

Patent Cooperation Treaty (PCT) Working Group

Tenth Session
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COORDINATION OF PATENT EXAMINER TRAINING

Document prepared by the International Bureau

SUMMARY

1. This document presents a proposal for improving the coordination, between beneficiary and donor Offices, of training of substantive patent examiners, including the proposed development of a competency framework for substantive patent examiners and of a learning management system.

INTRODUCTION

2. The PCT Working Group, at its ninth session, held in Geneva from May 17 to 20, 2016, discussed the evaluation of a questionnaire on the training of substantive examiners (document PCT/WG/9/18). This questionnaire, annexed to Circular C. PCT 1464, was addressed to both donor Offices (that is, Offices which provided training in substantive patent examination for examiners from other Offices or contributed to such training activities organized by another organization) and beneficiary Offices (Offices whose examiners have received training in substantive patent examination from other organizations), and requested information on all relevant training activities carried out between 2013 and 2015, and information regarding the management and delivery of substantive examiner training within each Office, such as the use of competency models, learning management systems or assessment tools, or the availability of self-study training materials or other media. The discussions by the Working Group are summarized in paragraphs 63 to 67 of document PCT/WG/9/27, with a full record of the discussions set out in paragraphs 155 to 169 of document PCT/WG/9/28.

3. Following its discussions, the Working Group agreed that the International Bureau should proceed with the suggestions set out in paragraphs 50, 60 and 65 of document PCT/WG/9/18; in particular, the Working Group agreed that:

“50. ... the International Bureau should develop a concept for improved coordination of training of substantive patent examiners, with a particular view to coordination with donor Offices, for discussion by the Working Group at the next session.

“60. ... the International Bureau should

(a) invite Offices to share with the International Bureau the curricula that they have developed for the training of their substantive patent examiners;

(b) invite Offices to share with the International Bureau their competency models for substantive patent examiners;

(c) prepare a compilation of such competency models to develop an inventory of various competencies that may be required for substantive patent examiners in Offices of various sizes.

“65. ... the International Bureau should explore the development and management of a learning management system and prepare a concept for discussion by the Working Group at the next session.”

4. The International Bureau requested the information to follow up the above actions through a questionnaire to IP Offices annexed to Circular PCT 1497, dated January 6, 2017. A copy of the Circular is available on the WIPO website at <http://www.wipo.int/pct/en/circulars/>. The responses from the questionnaire are summarized in document PCT/WG/10/7.

5. The present document sets out a proposal for better coordination of examiner training between Offices, along with work undertaken towards the development of a learning management system.

PROPOSAL FOR BETTER COORDINATION OF EXAMINER TRAINING BETWEEN DONOR AND BENEFICIARY OFFICES

CURRENT STATUS

6. As discussed in paragraph 12 of document PCT/WG/8/7, there is no “one-size-fits-all” approach when it comes to examiner training. In particular, among developing countries, approaches to patent examination vary considerably, stretching from simple registration systems to full examination. Training needs therefore differ with the size, the resources and the examination policies of Offices in developing countries.

7. For Offices with a small number of examiners, where each examiner covers wide range of fields of technology, training is ideally directed largely towards improving skills to utilize and exploit the work products from other Offices. In this way, the examiner can make decisions on substantive patent law with the benefit of prior art searches on patent family members carried out at other Offices by examiners with more specialized technical expertise, giving the examiner more information on which to take an informed decision in line with both the difference between the claimed invention and the prior art and the particular requirements of the national law. Moreover, with few patent examiners, it is not always practically viable for smaller Offices to develop or maintain in-house training infrastructures. Such Offices therefore largely depend on external training support.

8. By contrast, for medium-sized Offices of developing countries, the aims of training can focus on assisting Offices of developing countries in improving their training infrastructure and adopting training methodologies which are applied by Offices with a long track record in search and examination. In the past four years, several initiatives with these aims have been taken for and by Offices of developing countries so as to become less dependent on training support through donors¹.

9. Medium-sized Offices who are developing or have developed an in-house training infrastructure may, however, still need external training support through donors, in particular, for technology or search tool specific training, and for on-the job training with a view to acquire or exchange best practices.

10. Based on the evaluation of the two surveys conducted by the International Bureau regarding training activities carried out by donor Offices for the benefit of beneficiary Offices (see documents PCT/WG/9/18 and PCT/WG/10/7), the current support provided by donor Offices for the training of patent examiners from Offices in developing countries can be characterized as follows:

- an insufficient number of training opportunities is available; in particular, the supply for on the job training and for advanced and technology specific training does not match the demand;
- trainees are invited to a patchwork of various training opportunities provided by various donor Offices;
- training activities provided by donor Offices usually lack a detailed and standardized description of the skills and knowledge covered by them; it is therefore neither assured that training activities provided by different donors complement each other, nor that trainees have sufficient opportunities to attain all required competencies;
- there is limited systematic tracking of participation (both on the side of donors and beneficiaries); there is also limited evaluation of participation and/or an assessment of successful learning;
- training opportunities are used inefficiently, mainly because of:
 - repeat participation of individual examiners in similar training activities;
 - prerequisites for participation are not defined, in particular for advanced training;
 - no checking if participants meet such requirements;
 - no or limited assessment of prior knowledge;
 - skills covered by training are not needed according to job description.

OBJECTIVES OF IMPROVED COORDINATION

11. In view of the said deficiencies, the objectives of an improved coordination and management of patent examiner training would be the following:

- to assure that individual patent examiners may acquire all competencies required according to their job descriptions;
- to match (specific) individual and/or institutional training demand, with supply through donor Offices;

¹ For example, the RPET program of the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA); the recently initiated RPET-Mentoring program replacing RPET; the Ideal Patent Examiner Training (IPET) initiative of ASEAN member States; or a "Creation of a regional network of trainers for patent examiners" initiative of the European Patent Office for the benefit of ASEAN member States.

- to enable the tracking of participation in training activities and an assessment of success of learning of individual examiners;
- to assure an efficient use of training opportunities;
- to enable a detailed monitoring and evaluation of training collaborations between beneficiaries and donors (beyond the mere counting of activities and participants).

USE OF COMPETENCY FRAMEWORKS

12. Lately, it has become best practice to base the training of professionals, learning assessment and performance measurement on competency models. It would therefore be a highly-targeted approach for achieving the above objectives if both beneficiaries and donors applied a generic framework of technical competencies in a systematic way. Such a framework would need to be sufficiently comprehensive and detailed to enable:

- Offices to define individual competency models adapted to an individual examiner's job description and the Office's examination policy by selecting appropriate competencies from the generic framework;
- Offices to communicate (individual or institutional) training needs to donors in terms of specified competencies in order to enable donors to respond to training needs more specifically;
- donors to describe content of training activities and define prerequisites for participation in terms of competencies;
- training administrators or managers to assess and record individual prior learning of trainees and identify training gaps;
- training administrators or managers to track and assess the competencies attained by individual examiners through their participation in training activities;
- training organizers or managers to assign training opportunities more effectively by taking into account prior learning and individual training gaps of candidates on the one hand, and content of training activities and prerequisites for participation on the other;
- catering both to Offices conducting regular stand-alone substantive examination and to Offices with limited examination capacities.

13. Such competency models tailored to individual examiners or cohorts of examiners and to the capacities of the Office concerned would then form the basis for planning and coordinating the training of examiners. An Office could "manage" its training needs, for example, by requesting specific training support, either itself or "via" another organization, such as the International Bureau. In particular, smaller Offices with limited human resource management capacities would appear to be in need of external support in managing examiner training.

14. It is further to be noted that the International Bureau would be in a position to provide more detail, in particular with a view to advanced examiner training in its reports on training activities carried out or received by Offices which Member States had agreed should be prepared by the International Bureau on an annual basis (see document PCT/WG/10/7), if donors applied the generic competency framework to describe the content of their training activities.

FACILITATING COORDINATION BY USING A LEARNING MANAGEMENT SYSTEM

15. It has become a best practice to organize and deliver training, and to monitor learning progress, by means of a learning management system. The coordination and management of training would therefore greatly benefit from the development and utilization of a learning management system which accommodates individual competency models (ICM) as well as blended learning approaches (that is, a variety of types and media of learning). Such a system should primarily support the following tasks:

- per examiner:
 - tailoring and recording of ICMs;
 - recording of individual prior knowledge in terms of competencies;
 - (automated) allocation of suitable training opportunities;
 - tracking participation in training activities;
 - conducting and/or recording of assessments of successful learning in terms of competencies;
 - reporting of individual training progress in terms of the applicable ICM;
- per training activity:
 - describing content (learning objectives) and prerequisites for participation in terms of competencies;
 - selecting suitable participants (based on needs, prerequisites) for training activity made available by a donor;
 - success of learning assessment in terms of competencies;
- analytical reporting of various statistics of training activities of potential interest for donor and beneficiary Offices.

16. Optionally (and preferably), the system might also support the development of instructional content and/or the delivery of actual training activities, for example, distance learning courses.

AVAILABILITY OF COMPETENCY FRAMEWORKS

17. In response to the previous survey (Circular C. PCT 1464), 27 Offices had reported to have developed a competency model for the training of their substantive patent examiners. In response to the current survey (Circular C. PCT 1497), however, only two Offices have shared their competency models with the International Bureau. Competency models for substantive patent examiners have also been developed in the context the RPET program and the IPET initiative of ASEAN patent Offices (see paragraph 8, above).

18. At the time of writing of the present document, the International Bureau was in the process of preparing a compilation of the competency models referred to in paragraph 17, above. The International Bureau will give an oral update on this compilation during the present session of the Working Group.

19. A preliminary analysis of these competency models has shown that the technical competencies included therein are of a rather basic nature and do not appear to be detailed enough to enable an efficient communication of training needs or content. The most detailed competency model comprises only 14 different technical competencies. For example, a competency labelled "Develop an effective search strategy and conduct an online search" would not be sufficient for describing the variety of skills needed for preparing, conducting and refining a prior art search. The shared models neither include competencies which are specific to certain areas of technology or database specific, nor for tasks like opposition procedures or hearings. They mostly cater to competencies needed for conducting stand-alone substantive examination and do not account for differing needs of smaller Offices.

20. In order to implement a more efficient coordination and management of examiner training, it would therefore appear to be necessary to develop a competency framework that meets the requirements stated in paragraph 12, above. The development of such a framework is currently underway in the context of a project for improving the efficiency of donor sponsored examiner training, which is carried out by WIPO's Regional Bureau for Asia and the Pacific (ASPAC). The International Bureau will present details of this project at a side event during the present session of the Working Group.

DEVELOPMENT OF A LEARNING MANAGEMENT SYSTEM

21. Learning management systems come in the form of systems based on open source platforms like Moodle, which is available under a GNU General Public License, or as proprietary systems, for example as SAAS (Software as a Service). While many of these systems are primarily directed towards the design, management and delivery of instructional content, several of them (including Moodle) also support tasks such as those mentioned in paragraph 15, above, and accommodate competency models.

22. The WIPO Academy has already deployed a Learning Management System (LMS) which is based on the open source platform Moodle. The WIPO Academy LMS, however, is designed solely for developing, managing and delivering the individual on-line courses of WIPO's distance learning program. It is not designed for managing the full vocational training of individual trainees according to individually tailored competency models.

23. With a view to assuring an efficient use of a limited number of training opportunities, the development and deployment of a learning management system which meets the requirements stated in paragraph 15, above, is currently being explored in the context of the said ASPAC project for improving the efficiency of donor-sponsored examiner training. Details of the development will be presented at the side event referred to in paragraph 20 above.

24. It is envisaged that this system would be used by the International Bureau for the management of examiner training activities organized or co-organized by the International Bureau, and for monitoring training progress of any participant in such training activity. The system as well as reports on the training progress would be made available to interested Offices. The Offices would be invited to share similar reports on training progress of the participants through participation in training activities not organized by the International Bureau, in order to keep the records of training progress of enrolled examiners up-to-date. In this way, it would be possible to assure a comprehensive training of an enrolled examiner and efficient use of training activities and resources.

REPORTING ON DEVELOPMENTS

25. The International Bureau will report on the progress of the development of the competency framework, as described in paragraphs 17 to 20, above, and the learning management system, as described in paragraphs 21 to 24, above, to the Working Group at its 2018 session.

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

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