

Patent Cooperation Treaty (PCT) Working Group

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PILOT ON COLLABORATIVE SEARCH AND EXAMINATION: STATUS REPORT

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SUMMARY

1. This document reports on the work of the PCT Collaborative Search and Examination Pilot Group ("CS&E Pilot Group") in charge of developing and monitoring the third pilot project on collaborative search and examination under the PCT ("CS&E").

BACKGROUND

2. 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.

3. 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.

4. 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).

5. The overall success of both pilots led to a preliminary proposal by KIPO, presented at the PCT Meeting of International Authorities in 2014 (paragraph 19, document PCT/MIA/21/19), to introduce the CS&E as a new PCT service. During the discussions, it was concluded that it was premature to include it in the Regulations under the PCT, 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 in the PCT.

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

THIRD PILOT – MAIN FEATURES

7. On June 2, 2016, the IP5 Heads endorsed the IP5 Cooperation Framework on Collaborative Search and Examination under the PCT ("CS&E Cooperation Framework") which is a document setting the underlying principles and main features of the third pilot. A governance body, the "Collaborative Search and Examination Pilot Group" ("CS&E Pilot Group"), established on the basis of that document, is in charge of developing and monitoring this project.

8. The main features of this third pilot project are, in particular:

- an applicant-driven approach: the applications which will be processed during the third pilot will be selected by the applicants;
- a balanced workload distribution among all collaborating International Authorities: each Office will process at least 100 international applications;
- an all-inclusive concept: all collaborating International Authorities are expected to contribute to the establishment of the CS&E work products;
- a common set of quality and operational standards will be applied by all collaborating International Authorities when processing PCT applications;
- the use of a "collaboration tool", i.e. an IT infrastructure allowing exchanges among Offices in a secure environment and automated data collection; and
- applications filed in languages other than English accepted by the participating International Authorities will also be considered in the third pilot.

9. The CS&E Pilot Group, constituted of representatives of the IP5 Offices and the International Bureau, has been entrusted in particular with the following tasks:

- further specifying the collaboration framework established by the CS&E Cooperation Framework;
- monitoring the pilot, evaluating the results and reporting back to the IP5 and PCT meetings;
- preparing a final assessment concerning the proof of concept; and
- coordinating the communication on the pilot.

THIRD PILOT – STATE OF PLAY

10. This third pilot project is divided in two phases: a preparatory phase and an operational phase. It is intended to run for at least three years up to a maximum of five years to enable a fair assessment of the effect of the collaboration in the subsequent national/regional phase. The preparatory phase started on June 2, 2016, the day of endorsement of the CS&E Cooperation Framework by the IP5 Heads. The operational phase will only start once the collaboration framework has been further specified, as required by the CS&E Cooperation Framework, and once the collaboration tool is ready for use. It is intended that the start date of the operational phase will be decided at the next IP5 Heads meeting of June 1, 2017 upon a proposal by the CS&E Pilot Group.

11. The CS&E Pilot Group held its kick-off session in Munich on October 17, 2016, with the objective to prepare the necessary documentation for the operational launch of the pilot. In view of achieving that objective, the second session took place on February 3 and 4, 2017 in Reykjavík, and the third session will take place in Munich on April 10, 2017. The fourth session of the CS&E Pilot Group is due to take place in Munich on May 4 and 5, 2017 with a view to finalizing and adopting the above mentioned documentation. The outcome of that fourth session of the CS&E Pilot Group will be reported orally at the present session of the Working Group.

12. The Working Group is invited to note the contents of the present document.

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