive recommendation to the PCT Union Assembly on the appointment of the State Intellectual Property Service of Ukraine as an International Searching Authority and an International Preliminary Examining Authority under the PCT.

21. The Committee unanimously recommended to the PCT Assembly that the State Intellectual Property Service of Ukraine be appointed as an International Searching Authority and an International Preliminary Examining Authority under the PCT.

22. The Director General of WIPO, Mr. Francis Gurry, extended his warmest congratulations on behalf of the International Bureau to the Delegation of Ukraine on obtaining a positive opinion from the Committee on the appointment of the State Intellectual Property Service as an International Searching and Preliminary Examining Authority under the PCT. If accepted by the Assembly of the PCT Union, the State Intellectual Property Service of Ukraine would become the nineteenth International Authority. The Director General thanked the Delegation of Ukraine for the very good cooperation with the International Bureau over the past few years in the preparation of the application to become an International Authority, and wished the State Service every success for its operations in the future.

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