

Meeting of International Authorities under the Patent Cooperation Treaty (PCT)

**Twenty-Third Session
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COLLABORATIVE SEARCH AND EXAMINATION THIRD PILOT

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BACKGROUND

1. At its third session in June 2010, the PCT Working Group endorsed a series of recommendations to improve the functioning of the PCT as listed in document PCT/WG/4/3. The recommendation under paragraph 165(b) mentions trials of arrangements whereby examiners in International Authorities with complementary skills work together to establish a report.
2. With this aim, the Korean Intellectual Property Office (KIPO), the United States Patent and Trademark Office (USPTO) and the European Patent Office (EPO) launched a first pilot project on collaborative search and examination under the PCT (CS&E) in May 2010. The objective of the project was to allow examiners from different International Authorities in different regions and with different working languages to work together on one PCT application with the aim of establishing a high quality international search report and written opinion. The first pilot project had a small scale as its main objective was to test basic assumptions related to the feasibility of a collaborative approach between examiners and a general assessment of the benefits and disadvantages from a qualitative point of view.
3. A second pilot project of a larger scale built on the lessons learnt during the first pilot project in order to allow a quantitative assessment of the approach and a fine-tuning of an operational working model. Both pilots concluded with an overall very positive outcome in terms of quality and efficiency for both the participating Offices and users whose applications were treated under the collaborative scheme (as reported in documents PCT/MIA/18/7 and PCT/MIA/20/4, respectively).

ASSESSMENT OF THE COLLABORATIVE SEARCH AND EXAMINATION CONCEPT

4. The overall success of both pilots led to a preliminary proposal by KIPO, presented during MIA 2014, to include the Collaborative Search and Examination in the PCT regulations (paragraph 19 of document PCT/MIA/21/19). During the discussion on the proposal, it was concluded that it was premature to include it in the PCT regulations, as the two pilot phases only tested the CS&E concept at operational level with a limited number of applications selected by the participating Authorities. There was no discussion on how this service could be actually implemented into the PCT system.

5. The EPO conducted an in-depth and thorough internal assessment of the CS&E concept based on the results of the preceding two pilot phases. The aim of this assessment was to evaluate the CS&E concept and the possible need for a third pilot phase, and to determine the goal and methodology of a third pilot phase to fully assess the concept, including from an operational point of view.

6. EPO's internal assessment concluded that a third pilot phase is necessary in light of the two earlier pilot phases results and users' feedback because the concept needs to be further tested to check among others the actual business interest for such product by applicants and the expected efficiency gains for Offices.

THIRD PILOT ROADMAP

7. During in the IP5 Working Group 3 meeting in October 2015, the EPO proposed to its IP5 (USPTO, KIPO, JPO, SIPO) partners to launch a third pilot phase with the aim of achieving the basic objectives of:

- checking users' adherence and interest for a Collaborative Search and Examination product (in particular with respect to the expected cost of this new product, see paragraphs 21 and 22 of document PCT/MIA/22/13),
- agreeing on a common set of quality standards to be applies in the Collaborative Search and Examination project,
- evaluating the economic value of the additional service provided by the CS&E written opinion of the International Searching Authority.

8. The EPO expects that this third phase should set the basis for a decision as to the future of this concept. Test users should be directly involved in the evaluation so that the concept is looked at from different angles.

9. The EPO proposed to IP5 partners a set of principles governing the third pilot, including: balanced workload distribution among all participating International Searching Authorities, applicant-driven approach and no possibility for an applicant to single Offices out (that is, all collaborating International Searching Authorities would contribute to the establishment of all collaborative work products).

10. It is intended to start the third pilot project on 1 June 2016 for a period of at least three years. This time would be used to evaluate the benefits of the project and, in particular, the regional/national phase entry rate and the quality of applications processed under the collaborative scheme entering the regional/national phase.

11. This period will cover:

- 6 months for registration of pilot users and administrative/technical preparations;
- and, for each application,

- 9 months for the search process;
- 15 months to cover the rest of the international phase;
- 6 months until all applicants have entered regional/national phase. Alternatively, applicants could be asked before the end of the international phase what is their intention and confirm with the collaborating examiners the presumed high level of reusability. It is suggested that the collaborating Offices process first actions in national phases in an accelerated manner.

12. The participating IP5 International Searching Authorities and WIPO will establish a group which will monitor the project, evaluate the results and report back to IP5 meetings.

13. It is intended to report regularly on the pilot progress at the Meetings of International Searching Authorities and Working Group meetings under the PCT.

14. The Meeting is invited to note the content of this document.

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