

Patent Cooperation Treaty (PCT) Committee for Technical Cooperation

**Twenty-Eighth Session
Geneva, May 26 to 29, 2015**

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. Mr. Claus Matthes, Secretary of the Committee, opened the session on behalf of the Director General and welcomed the participants.
2. The Meeting was held during the same period as the eighth session of the PCT Working Group and the list of participants can be found in the report of that meeting (document PCT/WG/8/26).

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

3. The Committee unanimously elected Mr. Victor Portelli (Australia) as Chair for the session. There were no nominations for Vice-Chairs.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

4. The Committee adopted the draft agenda as proposed in document PCT/CTC/28/1.

AGENDA ITEM 4: ADVICE TO THE ASSEMBLY OF THE PCT UNION ON THE PROPOSED APPOINTMENT OF THE VISEGRAD PATENT INSTITUTE AS AN INTERNATIONAL SEARCHING AND PRELIMINARY EXAMINING AUTHORITY UNDER THE PCT

5. Discussions were based on documents PCT/CTC/28/2 and 3.
6. The Delegation of Hungary, speaking on behalf of the Delegations of the Czech Republic, Hungary, the Republic of Poland and the Slovak Republic (Visegrad Group, or "V4"), introduced the application of the Visegrad Patent Institute (VPI) to be appointed as an International Searching and Preliminary Examining Authority under the PCT, as set out in document PCT/CTC/28/2. The VPI would fill a territorial gap within the PCT by acting as an International Authority for Central and Eastern Europe, it being noted that the Group of Central European and Baltic States was the only regional group of WIPO within which there was no functioning International Authority under the PCT. Appointment would contribute to a better understanding and wider use of the system within the region.
7. The Delegation emphasized that the VPI was part of the cooperation of the Visegrad Group. The well-established cooperation between these four countries at all levels from heads of government to expert meetings meant that the establishment of the VPI was well supported and was an important element of the V4 States' national economic, innovation and IP strategies. A strength and common feature of the V4 was the deeply rooted traditions of IP laws and institutions. As a consequence, all of the VPI participating Offices were full-fledged industrial property Offices with responsibility for a wide range of IP functions, including patent search and examination. All of the States were members of a wide range of WIPO treaties, as well as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the European Patent Convention.
8. The Delegation noted that the Agreement on the VPI had been signed in Bratislava on February 26, 2015 and was expected to be ratified before the forty-seventh session of the Assembly of the PCT Union in October 2015. The structure followed the existing, successful model of the Nordic Patent Institute (NPI). This included an Administrative Board and a Secretariat headed by the Director. The Administrative Board would be responsible for laying down criteria for distributing the work to be carried out by the participating Offices. This would be assisted by an assessment of the technical fields covered by the examiners of each Office and their linguistic skills. The Offices would have interchangeable capacities in most fields, which would make optimal distribution of work easier.
9. The Delegation presented its assessment that the VPI was in full compliance with the minimum requirements set out in PCT Rule 36.1(i) to (iii), covering examiner numbers and skills and access to effective systems for searching the PCT minimum documentation. Work was well under way to complete the quality management system (QMS) required under Rule 36.1(iv). Since each of the participating Offices already operated its own QMS in compliance with the ISO 9001 standard, as set out in document PCT/CTC/28/3, this would not be difficult to complete.
10. The Delegation informed the Committee that, in compliance with paragraph (a) of the Understanding of the PCT Assembly set out in paragraph 25 of document PCT/A/46/6¹, the VPI had requested the assistance of the Japan Patent Office (JPO) and the NPI in assessing the extent to which the VPI met the requirements for appointment as an International Authority. Their reports, contained in Annex II to document PCT/CTC/28/2, revealed no particular issue in respect of which any serious doubt would arise about the VPI's compliance with the

¹ "(a) A national Office or an intergovernmental organization ("Office") seeking appointment is strongly recommended to obtain the assistance of one or more existing International Authorities to help in the assessment of the extent to which it meets the criteria, prior to making the application."

appointment criteria. Nevertheless, the experts of the JPO and the NPI had stressed the need to develop appropriate mechanisms at the level of the VPI itself for ensuring consistency in search and examination practices and products between the participating Offices as well as for ensuring a smooth workflow between the VPI's Secretariat and the participating Offices. They had further noted that the VPI's QMS should be planned as thoroughly as possible by the time of appointment in addition to the already existing QMSs at the participating Offices. The Delegation confirmed that the VPI would work hard on these issues.

11. The Delegation of Japan confirmed that, following the announcement by the V4 Offices at the PCT Working Group in 2014 that the VPI intended to seek appointment as an International Authority, it had signed a Memorandum of Cooperation to share knowledge and experience. As part of this process, officials of the JPO had visited two participating Offices of the VPI (the Hungarian Intellectual Property Office and the Industrial Property Office of the Slovak Republic). The JPO officials had noted that the total number of examiners at the VPI was around 200, that the Offices were able to access all documents within the PCT minimum documentation, that the participating Offices of the VPI had already acquired ISO 9001 certification for patent examination procedures and that, with the establishment of the VPI, a common VPI QMS would be established. On the basis of this meeting, the JPO saw no particular issue which gave any serious doubt about the VPI's compliance with the appointment criteria. As such, the Delegation supported the application for appointment of the VPI as an International Authority, noting that further work would be required, as indicated in paragraph 10, above.

12. The Delegation of Japan further noted that it had found the cooperation with the VPI beneficial also to Japan and would make use of the experience gained to contribute to future discussion in the PCT Working Group and the Quality Subgroup of the Meeting of International Authorities Under the PCT.

13. The Delegation of the Nordic Patent Institute also confirmed that it had visited participating Offices of the VPI (the Industrial Property Office of the Czech Republic and the Patent Office of the Republic of Poland). The Delegation noted that the cooperation model of VPI was closely based on the NPI model, which had been successful. The report of the visit had concluded that the VPI would meet the requirements of numbers of examiners and access to minimum documentation and that the examiners appeared to have a high level of technical competence and training. It had further concluded that the participating Offices of the VPI had established QMSs for their national patent granting procedures based on ISO 9001 and that thus the QMS for the VPI itself should be achievable, with work on the system and quality manual being in full progress. The work of implementing and harmonizing processes should not be underestimated but, in the view of the NPI, all of the participating Offices were well prepared to take on the challenge. Consequently, the Delegation of the Nordic Patent Institute supported the application for appointment of the VPI as an International Authority.

14. Many other delegations expressed their support for the appointment of the VPI as an International Authority. Several noted that their support was based on visits to the participating Offices or cooperation of various types with one or more of the participating Offices, including entrusting patent processing work to the Hungarian Intellectual Property Office in a successful outsourcing arrangement by an existing International Authority. Several delegations were pleased to note that the VPI had taken the advice to seek assistance from existing International Authorities and stated that the reviews by the JPO and NPI had increased their confidence in the strength of the application. Other delegations indicated that they had discussed issues with the VPI prior to the session and that all their questions had been answered to their full satisfaction.

15. The Chair concluded that there was resounding support for the application for appointment of VPI as an International Searching and Preliminary Examining Authority under the PCT. References had been made to the importance of developing appropriate mechanisms to ensure consistency of approach amongst the four offices, as well as procedures between the

four offices, in order to ensure smooth work flow and smooth production of consistent work products. Hard work was required to plan and implement a VPI QMS, which would be critical to delivering high quality products at the international search and preliminary examination stages, which were crucial to the success of the PCT. However, the Chair expressed his view that, if the VPI continued to work as hard as it had done so far, it would achieve an excellent result.

16. The Committee unanimously agreed to recommend to the Assembly of the PCT Union that the Visegrad Patent Institute be appointed as an International Searching and Preliminary Examining Authority under the PCT.

17. The Delegation of Hungary, speaking on behalf of the Delegations of the V4 States, thanked all the delegations which had given their support and offered special thanks to the Japan Patent Office and Nordic Patent Institute for their assistance. The Delegation considered that the process had shown the merit of the Understanding adopted by the Assembly of the PCT Union which had allowed an effective review and given time to act on the advice and recommendations.

AGENDA ITEM 5: SUMMARY BY THE CHAIR

18. The Committee noted this summary, established under the responsibility of the Chair, and agreed that it should be made available to the PCT Assembly, as a record of the advice given under agenda item 4.

AGENDA ITEM 6: CLOSING OF THE SESSION

19. The Chair closed the session on May 29, 2015.

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