

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

**Fifteenth Session**  
**Geneva, October 3 to 7, 2022**

### **MEETING OF INTERNATIONAL AUTHORITIES UNDER THE PCT: REPORT OF THE TWENTY-NINTH SESSION**

*Document prepared by the International Bureau*

1. The Annex to this document sets out the Summary by the Chair of the twenty-ninth session of the Meeting of International Authorities under the Patent Cooperation Treaty (PCT/MIA), held in Geneva as a virtual meeting from June 20 to 22, 2022. Annex II to this Summary by the Chair contains the Summary by the Chair of the twelfth informal meeting of the PCT/MIA Quality Subgroup, which was held as a virtual meeting prior to the Meeting of International Authorities on June 16 and 17, 2022.
2. The Working Group is invited to note the Summary by the Chair of the twenty-ninth session of the Meeting of International Authorities under the PCT (document PCT/MIA/29/10), reproduced in the Annex to this document.

[Annex follows]



## MEETING OF INTERNATIONAL AUTHORITIES UNDER THE PATENT COOPERATION TREATY (PCT)

TWENTY-NINTH SESSION, GENEVA, JUNE 20 TO 22, 2022

### SUMMARY BY THE CHAIR

*(noted by the Meeting; reproduced from document PCT/MIA/29/10)*

### INTRODUCTION

1. The Meeting of International Authorities under the PCT ("the Meeting") held its twenty-ninth session as a virtual meeting from June 20 to 22, 2022.

2. The following International Searching and Preliminary Examining Authorities participated remotely in the session: the Austrian Patent Office, the Brazilian National Institute of Industrial Property, the Canadian Intellectual Property Office, the China National Intellectual Property Administration, the Egyptian Patent Office, the Eurasian Patent Office, the European Patent Office, the Federal Service for Intellectual Property of the Russian Federation, the Finnish Patent and Registration Office, the Indian Patent Office, the Intellectual Property Office of the Philippines, the Intellectual Property Office of Singapore, IP Australia, the Israel Patent Office, the Japan Patent Office, the Korean Intellectual Property Office, the National Institute of Industrial Property of Chile, the Nordic Patent Institute, the Spanish Patent and Trademark Office, the Swedish Intellectual Property Office, the Turkish Patent and Trademark Office, the Ukrainian Intellectual Property Institute, the United States Patent and Trademark Office and the Visegrad Patent Institute.

3. The list of participants is contained in Annex I to this document.

### OPENING OF THE SESSION

4. Ms. Lisa Jorgenson, Deputy Director General, Patents and Technology Sector welcomed the participants on behalf of the Director General of WIPO.

### ELECTION OF A CHAIR

5. The session was chaired by Mr. Tsuyoshi Isozumi, Senior Director, PCT Legal and International Affairs Department, Patents and Technology Sector, WIPO.

### ADOPTION OF THE AGENDA

6. The Meeting adopted the agenda as set out in document PCT/MIA/29/1 Prov. 2.

### PCT STATISTICS

7. The United States Patent and Trademark Office (USPTO) reported that on March 22, 2022, following guidance from the United States Department of State, it had terminated engagement with officials from the Federal Service for Intellectual Property of the Russian Federation (Rospatent) and the Eurasian Patent Organization. The USPTO had also terminated engagement with officials from the national intellectual property office of Belarus. This was in response to the events unfolding in Ukraine. Further on June 1, 2022, the USPTO notified Rospatent of its intent to terminate their agreement concerning Rospatent functioning as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) for international applications received by the USPTO as a receiving Office. Under the terms of the agreement, the termination would be effective from December 1, 2022. In the interim, applicants from the United States filing international applications under the PCT were advised to exercise caution before selecting Rospatent as ISA or IPEA.

8. The Federal Service for Intellectual Property of the Russian Federation (Rospatent) stated that the unilateral decision of the USPTO was driven by political will and ignored the needs and demands of applicants. Rospatent was recognized as a competent International Authority for 30 States and regional organizations, carrying out search and preliminary examination in all technical fields, including those related to methods of treatment of the human or animal body by surgery or therapy, as well as diagnostic methods. The work of Rospatent was in demand among applicants at the USPTO. Further, regardless of general blocking policies, the United States had authorized certain intellectual property-related transactions in General License No. 31, recognizing the importance of the functioning of the global intellectual property system. Since the agreement on acting as an International Authority for applicants from the United States had been signed in 2010, Rospatent had consistently received search and examination requests from such applicants, demonstrating the long-standing interest in the service and trust in Rospatent's expert competencies. In terminating the agreement, Rospatent believed that the USPTO was depriving its own applicants of an important tool to protect their inventions abroad. Rospatent called for International Authorities to concentrate on the effective functioning of the global intellectual property ecosystem with a focus on the needs of applicants and right holders and to refrain from politicizing the issues.

9. The Eurasian Patent Office (EAPO) thanked Authorities for their support of its recent appointment as an International Searching and Preliminary Examining Authority and looked forward to contributing to the continued development of the PCT System. The Office's new role as an International Authority would be in the interests of applicants from the region, allowing it to act at all stages of the patent process. The EAPO supported the statement made by Rospatent. The Eurasian Patent Organization united eight countries in the administration of a unitary patent system, and the EAPO regretted the discriminatory, non-constructive practices initiated by a number of patent Offices. International cooperation in the field of intellectual property was intended to stimulate creativity and effective protection of intellectual property rights for the benefit of applicants and right holders worldwide, based on principles of parity, openness and partnership. The current situation created imbalances and risks to the global intellectual property system and infringed the basic principles of international legislation and obligations. The EAPO was committed to the idea that expert dialogue should not be politicized and that the intellectual property system should function strictly within the legal framework. The EAPO therefore called for other International Authorities to take pragmatic positions and follow the interests of intellectual property users.

10. The Meeting noted the presentation made by the International Bureau on the most recent PCT statistics<sup>1</sup>.

#### **MATTERS ARISING FROM THE QUALITY SUBGROUP**

11. The Meeting noted with approval the Summary by the Chair of the Quality Subgroup set out in Annex II to this document, agreed with the recommendations contained in that Summary and approved the continuation of the Subgroup's mandate, including the convening of a meeting in 2023.

#### **PCT ONLINE SERVICES**

12. Discussions were based on document PCT/MIA/29/9.

13. International Authorities expressed appreciation for the functionality for applicants and Offices made available by the International Bureau through its various online services, including the ePCT functionality for International Authorities, eSearchCopy transmission, and ePCT web

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<sup>1</sup> A copy of the presentation is available on the WIPO website at:  
[https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=576059](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=576059).

services. Several Offices in their role as receiving Office had transitioned effectively to the use of ePCT-Filing and some now received almost all their applications through that service.

14. Authorities broadly supported the long-term goals and next steps for further development proposed in the document especially with regard to the use of XML and elimination of paper communications with applicants. The use of XML was important for developing more efficient processes and training artificial intelligence systems. For this purpose, quality and consistency were important; one Authority highlighted a need to describe the requirements of XML documents more clearly so that Offices could develop systems with the necessary accuracy and consistency. Several Authorities indicated that they would support the relevant goals in the development of their own IT systems to the extent that resources permitted, but in some cases the projects were bound up with local system development work that was expected to take several years to complete. Several Authorities reported important progress towards the goal of delivering international search reports and written opinions in XML format.

15. Authorities agreed that it was desirable to be able to exchange priority documents including XML data and noted the International Bureau's comment that it was important that this be done in a standardized way so that Offices would be able to import priority documents automatically and consistently, irrespective of the source. The International Bureau intended to raise PCT aspects of requirements to exchange XML priority documents in the PCT Working Group, but the issue should be addressed primarily through the Committee for WIPO Standards. The Digital Access Service for Priority Documents (DAS) would need updating to deal with the new format after a standard had been adopted.

16. With regard to the proposal towards eliminating paper communications from Offices to applicants, the International Bureau confirmed that consideration would need to be given to ensuring that applicants were able to select easily the use of the service and where and how the appropriate notifications would be received. This might be by email, browser interface or automated interfaces for patent management systems. The service would also rely on Offices either using ePCT or the implementation of a web services interface where the Authority trying to send a communication could submit a document for potential transmission and receive immediate confirmation whether it had been accepted or if the Office still needed to send it to the applicant by paper or other means. The International Bureau would present more detailed proposals in due course.

17. In response to a request for clarification on the process of making improvement requests for the functionality available to Authorities in ePCT, the International Bureau advised that suggestions should be sent to [pct.icd@wipo.int](mailto:pct.icd@wipo.int).

18. The Meeting noted the contents of document PCT/MIA/29/9.

#### **FORMALITIES CHECKING IN THE PCT**

19. Discussions were based on document PCT/MIA/29/3.

20. The United States Patent and Trademark Office (USPTO) referred back to document PCT/MIA/27/14, which it had submitted to a previous session of the Meeting and outlined three different ways in which the existing split of responsibilities between the receiving Office and the International Bureau could cause difficulties for applicants and Offices alike. First, the Office might consider that drawings, despite not meeting the requirements of Rule 11 were satisfactory for publication and not object, but the International Bureau might disagree. Second, the Office might issue a Form PCT/RO/106 pointing out defects that it does not consider necessary because it believed that the International Bureau would bring the defects to the attention of the Office under Rule 28. In this case, applicants may be aggrieved by being asked to make corrections, particularly when some applicants state that they do not consider it necessary and the application is allowed to proceed without further action. Third, the Office may sometimes

receive corrections, but the International Bureau states that it prefers to continue with the original drawings since it is able to fix the perceived defects easily *ex-officio* (such as margin sizes or location of page numbers and other marginal content). The USPTO considered that the International Bureau applied a higher standard under Rule 28 than the receiving Offices were supposed to apply under Rule 26. Further, adding an International Authority to the mix of competent actors would confuse issues more than clarify them.

21. Authorities agreed that the question of formalities checking in the PCT was unclear, inconsistent and a matter of concern, but the solution was difficult. It was not easy to define a clear set of rules for what was necessary for publication. This was made even more difficult by the fact that Rule 11 was defined in terms of paper-based processing, when most applications were filed electronically and XML applications in particular had considerably different needs. A particularly important issue was the difficulty in assessing color drawings, which typically looked good as filed, but needed to be considered in terms of what they would look like when converted to black and white for publication. This reduced the quality of the disclosure whether the publication was made based on a conversion of the original sheets or replacement sheets submitted by the applicant. The issue of color drawings had been ongoing for many years and should be a priority to resolve. Some Authorities noted that the question of the appropriate standard for publication was independent of whether informal drawings were sufficient for the purposes of international search – in most cases other than the question of the conversion of color drawings, informal drawings were perfectly sufficient to form the basis of an international search. Authorities noted that the term “informal drawings” would need a more clear definition if it were to form the basis of any proposals.

22. Some Authorities were supportive of the idea of the International Searching Authority taking a role supporting the receiving Office in the assessment of formalities requirements. The search examiners were in a better position than formalities examiners at the receiving Office to assess the question of added subject matter in replacement drawings. Others raised concerns including the issue of confusing processes by including additional actors, additional costs and burdens for Authorities and potential delays caused by further layers of processing. One Authority emphasized that if such a role were given, it should be based on an invitation being made to the applicant to submit corrections to the Authority in specific cases, not a general right for the applicant to submit corrections of their own volition.

23. Some Authorities expressed interest in the possibility of modifying Form PCT/RO/106 both to reflect more clearly modern requirements and to split the question of formalities defects that applicants might find it useful to be aware of and consider correcting centrally from those that were essential to the question of reasonably uniform publication.

24. Some Authorities also considered that it would be useful for the International Bureau to play a more centralized and direct role in the assessment of formalities defects, particularly with regard to informal drawings. One of these Authorities expressed the position that all formalities reviews should be performed solely by the International Bureau since it was in the best position to determine whether something is acceptable for the purpose of reasonable uniform publication. In the alternative, should it be decided that the formalities check should continue to be performed by both the receiving Office and the International Bureau, the requirements for reasonable uniform publication had to be clearly defined. Other Authorities emphasized the importance of the receiving Office in ensuring clarity of communication with applicants, having regard to language and time zone issues. One Authority also considered that artificial intelligence might in the future play an important role in assisting the Offices concerned.

25. Authorities noted that any changes in this area, particularly with regard to Rule 11, would have major effects on national laws and regulations as well as the processes of the PCT System.

26. The International Bureau agreed that there were difficulties in consistent application of the standard of “reasonably uniform international publication”, but stated that it did not deliberately apply a different standard under Rule 28 from that applied by receiving Offices under Rule 26. Although Rule 28 did not explicitly make mention of reasonably uniform publication, there was no value in bringing defects to the attention of receiving Offices that, according to the terms of Rule 28.1(b), it should still assess under the standards set out in Rule 26 and ignore if they continued to consider that they were not relevant to the question of reasonably uniform international publication. While mistakes of process and errors of judgement would inevitably be made from time to time in such a difficult area, the International Bureau’s understanding of Rule 28 was that it should only draw attention to defects that it considered ought to be raised by the receiving Office according to the standards of Rule 26. However, any clarifications to Rules or processes that could reduce the confusion would be desirable. All the related issues would be brought to the PCT Working Group at its next session. In the view of the International Bureau, updating Rule 11 was a process that would take several years to complete, but Member States could attempt to improve some aspects of formalities checking more quickly.

27. The Meeting noted that the International Bureau intended to prepare a related document for the next session of the PCT Working Group, taking into account the comments made.

#### **CITATION OF NON-WRITTEN DISCLOSURES**

28. Discussions were based on document PCT/MIA/29/2.

29. All Authorities that took the floor broadly supported the proposal, which would improve the quality of international work products by allowing examiners to consider non-written disclosures when preparing reasoned statements on novelty and inventive step. Including non-written disclosures as prior art reflected the definition in national patent laws. However, Authorities highlighted issues related to implementation of the proposal that would require adjustment of IT systems and further guidance to examiners and patent Offices on the citation of video and audio disclosures and their storage, including how to provide evidence of such non-written disclosures, especially if an earlier disclosure was no longer available on the Internet. These included documentation of videos in written form, how to depict non-audible disclosures in videos in a transcript, as well as issues with copyright and file size when saving and distributing video and audio recordings. Reliable identification of dates of disclosure was also an issue, as well as distinguishing between the date of an original disclosure and the date when a particular record of that disclosure was made available on an online system.

30. In response to the comments on the proposal, the International Bureau suggested including the sharing of practices at International Authorities and the discussion of specific issues related to the citation of non-written disclosures in the Quality Subgroup electronic forum discussions related to developing draft modifications of the PCT International Search and Preliminary Examination Guidelines.

31. Some Authorities provided suggestions concerning the drafting of the provisional amendments to the PCT Regulations in the Annex to the document. While supporting the proposal, some Authorities suggested to simplify the references in Rules 33.1(a) and 64.1(a) to refer simply to “... by any means which is capable of ...”, rather than continuing to set out particular cases of written and oral disclosures, use, exhibition or other means. Further, maintaining Rules 33.1(b) and 64.2(b) should be considered in order to address the reasons for which these Rules were originally provided, regulating how to refer to written disclosure describing an earlier non-written disclosure. While not relevant to the purpose of the proposal, it was also noted that the reference in Rules 33.1(a) to “is or is not new and that it does or does not involve an inventive step” should probably read “... or does or does not involve an inventive step”. One Authority suggested amending Rule 5.1(a)(ii) with regard to the description indicating background art.

32. One Authority indicated the need for sufficient time to implement the proposal, taking into account the effects on IT systems, including those relating to Box VI of the written opinion as well as those relating to storage and transmission of citations in new formats.

33. The Meeting invited the International Bureau to continue discussion of the proposal with a broader audience at the PCT Working Group and to begin informal consultations through the Quality Subgroup on detailed issues that International Authorities had raised during the session.

#### **PROPOSAL TO PROMOTE THE IMPROVEMENT OF THE INTERNATIONAL SEARCH REPORT AND WRITTEN OPINION**

34. Discussions were based on document PCT/MIA/29/7.

35. The China National Intellectual Property Administration (CNIPA) recalled that a survey had been completed and analyzed and was the subject of a draft report on which International Authorities had commented. The aim was to finalize the report, solicit further comments and suggestions on priority items and report to the next session of the Meeting according to the timetable set out in paragraph 6 of the document. CNIPA emphasized that the survey and the report identified issues for discussion and did not commit International Authorities to particular action at this stage; indeed, some of the proposals under consideration were mutually exclusive and the appropriate directions and priorities would need to be considered carefully.

36. International Authorities thanked CNIPA for its efforts on the survey and report. While certain items in the report were considered important, several Authorities considered that the most significant potential benefits would come from merging the international search report and the written opinion of the International Searching Authority. This could provide efficiency and promote greater availability of useful information in formats allowing efficient processing for examination in the national phase and for data analysis. One Authority indicated that to achieve the potential benefits, it would be important to consider the information content desired rather than working based on the modification of forms as had been typical in the paper-based world. Another Authority acknowledged the potential of the proposals but emphasized the need to ensure that any implementation would not introduce excessive costs or burdens on Authorities.

37. One Authority also noted that merging the international search report and written opinion would take some time. In the meantime, it might be useful to work on modifying the International Search and Preliminary Examination Guidelines covering Boxes VII and VIII of written opinions and international preliminary reports on patentability. These could improve examination uniformity without needing an IT system update.

38. The Meeting noted the proposed timetable and next steps set out in document PCT/MIA/29/7.

#### **IP5 PCT COLLABORATIVE SEARCH AND EXAMINATION PILOT: STATUS REPORT**

39. Discussions were based on document PCT/WG/29/6.

40. The European Patent Office (EPO) introduced the document and noted that the pilot was now in its evaluation phase. To enable sufficient analysis of national phase examination, this phase had been extended to June 2023. In the analysis of the international phase, it had been noted that 70 per cent of the applications included new citations compared to the provisional international search report, 53 per cent had additional X, Y or E category citations and the average number of citations had increased from 6.1 to 8.1. This was not in itself evidence of increased quality, but provided a focus for further analysis. The survey issued by the International Bureau to participating applicants on behalf of the Authorities and possible financial schemes would be discussed at the next IP5 Collaborative Search and Examination Pilot Group meeting.



41. Authorities participating in the pilot thanked the European Patent Office and the International Bureau for their work in running the pilot and helping to analyze the results. With regard to national phase data, one Authority reported that so far, 205 of the 468 applications in the pilot had entered the national phase at its Office, of which 76 had been the subject of a first report and a conclusion reached in 38 cases. After the pilot had ended, some of the Authorities indicated that they looked forward to a discussion with applicants and other Offices on whether the service should become a permanent feature of the PCT System.

42. The Meeting noted the contents of document PCT/MIA/29/6.

### **PCT MINIMUM DOCUMENTATION**

43. Discussions were based on documents PCT/MIA/29/4 and PCT/MIA/29/5 and presentations delivered by the European Patent Office (EPO) and United States Patent and Trademark Office (USPTO)<sup>2</sup>.

44. The EPO and USPTO reported that the Task Force had reached agreement on most aspects of a new set of Rules and Administrative Instructions covering the definition, making available and storage of the PCT minimum documentation. These were not perfect arrangements, but represented practical compromises that would support the quality of PCT search work while not being an undue burden on International Authorities.

45. Following recent discussions between the USPTO and the Indian Patent Office, an additional paragraph for the Administrative Instructions was proposed, as follows:

– Traditional Knowledge Non-Patent Literature

The present set of criteria applies to all sources of non-patent literature prior art, including Traditional Knowledge resources. Therefore, Offices recommending their Traditional Knowledge as part of the minimum documentation must comply with the present criteria. However, if, in the future, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore and other relevant bodies within WIPO decide that Traditional Knowledge prior art should be treated differently than other non-patent literature prior art, then the Task Force shall meet to discuss additional criteria that is specifically directed to Traditional Knowledge resources in line with any new understanding on the treatment of such prior art.

46. The Indian Patent Office stated that it would provide its more considered views on this paragraph in time to try to finalize it before the next meeting of the PCT Minimum Documentation Task Force, planned for November 2022.

47. One Authority indicated that the proposed changes to the PCT Regulations should be considered only when Authorities were confident about practical implementation of the same, as had been the case for transition to WIPO Standard ST.26 for sequence listings. Authorities should be clear about the inventory of the minimum documentation as it would stand following the changes and further understanding of translation requirements might also be needed. In response to this comment, the EPO agreed to share an inventory of the patent and utility model collections as they would stand after the new provisions entered into force.

48. One Authority asked how an Office could ascertain whether a subsequent version of a document published more than once contained additional matter to determine whether only the

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<sup>2</sup> A copy of the presentations are available on the WIPO website at:  
[https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=576131](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=576131) and  
[https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=576114](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=576114).

first published version needed keeping, as proposed in Rule 34.1(f), and whether identification as to which version should be kept by the Authorities could be done by the Task Force.

49. In response to a question concerning the deletion of Rule 36.1(iii), the EPO confirmed that the requirement for an Office or organization to have a staff who were capable of searching the required technical fields had been moved to the proposed Rule 36.1(i). However, the proposal deleted the requirement to understand all the languages of the minimum documentation, as written or translated.

50. With regard to the proposed modifications to the Administrative Instructions, Authorities provided the following comments:

(a) One Authority considered that the inclusion of the information in paragraph 5(e) should be optional in the Authority File, as was the case in WIPO Standard ST.37. The EPO indicated willingness to work with the Authority to consider the issues. However, without the inclusion of the information in paragraph 5(e), beneficial information about the text searchability of patents would be lost;

(b) Concerning the terms of use of patent and utility model data made available to International Authorities under paragraph 20, one Authority underlined the importance of consent by the provider of the data before any sharing beyond that required for patent search and the provision of copies of cited documents under the PCT. Another Authority wanted the data to be shared on PATENTSCOPE as this would provide a single source and single interface for applicants and national Offices to access data in the PCT minimum documentation; and

(c) The means of making items of non-patent literature available required in paragraph 23 and full text access to the items required in paragraph 38 should be clarified. The terms “digital format” and “full text access” did not make clear that online access was necessary. The USPTO indicated willingness to review the text in this part.

51. The Meeting:

(a) noted the contents of documents PCT/MIA/29/4 and PCT/MIA/29/5 and comments made by Authorities on the proposals in document PCT/MIA/29/5;

(b) invited the European Patent Office and United States Patent and Trademark Office to consider the comments in the preparation of proposals to the fifteenth session of the PCT Working Group, scheduled to take place in October 2022; and

(c) agreed on the continued work of the PCT Minimum Documentation Task Force and the extension of the mandate proposed in paragraph 22 of document PCT/MIA/29/4 in preparation for the implementation of a future decision by the PCT Assembly on the adoption of the proposed requirements for the PCT minimum documentation and their entry into force.

## **SEQUENCE LISTINGS**

52. Discussions were based on document PCT/MIA/28/8 and a presentation made by the International Bureau on the implementation of WIPO Standard ST.26 in the PCT<sup>3</sup>.

53. The Meeting noted the contents of document PCT/MIA/28/8 and the presentation made by the International Bureau.

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<sup>3</sup> A copy of the presentation is available on the WIPO website at:  
[https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=576113](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=576113).

## **FUTURE WORK**

54. The Meeting noted the changes to the convening of sessions of the PCT Assembly, which in future, could meet regularly in July rather than September/October. This would affect the meeting of other PCT bodies, including the PCT Working Group. The work of the various bodies needed to be coordinated properly and spread across the year so as to be both effective and manageable for the International Authorities, the International Bureau and Member States, alike. The Secretariat indicated that the Director General would make proposals in this regard when more details were known.

55. The Meeting also noted a recommendation by the Secretariat to meet as a remote session, or alternatively as an in-person session in Geneva, in 2023, acknowledging the various uncertainties and the need for as many Authorities as possible to be able to attend any physical meeting.

## **CLOSING OF THE SESSION**

56. The Chair closed the session on June 22, 2022.

[Annex I to document PCT/MIA/29/10, containing a list of participants is not reproduced here]

[Annex II (to document  
PCT/MIA/29/10) follows]

ANNEX II (to document PCT/MIA/29/10)

PCT/MIA QUALITY SUBGROUP, TWELFTH INFORMAL MEETING  
GENEVA, JUNE 16 AND 17, 2022

## SUMMARY BY THE CHAIR

1. Mr. Michael Richardson, Director, PCT Business Development Division, World Intellectual Property Organization (WIPO) welcomed participants to the session on behalf of the Director General of WIPO, Mr. Daren Tang.

### **1. QUALITY MANAGEMENT SYSTEMS**

#### **(A) REPORTS ON QUALITY MANAGEMENT SYSTEMS UNDER CHAPTER 21 OF THE PCT INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION GUIDELINES**

2. One Authority gave a brief summary of the highlights of its quality management system report and related activities that had occurred recently, such as the availability of new search tools to the public as well as examiners, the delivery of XML search reports, risk management processes being in line with ISO 31000, and the return to office for staff. Another Authority clarified that the risk management processes indicated in its latest report brought together a wide range of activities, many of which had been done for several years.

3. The Subgroup agreed that the quality reports should be published and recommended to continue reporting on quality management systems using the present reporting mechanism.

#### **(B) FEEDBACK FROM PAIRED REVIEW OF QUALITY MANAGEMENT SYSTEMS OF INTERNATIONAL AUTHORITIES**

4. Six International Authorities had participated in the paired review sessions. All had found the sessions useful and recommended that other Authorities should participate in future. The process was considered most meaningful if a large number of Authorities participated, allowing a wide range of pairings. While several Authorities had been pleased to receive clarifications of issues and to gain new ideas for quality processes, the discussions did not need to be strictly limited to issues referred to in the reports. While the process was called a “review”, it could actually be more of an informal discussion, using the quality reports as a starting point for discussing a wider range of items of mutual interest. With the Authorities this year arranging their own meetings at mutually convenient times, some pairs had taken the opportunity to continue their discussions for longer than had been possible in previous arrangements.

5. The International Bureau noted that all Authorities that had participated over the years had considered the sessions useful, but sensed that some Authorities felt that there was a diminishing return from participating every year in a common format and a limited group of Offices. It encouraged Authorities to participate in future sessions and invited suggestions over the coming months for any changes that could make participation more attractive or useful. Options might include arranging pairings between Offices having common characteristics or interests, or arranging groups of more than two Offices with an interest in discussing particular issues.

6. The Subgroup noted the feedback from the paired review sessions and recommended that interested International Authorities should again perform paired reviews of reports of Quality Management Systems around the time of the next meeting. The International Bureau would call for feedback on format of the sessions before inviting Authorities to participate.

## 2. BETTER UNDERSTANDING THE WORK OF OTHER OFFICES

### (A) SURVEY ON SEARCH STRATEGIES

7. International Authorities broadly expressed satisfaction that the work on developing a survey on search strategies was nearing completion and that the International Bureau was able to administer such a survey in 10 languages. A few minor revisions to the text were needed, including further consideration of the rating scale, but most of these could be confirmed as part of a short final round of consultations through the wiki. The primary concern related to a possibly leading question concerning whether full search strings would make search strategies more useful to users. It was agreed that this should be replaced by a more open question with a free text option to indicate what, if anything, particular users would like to see. The details of the question could be discussed on the wiki to ensure that users would understand it clearly.

8. One Authority noted that, while each International Authority was responsible for deciding which users (if any) it would send the user survey to, the arrangement would mean that the International Bureau received the data for all the surveys and asked whether the data would be sent only to the Authority concerned or to all Authorities. One Authority mentioned that International Authorities wishing to do so should analyze their own results without them being sent to others. The Authorities agreed that if the International Bureau is informed which Authority had invited a user to submit a survey, on request the results will be sent to that Authority alone for analysis.

9. The Authorities agreed that it would be useful if possible to provide examples of search strategies from different Authorities to help inform users filling in the survey. However, it was important that this did not delay the issue of the survey and the examples should avoid leading the responses. It was suggested that some anonymization of the examples might be appropriate. There remained some drafting and technical work to complete so there was still time to find examples without delaying the overall process. The International Bureau proposed to invite each International Authority to submit one or more example of its own search strategies to the wiki, with a view to selecting suitable samples by the end of August 2022.

10. The Subgroup recommended that the International Bureau should prepare finalized versions of the Office and user surveys based on a final round of consultations on the texts, to be conducted through the wiki and simultaneously invite the submission of sample search strategies from different Authorities to help inform users invited to submit responses.

### (B) STANDARDIZED CLAUSES

11. The International Bureau outlined the recent work that had been done on the wiki on collecting Offices' clauses and in ePCT on making clauses easily usable. There had been three main areas of interest for new clauses: unity of invention, formalities examination and explanation of patent-related concepts to inexperienced applicants. However, unity of invention, and especially "minimum reasoning" as recently agreed for the International Search and Preliminary Examination Guidelines appeared to be the area with most interest.

12. Authorities supported the further development of standardized clauses. One Authority indicated that it used its own clauses and looked forward to these being available in ePCT. Many Authorities mentioned that they were regularly using clauses for producing written opinions or Chapter II reports, for a variety of search and examination aspects. The European Patent Office offered to provide their own clauses related to unity of invention by sharing them shortly on the wiki. The International Bureau observed that there was some value in gaining a common understanding of work through sharing information on clauses, but that the value of developing standardized clauses as such was limited unless they became commonly used by Authorities establishing large numbers of reports.

13. The Subgroup noted the continued interest in standardized clauses, and recommended that Authorities contribute to maintain the wiki used for standardized clauses, for instance by adding clauses on unity based on the minimum reasoning approach. In the absence of volunteers to lead the process, the International Bureau would assess the contributions made and propose further steps.

### **3. CHARACTERISTICS OF INTERNATIONAL SEARCH REPORTS**

14. The International Authorities agreed that the reports on characteristics of international search reports remained a useful source of information, though various improvements would be desirable as discussed in previous meetings. The data was not as easy to use as it might be, but one Authority had again prepared an Excel file allowing a range of options for analysis going beyond the charts presented in the main reports.

15. Authorities expressed considerable interest in the possibilities arising from a citations database containing information from international search reports as soon as they were established. This Authority sought further information from the International Bureau concerning such plans. Authorities would like to see highly customizable charts, showing characteristics similar to those in the current reports with selection based on a variety of factors, including Offices, time ranges, fields of technology and others. The data should be readily downloadable for further analysis.

16. The International Bureau noted that its plans for the coming 12 months were modest and were primarily concerned with establishing a database suitable to support future services. Any delivery of characteristics information was likely to be limited to simple extracts of data to demonstrate proof of concept and not include sophisticated display or selection options at this stage.

17. In answer to a query, the International Bureau confirmed that a citations database should be able to support a range of other services. The concept of assisting access to copies of citations could be seen from the existing services based on XML search reports that could be seen in PATENTSCOPE and ePCT – providing access to patent citations was usually easy, but direct access to non-patent literature posed a variety of different challenges. This type of service pointed at the possible need for the database to include information such as ISSN and ISBN codes as well as the fields necessary to deliver information based on the characteristics in the current reports. However, this would not easily solve issues such as the question of analysis of languages of non-patent literature citations.

18. The Subgroup invited the International Bureau to keep International Authorities informed of developments concerning the citation database and noted that the International Bureau would seek further information on requirements through the wiki and directly contacting Authorities where clarification of suggestions might be useful.

### **4. PCT METRICS**

19. International Authorities considered that ePCT reporting provided a valuable complement to management systems put in place by individual International Authorities and supported further development both of the reporting systems within the ePCT browser interface and of “push” notifications. Careful considerations were needed to ensure that users with different interests were shown information of relevance to them in a way that they understood. This included ensuring that emails were sent to the right people, that the data definitions were clear and that appropriate views were provided for different purposes. Clear graphical representations were often desirable. It was important also to ensure that Office users were aware of the services available to them and how to use them.

20. One Authority noted the importance of terminology and context for reports. It considered that these reports should be available only to the International Authority concerned and not used for benchmarking. The International Bureau indicated that, while it could not rule out benchmarking issues in the future, the ePCT reports dealt with unpublished applications, including the facility to identify the details of specific applications. It confirmed that such an arrangement could not be opened up to any person not entitled to access to this confidential information. As such, the WIPO IP Statistics Data Center remained the primary source for benchmarking information. In response to a comment from another Authority, the International Bureau noted that it had limited resources to apply to this area and agreed that development should be considered carefully to ensure that it represented value for money.

21. The Subgroup invited the International Bureau to continue development of metrics reporting tools both within the ePCT browser interface and as push reports and requested training and clearer data definitions for the existing services.

## **5. UNITY OF INVENTION**

22. International Authorities supported the inclusion of an example to Chapter 10 of the International Search and Preliminary Examination Guidelines in the chemical field showing the “minimum reasoning” methodology and wished to continue work towards reaching agreement on the example being discussed on the wiki. One Authority offered to post a compromise between the two versions for this example.

23. The United States Patent and Trademark Office suggested that Chapter 10 could include some more complex examples in the chemical field, for example, with regard to Markush groupings. These examples included but were not limited to the “minimum reasoning” methodology. This Authority believed that some of the existing examples in Chapter 10 could be clarified with regard to claim groupings.

24. The Subgroup recommended that Authorities should seek to reach a conclusion on a chemical “minimum reasoning” example before the end of 2022 through discussions on the wiki and invited the United States Patent and Trademark Office to provide suggestions on how to start the work suggested in paragraph 23, above.

## **6. OTHER IDEAS FOR QUALITY IMPROVEMENT**

25. The International Bureau invited International Authorities to continue considering both areas of work and ways of working that could help ensure that the Subgroup assisted International Authorities to improve both their processes and their work results.

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