

## **Meeting of International Authorities under the Patent Cooperation Treaty (PCT)**

**Nineteenth Session  
Canberra, February 8 to 10, 2012**

### **PCT MINIMUM DOCUMENTATION: DEFINITION AND EXTENT OF PATENT LITERATURE**

*Comments by the European Patent Office*

1. The European Patent Office (EPO) generally agrees with the revision and extension of the PCT Minimum Documentation foreseen in document PCT/MIA/19/7. The EPO in particular welcomes the overcome of the current limitations regarding the publication period (for example, pre-1920 collections) and the types of industrial property rights covered (for example, utility models). The EPO has however a number of remarks on some specific aspects of the proposal, as listed below.
2. The EPO agrees with most of the General Principles presented in points 6-7 (pages 2-3). However, regarding point 8, the EPO suggests that the data related to the collections that are (or will be) part of the PCT Minimum Documentation be made available free of charge not only for the use of the International Searching Authorities (ISAs) but also for the use of patent offices in general. Further re-distribution (for example, via espacenet, OPS, DOCDB XML, etc) of all relevant information relating to the application (for example, full text of the application, translations, etc.) should preferably be possible without restrictions, or otherwise at least the bibliographic data, the abstract and the image.
3. The EPO also agrees with the idea that the present review process should aim at extending the current scope of the PCT Minimum Documentation and defining the type of information which should be collected in relation to each patent document which forms part of it as well as identifying the formal requirements that should be met for a new collection to qualify for designation as PCT Minimum Documentation.

4. Regarding the possibility to nominate one office for the provision of the data issued by another office point 15 on page 5), it should be ensured that the ultimate responsibility regarding data completeness and accessibility lies with the publishing office and not with the office nominated to provide the data, unless otherwise agreed upon bilaterally.

5. Regarding the requirement to qualify for designation as PCT Minimum Documentation consisting in providing an initial backfile plus a few regular updates (point 18 on page 5), "two regular (typically weekly) publication updates" does not seem enough to prove that the procedure is fully automated and not an ad-hoc (manual) extraction and to demonstrate the stability of the delivery. Therefore, the EPO suggests to require instead six consecutive deliveries corresponding to at least two publication months (that is, if regular updates take place monthly, then six months of data should be provided; if they take place weekly, then six weeks of data are enough).

6. The EPO suggests the addition under point 18 of a requirement indicating that whenever a publishing office plans to introduce changes in the regular deliveries (for example, changes in data format, new number formats and/or kind codes, changes in folder structures and/or naming conventions, change of delivery method and/or frequency, etc), these changes should be notified to all ISAs and documented at least six months before their implementation, to allow sufficient time for ISAs to implement the changes.

7. Regarding the content of the authority file (Annex I, page 7), the EPO is of the view that the information required is too detailed and the format suggested lacks some structure. The following changes to Annex I are thus proposed:

- An authority file containing a list of all publication numbers ever issued by the publishing office, together with the kind codes and publication dates, is enough for the purpose of documenting the coverage of the PCT Minimum Documentation.
- Adding other details, such as the earlier publication and the priority, goes beyond the scope of an authority file and gets close to a complete bibliographic data backfile.
- An authority file should cover all publications issued from number 1 to the moment of generation of the file and therefore the information regarding whether the entry is new or an update is irrelevant.
- The indication of the language, the format and the place where the data is available should not be required for each document, but for each collection in general. In the long term, the publishing offices of the collections that are part of the PCT Minimum Documentation should offer a web service that can be interrogated to retrieve all or parts of the information available for a document or range of documents according to various criteria (for example, number ranges, date ranges, etc). This would enable completeness checks and fetching of any missing data to fill the eventual gaps.
- The format suggested (CSV file or similar) should be better defined in order to avoid that each authority file produced by each publishing office will actually be different. A more structured format (for example, XML) would be preferable.
- It is important to ensure that the publication numbers mentioned in the authority file will respect the original number format as printed on the document when it was first issued. If the publishing office has re-numbered the collection, then both the original and the new number should be quoted.

8. Regarding the data content required for the PCT Minimum Documentation, Annex II (page 8) is insufficient as it does not support a proper search on the data (for example, if IPC, full-text and English abstracts are all missing, the search possibilities are dramatically reduced). Therefore, the following changes to Annex II are proposed:

- A distinction is made between bibliographic data fields which are "required" and "strongly preferred". The fields application number and application or filing date should be moved from the category "strongly preferred" to the category "required" because they are necessary to build patent families. Concerning the IPC, this should be "required" if no English abstract and no full-text is provided. Moreover, any other field present on the front page should be added to the "strongly preferred" category (for example, references cited).
- Each publication level (including corrections and amendments) should be clearly identified according to the international standards (for example, with a separate kind code).
- Concerning the formats in which the data ought to be preferably made available, these should be based on international standards applicable at the time and may therefore evolve. This should be mentioned or otherwise it should be specified that the accepted formats will regularly be reviewed to reflect eventual new standards.
- When referring to WIPO ST.36 format, the Annex indicates that a DTD should be specified. The EPO suggests the use of the following two DTDs: "xx-patent-document" and "simple-patent-document", both fully ST.36-compliant. The publishing offices may choose which of both they prefer to use.
- With respect to the "patent document", Annex II does not consider the full-text to be compulsory, as it says that it "should be made available in at least one of the following forms", namely the image and the full-text. We think that the current situation allows for making the delivery of full-text in the original language a requirement for being part of the PCT Minimum Documentation.
- Concerning the image formats, PDF should be added as an accepted format, alongside with TIFF, and images should be made available with indexed subparts (description, claims, drawings, etc).
- Concerning the abstracts, Annex II does not consider the English abstract to be compulsory, as it states that "preferably an English abstract should be provided". However, at least one of the following items should be delivered: the IPC, the full-text or the English abstract. And preferably all of them should be made available.
- It is suggested to include in Annex II a paragraph indicating that the ideal way to make all these required data types available should be a full ST.36 package, including for each document the corresponding bibliographic data fields, the abstract, the references images and the eventual full-text, citations, etc. If needed, English abstracts could be provided at a later stage using a subset of ST.36.

9. *The Meeting is invited to note the comments by the EPO.*

[End of document]