



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

February 11, 2005

Mr. Neil Wilson
Director and Chief Information Officer, IT Division
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20
SWITZERLAND

Re: SCIT 2604

Dear Mr. Wilson:

Attached is the USPTO response to the Questionnaire on Correction Procedures in Patent Offices (SDWG Task No. 35). Should you have any questions, please contact me at cherie.kazenske@uspto.gov or Ed Rishell at ed.rishell@uspto.gov.

/Signed by/

Cheryl E. Kazenske
International Intellectual Property Program Manager
Office of International Relations

Questionnaire on Correction Procedures in Patent Offices

*approved by the SCIT Standards and Documentation Working Group
at its fifth session on November 11, 2004*

Task No. 35: Prepare a questionnaire and carry out a survey on the implementation of WIPO Standard ST.50 and on the status of the correction procedures in the industrial property offices. Prepare a proposal regarding this matter for consideration by the SDWG.

Please provide the following contact information in order for us to contact the person responsible for the Questionnaire in case of need:

<u>Contact details of the Reporting Office:</u>	
Name of the Reporting Office	<u>US</u> (ST.3 two-letter country/organization code)
Person to contact	Name: <u>Ed Rishell</u>
	Tel. number: <u>1-571-272-7824</u>
	E-mail: <u>ed.rishell@uspto.gov</u>

QUESTIONNAIRE

The Guidelines given by WIPO Standard ST.50 aim at providing guidance to industrial property offices and other suppliers of patent information on how to issue corrections, alterations and supplements relating to patent information published in paper form or on machine-readable media.

COMPLIANCE WITH WIPO STANDARD ST.50

1. Does your Office use these guidelines?

(a) Guidelines for corrections (paragraphs 7 - 32)

ALL

PARTLY

NO

(i) If your answer was "PARTLY", which parts of WIPO Standard ST.50 are used?

- Kind-of-document codes according to WIPO Standard ST.16, e.g., A8, A9, etc.
- Data element "publication date" of the correction (INID code (48))
- Additional correction information, e.g., supplementary correction codes (example: codes on EP CD-ROMs like W, Z, etc.), together with INID code (15)
- Other – Please specify: *Correction kind-of-document codes (A9, P9) and date of correction are provided on patent application publication documents. The complete corrected patent application publication document is republished with a new publication number to aid in uniquely identifying the document by its US publication number alone. Certificates of Correction are use for correcting patent grants. The correction information is captured electronically in image format, but not in text format.*
Republications of patent application publications (A2, P4), Reexamination Certificates (C1, C2, etc.) and Reissued granted patents (E) documents are not considered "corrections" as defined by ST.50 .

(ii) If your answer was "NO", is your Office planning to introduce the guidelines according to WIPO Standard ST.50? If so, when?

YES NO

When?

Comments, if necessary: *The USPTO is considering publication of corrected patent grants. No specific timeline has been determined.*

b) Guidelines for alterations (paragraphs 33 – 36) ?

ALL PARTLY NO

(i) If your answer was "PARTLY", please specify the practice of your Office:

(ii) If your answer was "NO", is your Office planning to introduce the guidelines according to WIPO Standard ST.50? If so, when?

YES NO

When?

Comments, if necessary: *The USPTO does not publish alterations as defined by ST.50.*

c) Guidelines for supplements (paragraphs 37 – 44) ?

ALL PARTLY NO

(i) If your answer was "PARTLY" please specify the practice of your Office:

(ii) If your answer was "NO", is your Office planning to introduce the guidelines according to ST.50? If so, when?

YES NO

When?

Comments, if necessary: *The USPTO does not publish supplements such as supplementary search reports.*

2. On which media are the guidelines according to WIPO Standard ST.50 used? Please indicate the guidelines used in the different media below. Please provide the requested media information for both (1) patent documents, and (2) patent gazettes, for any media on which they are provided.

- (a) Paper:
- (i) Patent documents: *15 - Only granted plant patents are published in paper.*
 - (ii) Patent gazettes: *The patent gazette is not published in paper.*
- (b) CD-ROMs/DVDs:
- (i) Patent documents: *Patent application publications: 7(b)-15 and 23
Granted patents: 15, 23*
 - (ii) Patent gazettes: *Patent application publications: Not published
Granted patents: 23*
- (c) Machine-readable carriers other than CD-ROMs/DVDs:
- (i) Patent documents: *Patent application publications: 7(b)-15, 28-29
Granted patents: 15, 28-29*
 - (ii) Patent gazettes: *No*

3. Does your Office use other correction procedures than provided in WIPO Standard ST.50?

- Paper Patent Documents: *Certificates of Correction for paper granted plant patents are provided.*
- Patent Documents on CD-ROMs/DVDs: *Images of Certificates of Correction are included for granted patents.*
- Patent Gazettes/Bulletins (please specify media used): *Notices provide errata information identified by patent number and date of the gazette.*
- Machine-readable carriers other than CD-ROMs/DVDs (Please specify product, e.g., patent document, patent gazette, etc.): *For granted patent documents on DLT magnetic tape products, the images of Certificates of Correction are included.*

List the WIPO Standard ST.16 kind-of-document codes used for each kind of corrected patent document. Please indicate if your Office does not change the ST.16 kind-of-document code for corrected documents:

A9 Corrected patent application publication documents

P9 Corrected plant patent application publication documents

Certificates of Correction are provided for granted patents, but no kind-of-document code is provided. The certificate pages are included with the pages of the granted patent document image.

4. In the case that your Office publishes corrections on machine-readable media:

Please indicate if corrections to image data (e.g., WIPO Standard ST.33 data) are handled differently from corrections to full text versions of the same data (e.g., WIPO Standard ST.32 data).

Where the defect is technical (not related to the content), in both image (Yellow Book based on ST.33) and text (Red Book based on ST.36) situations, a new document is disseminated to replace the defective document. If the defect is in the content which must be corrected, then for Yellow Book, a replacement image file is disseminated with appended image pages of Certificates of Correction. At present, the content of Certificates of Correction is not distributed in Red Book text format. On occasion, a complete replacement for a Grant Red Book file is disseminated, but with no change to the document number or the kind code.

Please indicate if corrections are handled differently on different media (e.g., differently on CD/DVD-ROM, magnetic tape, on-line, etc.):

The process is essentially the same for all electronic media, but there may be some slight variations for online products.

5. If you use correction procedures that are not fully in accordance with WIPO Standard ST.50 and do not plan to be fully in line with this Standard in the future, please explain why. In particular, please indicate any concerns you have with WIPO Standard ST.50 that cause problems with its implementation.

The USPTO is working towards this Standard when possible for patent documents. Obstructions in the past were our legacy computer storage and software systems. We will continue to publish patent application publication corrections with a different number from the original publication to help users uniquely identify documents by the US publication number alone.

CD/DVD-ROM products follow industry standards. These products reflect the content of the document at a particular point in time. When corrections are necessary, the document is corrected and provided on the next appropriate publication of the product. The cumulative index is updated accordingly. The ST.16 kind codes and publication date are not currently needed in the cumulative index, since publication and patent numbers uniquely identify US patent documents.

6. Do you see a necessity to update or amend WIPO Standard ST.50? In which area(s)?

It would be helpful to publish the results of this survey in the WIPO Handbook, so that all IPOs can better understand how other offices handle corrections.

References in the Standard to "CD-ROM" products should instead refer to "optical discs" so that DVD-ROM products are also covered.

TYPE AND CAUSE OF ERRORS

7. Is the origin of errors leading to corrections mainly due to the applicant or to the internal processes of your Office?

- More from the applicant side
- More from the Patent Office side
- About equally from applicant and Patent Office

Comments, if necessary: *USPTO only corrects material errors in an A9 or P9 published application. A material error must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.*

The origin of errors leading to Certificates of Correction for granted patents are about equally divided between applicant and the USPTO.

8. What is the number of corrections published by your Office every year, in absolute values and/or percentage of the overall publication volume?

In Fiscal Year (FY) 2004 (October 2003-September 2004), the USPTO published 191 corrected patent applications publications. This was less than one-tenth of one percent of the total number of applications published in FY 2004.

For granted patents, there is no statute of limitations on Certificates of Correction. The percentage of patents that receive a Certificate of Correction cannot be tied directly to the issued patent volumes for the same year in which they are issued. For FY 2004 there were 28,676 Certificates of Corrections.

9. Has a significant change occurred in the number of corrections issued in the past years?

- More corrections
 Stable
 Fewer corrections

Comments, if necessary: *As the number of published patent applications increases, so does the number of corrected documents.
Patent grant corrections are stable.*

10. Who makes the final decision of publishing a correction?

- The examiner
 The formality officer
 The publication department
 All, in cooperation
 Other – Please specify: *It is dependent of the the publication and the type of error.*

Comments, if necessary: *The Office of Patent Legal Administration decides for published patent applications. Changes in the 35 USC 102(e) date, however, are automatically accepted.
For granted patents, all in cooperation.*

11. Is a request for correction from an applicant usually granted?

YES NO

Comments, if necessary: *For published patent application publications, only material errors will be corrected.
For granted patents, a request from an applicant for a Certificate of Correction is usually granted.*

12. How long, on average, does your Office take to publish a correction once an error becomes known?

*For patent application publications, once the Office of Patent Legal Administration grants a correction, the correction is scheduled to publish in 14 weeks.
For granted patents, the goal is to publish a Certificate of Correction 3 months from the date the request is received.*

Comments, if necessary: