

PROPOSAL ON THE HIGH QUALITY INTERNATIONAL SEARCH
AND
TIMING OF THE INTERNATIONAL PHASE

Non-Paper submitted by Japan Patent Office

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INTRODUCTION

1. The Memorandum by the Director General of WIPO (PCT/MIA/16/9) invites Governments, Offices, etc. to consider matters in order to address issues on workloads and quality.
2. The International Bureau also suggests as follows (PCT/MIA/16/3):

“Developing a Rounded Package

17. Some of the matters which are discussed above could be most effective in the context of a major review of the timing of international search and preliminary examination to ensure that there was sufficient time for the work to be conducted effectively and that any particular piece of work is done at the best time. Amongst the matters to be considered will be the time limits for establishing the international search report, for making the demand for international preliminary examination, for establishing the preliminary examination reports and for entering the national phase.”

3. In response to these invitations, the JPO presents the following proposal with a view to giving optimum benefits to users and offices.

ESTABLISHMENT OF ISR AFTER THE INTERNATIONAL PUBLICATION AND
INTRODUCTION OF FILING OF THIRD PARTY OBSERVATIONS¹

4. The JPO proposes establishment of ISR/WOISA after the international

¹ Third party observations is also proposed in the Memorandum (MIA/16/9, para 7) and in the EPO proposals (MIA/16/11, para 22).

publication and introduction of the system for filing of third party observation. The purpose of the proposal is to establish ISR with maximum quality.

5. The merits of this proposal are :
 - (a) A complete search results can be provided in the first instance. It enables ISR to include all “secret prior art,” which is on high demand from users. Therefore, the applicant can also respond at one time.
 - (b) The ISAs do not have to conduct additional “top-up” search on secret prior arts at a later stage, which will save cost and time for examiners to read, analyze and search.
 - (c) The information submitted by the third parties who watch published international application at issue can be reflected to the ISR².
6. The current timing of establishment of ISR/WOISA should be maintained as an option, for the benefit of an applicant who wants ISR/WOISA before the publication.

POSSIBLE EXTENSION OF TIME LIMIT FOR INTERNATIONAL PRELIMINARY EXAMINATION AND NATIONAL PHASE ENTRY

7. While establishing ISR after publication may not affect a significant influence upon normal proceedings of IPE, it would be worth considering to extend time limits of IPE proceedings, such as demand of IPE or establishment of IPER, and subsequent time limit, i.e., national phase entry, in case that it will be necessary to respond legitimate demand to enrich IPE process.
8. It should be noted, however, that change of time limit of national phase entry, if any, should apply to every case to avoid situation to request IPE just to delay national entry. (PCT/MIA/16/3 para 18)
9. The JPO would like to ask for comments to the Meeting on the proposal in this non-paper.

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² For those who would like to submit information after checking the ISR, there are still occasions to be reflected, e.g., IPE or national phase.