

**your letter and number**

**our number**  
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**annex(es)**  
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Rijswijk, April 13, 1999

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mr. K.-P. Wittig  
Deputy Director Inter-Office Information Services Department  
World Intellectual Property Office  
34, Chemin des Colombettes  
1211 GENEVA 20  
Switzerland  
. .

Subject: circular SCIT 2431/00

Dear Sir ,

In connection with the circular SCIT 2431/00 of March 3, 1999, and the outline of WIPO's SCIT Strategic Plan annexed thereto, I herewith send you comments by the Netherlands Industrial Property Office with relation to the said Outline. These comments are contained in an Annex to this letter and were in essence already forwarded to you by telefax on April 12, 1999. Compared with the faxed text, paragraph 17 has been slightly amended and paragraph 18 has been added.

Unfortunally, due to heavy workload, the Office has not been in a position to issue the comments concerned before March 31, 1999, as was requested in the circular.

Yours sincerely,

S. de Vries  
Head, Chemical Division

## **CIRCULAR SCIT 2431/00**

### **NL-comments with relation to the outline of the SCIT STRATEGIC PLAN**

#### **GENERAL REMARKS**

1. The heading of the proposed outline of the SCIT Strategic Plan suggests that a plan for the 21<sup>st</sup> century is presented.  
Noting how rapidly technology changes, such time frame seems far too long. A five-year period seems a far better option, since it provides both a reasonable basis for continuity in the direction to follow and a possibility to regularly make adjustments where needed.
2. SCIT is part of the framework administered by WIPO. As a consequence, SCIT has to take into account the highly diverging states of technological development occurring on a worldwide scale. Solutions that from a technological point of view are immediately needed for certain States or certain groups of States, may not be attractive (yet) for others.
3. Information technology is not a commodity only used by specialists in the area of intellectual property. People are experiencing the benefits of information technologies in many areas forming part of their social and cultural life.  
In order to be part of those benefits and be broadly accepted, SCIT will have to make use of internationally accepted standards and practices.  
Said standards and practices are not just technological ones. For instance, making available considerable amounts of intellectual property information on their websites free of charge, is not so much the own choice of the intellectual property offices. It is simply forced upon them by the normal practice of already existing information providers.
4. Which are the target groups to whom SCIT is aiming its efforts?  
The example given in the outline of the Strategic Plan under "SCIT's Vision", concentrates on the intellectual property offices in WIPO Member States and the International Bureau of WIPO. To NL such a restriction would seem to be a wise decision. The global information technology architecture mentioned in the outline under the same heading would then be the answer, expressed in information technology terms, to the needs of the offices for the exchange of intellectual property information. Given the highly diverging states of technological development (see General Remark no. 2, above) it is then left to the offices concerned to choose the most appropriate carrier for making available intellectual property information to the public.

#### **SCIT's Vision**

5. NL has no basic objections to the wording proposed as an example. However, at the end the words "of the 21<sup>st</sup> Century" are of no use in the context and should be deleted.

#### **SCIT's Mission**

6. It should be clarified in which respect SCIT has a coordinating role and in which respect its role is "ensuring".  
In NL's opinion, SCIT has an ensuring role on the level of exchange of intellectual property information between offices with the aid of information technologies. In accordance herewith appropriate standards have to be used or, where necessary, created. Compare document SCIT/2/8 Prov., paragraph 27. See also our General Remarks no. 3 and 4, above.  
A coordinating role applies to SCIT where the local circumstances of intellectual property offices come into play, e.g. in their contacts with applicants or third parties or in their office automation. Here the best SCIT can do is trying to achieve harmonisation based on internationally accepted standards and practices. In this respect not just "high tech" solutions are required, given the diverging states of technological development. See our General Remarks no. 2, 3 and 4, above.

7. With regard to the example given in the outline of the SCIT Strategic Plan, NL notes that SCIT's Mission not only should relate to the delivery of an information technology infrastructure, but also to making it attractive to use this infrastructure for exchange purposes. See also paragraph 6, above. Where the example given mentions "policies to facilitate information services", SCIT's Mission must make clear what role it sees for private or commercial information providers. See document SCIT/2/8 Prov., paragraphs 22(d), 23 and 32.  
In connection herewith it may be of interest that under PCT Rule 34.1(e) the PCT Assembly has to take appropriate measures to provide for the prompt restoration of certain services, but does not have to provide these services if they didn't exist.
8. In the opinion of NL, SCIT's Mission should reflect that SCIT is providing the necessary technical expertise with regard to the implementation and use of information technologies, e.g. in a procedure for granting an industrial property right. Drafting an appropriate legal framework for such a procedure is a completely different story. Other fora are far better suited, of even created, for that purpose, e.g. the Standing Committee on Patent Law and the PCT ad hoc group on legal matters. In connection with Task no. 37 of the SCIT Work Program, the feeling of the latter group has been that PCT should indicate its requirements and SCIT then should present its proposed solutions to meet these requirements. See also document SCIT/2/8 Prov., paragraph 33.  
SCIT's Mission therefore should include that SCIT aims at furnishing technical advice about possible use of information technologies in order to comply with legal requirements under procedural steps belonging to the grant of an intellectual property right.

#### **SCIT's Goals**

9. SCIT's Goals have to be closely related to the use of information technologies as compared with the classical means of communication and information retrieval.  
Such points to the second, fourth and sixth bullet presented in the outline of the SCIT Strategic Plan. The seventh bullet rather seems to belong to "Organizational responsibilities" (Chapter 6 of the outline).  
One additional goal SCIT has to aim at is the long-term accessibility of intellectual property information produced or transmitted using information technologies. Said goal encompasses the short-term accessibility.
10. The distinction between access to information and availability of information is not just that access allows you to read the information. Access also means the possibility to retrieve from a large set of data the information relevant for your purposes in an expedient way.  
SCIT's goals therefore should not only relate to production of data but also to retrieval of relevant data. Given the various difficulties connected with selection as to relevance, human intelligence and artificial intelligence will have to cooperate for many years to come in order to achieve an efficient selection based on relevance. SCIT therefore should seek close cooperation with the Unions responsible for developing international classifications.
11. NL sees no reason to pay such a heavy attention (three bullets out of seven) to the legal side of intellectual property. The need for protection in many countries (global, European Community) depends first of all on the importance of the thing to be protected and on the marketing policy of the applicant.  
It is unlikely that the possible use of information technologies will have a significant bearing on the attractiveness of the European Community Patent. Costs because of translations needed in connection with obtaining the intellectual property right sought, and quick and reliable Court procedures in connection with enforcing of granted rights, will remain to be the main factors.  
Where information technologies help to quickly obtain a filing date abroad, it is because national laws, PCT and the forthcoming PLT are making the language requirements upon filling much more lenient. Here too information technologies are not the decisive factor. NL suggests to delete the three bullets concerned.

## **Organizational Responsibilities**

12. In the opinion of NL, the indicated responsibilities of the International Bureau of WIPO actually are responsibilities of SCIT itself. The mere fact that the International Bureau happens to be the Secretariat of SCIT does not mean that it is responsible for developments that are of vital importance for SCIT. The International Bureau sometimes may act as the project leader, but such belongs to Chapter 9 of the Strategic Plan.  
With relation to development and/or maintenance of IPDL's and to office automation, the International Bureau is comparable to the WIPO Member States.
13. Non-governmental organizations might be interested in SCIT for two reasons:
  - a) as representatives of information producers (applicants and their attorneys);
  - b) as representatives of users of intellectual property information.It seems, however, unlikely, that these "other relevant organizations" have organizational responsibility as far as SCIT is concerned.  
Organizational responsibility, however, might well be given to commercial providers of the intellectual property information. These are further enhancing the value of the data produced by the intellectual property offices, thereby strongly improving the retrieval of relevant subject matter. See paragraph 7 of our comments, above, and paragraph 32 of document SCIT/2/8 Prov.
14. In Chapter 6 the coordinating role of SCIT should be given more emphasis.  
SCIT needs to avoid a duplication of effort. In trying to fulfill its mission, SCIT therefore should as much as possible build on experience already obtained elsewhere. One could, for instance, point to the experience gained by the so called Trilateral Offices, and to the experience gained by certain WIPO Member States and user groups in the MIPEX project.
15. Efficient information retrieval belongs to the Organizational responsibilities of SCIT. This part of SCIT's responsibilities is of great importance to both intellectual property offices carrying out state-of-the-art searches and users of IPDL's.  
Noting that the International Patent Classification (IPC) is the only patent classification system used worldwide, and that for this reason IPC codes will be one of the main means enabling efficient retrieval of relevant patent information from IPDL's, NL is of the opinion that SCIT should strongly support the plans of the IPC Committee of Experts to reform the IPC so as to obtain an indispensable and efficient search tool, to be used in conjunction with other means for information retrieval.  
Paragraph 22 (c) of document SCIT/2/8 Prov. and Task 41 of the SCIT Work Program already recognize the importance of IPC for the purpose of retrieval of relevant patent information. See also paragraph 10 of our comments, above, and paragraph 7 to 32 of document IPC/CE/28/5.
16. With relation to development and maintenance of IPDL's, the discussion reflected in paragraph 22(a) and (c) of document SCIT/2/8 Prov. shows that there are some good reasons to make the same collection(s) available at different IPDL's. In addition NL points to the fact that the public is not too well aware of the existence and usefulness of intellectual property information. Making such information easily available and accessible to the user therefore is very important. Keeping this in mind, NL fully agrees with the position taken in the outline that the development and maintenance of IPDL's, including the determination of their appropriate content, basically belongs to the responsibility of the WIPO Member States.

## **Assumptions and Constraints**

17. In the context of "international cooperation", SCIT should not overlook the need to discuss its plans and projects with the external users of the intellectual property system. Applicants seeking to obtain an intellectual property right, are looking for technologies that can be regarded as safe and can be trusted without being complicated. Maximum profit of the use of information technologies in the area of intellectual property will only be possible when the concerns of the external users are taken into serious consideration and are met by reassuring procedures. Regular contact between SCIT and representative groups of external users therefore is indispensable.

Where electronic filing is discussed in the framework of PCT, representatives of a number of user groups are present at the meeting.

18. External users do not only appear at the input (filing) side of the intellectual property system. Their interest also lies at the output side where information technologies produce published intellectual property information.

Both the Offices making intellectual property information publicly available through their IPDL's and the SCIT in its coordinating role should seek regular contacts with representative groups of external users. In order to publish relevant and well-received information, the publisher has to be aware of the needs of the users. And the priority issues seen by the users should have a strong bearing on the order in which improvements are developed.