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**SUBJECT: Cited references in European patent documents**

### **SUMMARY**

Since 1st January 2006, European patent applications and European patents (hereafter European patent documents) have been available in XML format complying with WIPO Standard ST.36.

The use of the XML technology enables the references cited by the applicant in the core of the description to be captured in a standardised way.

The EPO took advantage of having this data to introduce a list of the references cited in the description into the European patent document.

This will be of benefit to users consulting the patent documents directly. Making this data available in a tagged format will also enable users of the XML files to take full advantage of this enrichment.



## **I. BACKGROUND**

In the description part of patent documents, the applicants have to describe relevant state of the art. They often make use of references to relevant literature. These citations are either patent (PL) or non-patent literature (NPL) and are an important added value in the document.

With the introduction of XML technology, it is now possible to identify and specifically tag the PL and NPL citations within the core of the description during the publication process.

This project was already studied in the course of the year 2005. A pilot was realised and the results were good. The data is already used as input for databases in the Office.

It was therefore decided to make PL and NPL citations easily available to the public for further use, in a separate list attached to the corresponding European patent document.

## **II. BENEFITS OF THE TAGGING OF THIS INFORMATION**

The citations are captured in a standardised form in XML format in line with the WIPO Standard ST. 36. The availability of the data will have benefits for all users.

### **A. BENEFITS FOR THE EPO**

Currently, the EPO is using this information to populate a database (SDMS) made available to the examiners via the EPOQUE system. This information was captured manually in the past.

The new publication process makes it possible to capture the citation information automatically, shortly after filing. The information can then be fed through to the SDMS database.

### **B. BENEFITS FOR INFORMATION PROVIDERS**

The citation information tagged in XML according to WIPO Standard ST. 36 and made available in the form of a separate list enable the information providers to process the citations more easily.

They are now able to offer new services based around the availability of citation data (e.g. citation frequency, linking to web sites on the Internet where the literature cited can be found).



## **C. BENEFITS FOR THE END USERS**

The citations captured are presented in the form of a list at the end of the European patent document, giving an overview of the PL and NPL citations. The fact that the citations are coded in a standardised way enables the generation of automatic hyperlinking to other systems, such as esp@cenet, from the HTML view of a European patent document.

Even users consulting the plain documents will gain from the standardised presentation in a list.

## **III. PRESENTATION OF THE CITED REFERENCES WITHIN THE PATENT DOCUMENTS**

The cited references contained in the description would be consolidated in a list at the end of the European patent document.

A concrete example can be found at the end of this document. (see Annex 1)

## **IV. LEGAL IMPLICATIONS**

Even if the introduction of this list of cited references is made possible by the use of XML technology, legal aspects have been carefully considered. Based on Rules 49, 53 EPC a decision of the President has been issued to inform the public of this additional service. (see page 428-429 of the EPO OJ 7/2006)

[http://www.european-patent-office.org/epo/pubs/oj006/07\\_06/07\\_4286.pdf](http://www.european-patent-office.org/epo/pubs/oj006/07_06/07_4286.pdf)

### **A. EUROPEAN PATENT APPLICATIONS (EP-A DOCUMENTS)**

For the publication of the European patent applications (EP-A) documents, it is of very high importance that the exact wording chosen by the applicant is reflected in the core of the description.

Therefore, it was decided to leave the PL and NPL citations exactly as quoted by the applicant in the core of the text of the description and to add the separate list of PL and NPL citations, in a standardised way, in a separate list at the end of the European patent document.

A disclaimer is making clear that this list forms part neither of the European patent application nor of the European patent and that it is provided for information only (see C below).



## **B. SPECIFICATIONS OF EUROPEAN PATENTS (EP-B DOCUMENTS)**

The same applies for the PL and NPL citations available in the core of the description of a patent specification. However, the consequences are slightly different as the technical content published in an EP-B document was already disclosed in the corresponding EP-A document or in the corresponding PCT pamphlet.

## **C. INTRODUCTION OF A DISCLAIMER**

In order to make clear that the list of citations added to the European patent document is not part of the document itself, and in order to avoid the EPO's liability for erroneous citations, a disclaimer will be added at the top of the list of cited references.

### **English**

*"This summary of references cited by the applicant is for the reader's convenience only. It does not form part of the European patent document. Even though great care has been taken in compiling the references, errors or omissions cannot entirely be excluded and the EPO disclaims all liability in this regard."*

### **German**

*"Diese Liste der vom Anmelder aufgeführter Dokumente wurde ausschließlich zur Information des Lesers aufgenommen und ist nicht Bestandteil des europäischen Patentdokumentes. Sie wurde mit größter Sorgfalt zusammengestellt; das EPA übernimmt jedoch keinerlei Haftung für etwaige Fehler oder Auslassungen."*

### **French**

*"Cette liste de références citées par le demandeur vise uniquement à aider le lecteur et ne fait pas partie du document de brevet européen. Même si le plus grand soin a été accordé à sa conception, des erreurs ou des omissions ne peuvent être totalement exclues et l'OEB décline toute responsabilité à cet égard".*

## **V. CONCLUSION**

With the introduction of this list of cited PL and NPL, significant added value has been introduced in the European patent documents, taking benefits of the potential of the use of the XML technology for all users of European patent data.



## **ANNEX 1 A CONCRETE EXAMPLE FROM A VIRTUAL DOCUMENT**

The example hereunder shows how the references are cited by the applicant in the core of the description and how the citation will be displayed in an additional list of references at the end of the description of the European patent document. The numbers between brackets are corresponding to the paragraph numbering already available in the European patent documents.

### **ANNEX 1.1 EXTRACT OF THE CORE OF THE DESCRIPTION**

**[0106]** All patents and publications, including all sequences and methods disclosed within such patents and publications, referred to herein are expressly incorporated by reference. These patents and publications include: EP 357 127, EP 635 574, EP 238 023, WO 97/06261, WO 98/46772.

**[0107]** The present invention is further described by the following examples, which should not be construed as limiting the scope of the invention.

**[0111]** The resulting plasmids were transformed respectively to *A. niger* CBS 513.88 or to *K. lactis* CBS 685.97. The transformation of *A. niger* was performed according to (Kelly JM, Hynes MJ Transformation of *Aspergillus niger* by the *amdS* gene of *Aspergillus nidulans*. EMBO J. 1985 Feb;4(2):475-9) and of *K. lactis* according to (Sreekrishna K, Webster TD, Dickson RC, Transformation of *Kluyveromyces lactis* with the kanamycin (G418) resistance gene of Tn903. Gene.1984 Apr;28(1) :73-81).

### **ANNEX 1.2 REFERENCES CITED IN THE DESCRIPTION**

**[0132]** *"This summary of references is for the reader's convenience, only. It does not form part of the patent document. Even though great care has been taken in compiling the references, errors or omissions cannot entirely be excluded and the EPO disclaims all liability in this regard."*

#### **Patent documents cited in the description**

- EP 357127 A
- EP 635574 A
- EP 238023 A
- WO 9706261 A
- WO 9846772 A

#### **Non-patent literature cited in the description**

- KELLY JM, HYNES MJ, Transformation of *Aspergillus niger* by the *amdS* gene of *Aspergillus nidulans*., EMBO J., 1985/02, 4, 475-9
- SREEKRISHNA K, WEBSTER TD, DICKSON RC, Transformation of *Kluyveromyces lactis* with the kanamycin (G418) resistance gene of Tn903., GENE., 1984/04, 28, 73-81