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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION (PCT UNION)

MEETING OF INTERNATIONAL AUTHORITIES UNDER THE PATENT COOPERATION TREATY (PCT)

Sixteenth Session
Seoul, March 16 to 18, 2009

PCT MINIMUM DOCUMENTATION

Proposal by the European Patent Office

1. This document summarizes the main points of the proposal of the European Patent Office for the revision of Rule 34 of the Patent Cooperation Treaty. The proposal was submitted to the Comprehensive Review task force on 16 July 2008 and has been subsequently adapted to include the comments from the International Searching Authorities (ISAs) who gave their feedback.
2. The Meeting of International Authorities under the PCT (PCT/MIA) is requested to approve the basic principles for the review process as outlined in this document.
3. GUIDING CRITERIA
 - (a) All patent and non-patent documents published in English and in a searchable electronic form may qualify for becoming part of the PCT minimum documentation. However, having English as the publication language is not a condition *sine qua non*, as documents in other languages than English may also qualify if English abstracts are available or if an advanced machine translation tool whose results are understandable to a person skilled in the art is provided alongside;
 - (b) The reviewing exercise should allow to overcome the current limitations regarding the publication period (e.g. pre-1920 patent documents may also qualify) or the typology of the industrial property right (e.g. utility models may also qualify);

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(c) Rule 34 does not need to include an exhaustive list of the patent and non-patent literature collections that constitute the PCT minimum documentation. Instead, it may just define the concept and outline the formal requirements which a collection needs to fulfill in order to be part of it. The details regarding the sources (publishers for non-patent literature or competent national industrial property administrations for patents and utility models), the document types and the publication periods could be settled in one or more exhaustive list(s) attached to the Administrative Instructions, in a way that they could be adapted in a fast manner to new developments, in consultation with the ISAs;

(d) All the collections which are now part of the PCT minimum documentation should continue to be so after the review.

4. FORMAL REQUIREMENTS TO QUALIFY FOR DESIGNATION AS PCT MINIMUM DOCUMENTATION

PATENT LITERATURE

A patent collection may be considered for inclusion into the PCT minimum documentation if it complies with all the following criteria:

(a) The collection is complete from a certain publication date (to be agreed by the ISAs) and available in a searchable electronic form;

(b) The publication language is English. Documents in other languages may also qualify if the issuing offices agree to provide a free-of-charge access to either English abstracts or a machine translation tool whose results are understandable to a person skilled in the art;

(c) It is timely delivered by the issuing offices to the ISAs in the agreed format (standardized format with defined character sets) and media (an FTP site or a physical storage mean that the ISAs can readily process) free-of-charge;

(d) It comprises the following data elements:

- Backfile: Bibliographic data¹ and facsimile image
- Frontfile: Bibliographic data¹, facsimile image and full-text².

¹ The bibliographic data should include IPC classes and abstracts in English or in another language if a free-of-charge access to a machine translation tool whose results are understandable to a person skilled in the art is provided by the publishing office.

² The full-text data should also be in English or in another language if free-of-charge access to a machine translation tool whose results are understandable to a person skilled in the art is provided by the publishing office.

NON-PATENT LITERATURE

A non-patent literature collection may be considered for inclusion into the PCT minimum documentation if it complies with all the following criteria:

- (a) The collection e collection is available in a searchable electronic form. An exception may be made to allow the inclusion of relevant reference books;
- (b) The documents are either published in English or they have English abstracts;
- (c) It should be primary literature. This will in principle exclude the reference to database providers, although an exception may be made for those areas in which databases present a real added value (chemical structures, biological sequences, etc). The ISAs are free to choose whether to access the primary literature through its original publisher or through a specific database provider;
- (d) The publisher is willing to grant a copyright exception regime to the ISAs in the context of the patent granting procedure;
- (e) Internet sources should be searchable, reputed for their integrity and have a reliable publication date.

5. The Meeting is invited to comment on the proposals contained in this document.

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