

## **Patent Cooperation Treaty (PCT) Working Group**

**Tenth Session**  
**Geneva, May 8 to 12, 2017**

### **PCT SEQUENCE LISTING STANDARD**

*Document prepared by the European Patent Office*

#### **SUMMARY**

1. This document contains a report prepared by the European Patent Office (EPO) as leader of the Task Force on Sequence Listings created by the Committee on WIPO Standards (CWS). In particular, it reports on the revision of WIPO Standard ST.26 and sets out recommendations for the transition provisions from WIPO Standard ST.25 to ST.26 to be submitted for approval by the CWS at its fifth session, due to take place from May 29 to June 2, 2017, and which will have consequences for the expected development of Rules and Administrative Instructions for the implementation of the new Standard under the PCT.

#### **BACKGROUND**

2. The Task Force on Sequence Listings was created by the Committee on WIPO Standards (CWS), at its first session (October 25 to 29, 2010), to deal with Task No. 44 (see paragraph 29 of document CWS/1/10):

“Prepare a recommendation on the presentation of nucleotide and amino acid sequence listings based on eXtensible Markup Language (XML) for adoption as a WIPO standard. The proposal of the new WIPO standard should be presented along with a report on the impact of the said standard on the current WIPO Standard ST.25, including the proposed necessary changes to Standard ST.25.”

3. The Task Force was also requested:

“To liaise with the appropriate PCT body with regard to the possible impact of such standard on Annex C to the Administrative Instructions under the PCT.”

4. The European Patent Office (EPO) was assigned the role of Task Force Leader and the new WIPO Standard, titled ST.26, was formally adopted during the Reconvened Fourth Session of CWS (CWS/4BIS) in March 2016.

5. A modified description of Task No. 44 was approved by the CWS at the Reconvened Fourth Session in March 2016 (see paragraph 83 of document CWS/4BIS/16), which now reads:

“Prepare recommendations for the transition provisions from WIPO Standard ST.25 to ST.26; and a proposal for the revision of WIPO Standard ST.26, if needed”.

## **PROGRESS REPORT**

6. Following the adoption of WIPO Standard ST.26 at the Reconvened Fourth Session of the CWS, the Task Force has carried out two rounds of discussions. Round 8 focused on how to further improve the adopted Standard to ensure its effectiveness once implemented and Round 9 on transition matters (ST.25 to ST.26). During this period, the Task Force has held several WebEx meetings and two informal meetings in Geneva (March 23, 2016 and September 9, 2016).

7. The Task Force in particular worked on a revision of the adopted ST.26 aimed at facilitating its implementation by applicants and Offices. The revised ST.26, submitted to CWS/5 for approval, encompasses the following main changes:

- clarification of Peptide Nucleic Acids (PNA's) and Variant Sequences within the Standard;
- incorporation of a Guidance Document (Annex VI) to facilitate the harmonization of practice and interpretation among Offices and applicants;
- update of Annex I – Controlled Vocabulary for alignment with INSDC Feature Table V.10.6 released in November 2016;
- addition/rewording of comments inside the Annex II (DTD) for clarification and alignment with INSDC DTD v1.5.
- improvement of the general text of the Standard based on the public consultations carried out by the European Patent Office, the Japan Patent Office and the United States Patent and Trademark Office in 2016/2017.

8. As to the transition matters, in view of the relevance to the Patent Cooperation Treaty (PCT) of the transition from WIPO Standard ST.25 to ST.26, the Task Force invited the International Bureau to consult the PCT membership to provide input into its work. The International Bureau consequently issued Circular C. PCT 1485/C. CWS 75, dated November 18, 2016. The International Bureau shared the individual responses to the Circular with the Task Force and an analysis of the feedback received in reply to the Circular was presented by the International Bureau at the twenty-fourth session of the PCT Meeting of International Authorities (PCT/MIA) in February 2017 (see document PCT/MIA/24/14).

9. Members of the Task Force have discussed the results of the Circular C. PCT 1485/C. CWS 75 and transition matters through several WebEx meetings and on its electronic forum. From these discussions, the Task Force has produced a proposal titled “Recommendations for the transition provisions from WIPO Standard ST.25 to ST.26” for approval by the CWS at its fifth session (CWS/5), due to take place from May 29 to June 2, 2017 (see Annex to document CWS/5/7). This proposal is reproduced in the Annex to this document.

10. The Task Force has also provided support to the International Bureau for the specification of requirements for the new Authoring and Validation software tool required for the implementation of ST.26, which will be developed by the International Bureau.

#### **ROADMAP**

11. Obtain approval for the amended/added texts of ST.26 at CWS/5.

12. Obtain approval for the “Recommendations for the transition provisions from WIPO Standard ST.25 to ST.26” at the CWS/5.

13. Support the International Bureau of WIPO by providing users’ requirements and feedback on the Authoring tool.

14. Provide support to the International Bureau for the consequential revision of the PCT Administrative Instructions.

15. Work on any further revision of WIPO Standard ST.26. It is suggested that future revisions to the Standard be triggered by CWS members and not follow a pre-defined schedule.

*16. The Working Group is invited to take note of the contents of the present document.*

[Annex follows]

## **RECOMMENDATIONS FOR THE TRANSITION PROVISIONS FROM WIPO STANDARD ST.25 TO ST.26 (TASK NO. 44)**

*(reproduced from the Annex to document CWS/5/7)*

### **BACKGROUND**

1. The Committee on WIPO Standards (CWS) requested the Sequence Listing Task Force to present a proposal for transition provisions from WIPO Standard ST.25 to ST.26 for consideration and approval at its session taking place in 2017. Following the adoption of Standard ST.26 by the CWS in 2016, the Task Force carried out one round of discussions focused on transition matters (ST.25 to ST.26).

2. In view of the relevance to the Patent Cooperation Treaty (PCT) of the transition from WIPO Standard ST.25 to ST.26, the Task Force invited the International Bureau to consult the PCT membership to provide input into its work. The International Bureau consequently issued Circular C. PCT 1485/C. CWS 75. The International Bureau shared the individual responses to the Circular with the Task Force and an analysis of the feedback received in reply to the Circular was presented by the International Bureau at the PCT/MIA in February 2017. Members of the Task Force have also discussed the transition through several WebEx meetings and on its electronic forum.

### **RECOMMENDATIONS FROM THE TASK FORCE**

3. Following the request of the CWS and taking into account the result of the consultation carried out by the International Bureau by means of the Circular, the Sequence Listing Task Force recommends the following:

#### Transition Scenarios:

4. In line with the opinion expressed by all Offices in reply to the Circular, the Task Force believes that the “big bang” scenario is the preferable option since it appears to provide the highest legal certainty for applicants and Offices. All Offices should therefore agree on a date for the transition from ST.25 to ST.26 for the filing of sequence listings in new applications (“the transition date”).

#### International Applications filed after the Transition Date claiming Priority from an Application with a Sequence Listing Filed in ST.25:

5. The responses to the Circular expressed differing views on whether the transition date should be determined with reference to the international filing date of international applications, the priority date or whether the applicant should be given the choice.

6. Following an in-depth analysis of the advantages and disadvantages of the three options, including the feedback provided by the PCT/MIA in February (see paragraphs 65 to 67 of document PCT/MIA/24/15), the Task Force provisionally decided that the international filing date would be the most suitable, subject to further analysis to consider potential issues of added or deleted matter due to transformation of a sequence listing from ST.25, and subject to the availability of an authoring and validation tool to assist in the transformation of the sequence listing from ST.25 to ST.26 without adding or deleting matter. A document is being prepared to perform this analysis and make appropriate recommendations for use by applicants.

7. A decision on the procedure to be followed in the national/regional phase (e.g. for divisionals) should be left to national/regional Offices.

Provisional Transition Date:

8. The Task Force tentatively agreed on January 2022 as an implementation date, provided an authoring and validation software tool is able to display and print sequence listings in a human-readable format.

FUTURE WORK OF THE TASK FORCE:

9. The SEQL Task Force agreed on the following tasks:

- (a) The Task Force will support the International Bureau of WIPO by providing users' requirements and feedback on the Authoring tool.
- (b) The Task Force will provide support to the International Bureau of WIPO for the consequential revision of the PCT Administrative Instructions.
- (c) The Task Force's efforts will in future also be directed to the revision of WIPO Standard ST.26. It is suggested that future revisions to the Standard be triggered by CWS members and not follow a pre-defined schedule.

[End of Annex and of document]