

PATENT COOPERATION TREATY

Common Quality Framework for
International Search and Preliminary Examination

Report Under Paragraph 21.17 of the PCT International Search and Preliminary Examination Guidelines

by: **State Intellectual Property Office, China**

on: **30 December 2006**

Documents referred to in this report:

None.

INTRODUCTION (PARAGRAPHS 21.01–21.02)

The State Intellectual Property Office (SIPO) of China attaches great importance to the quality of our products, including international search reports and international preliminary examination reports. We have established a three tiered quality management system to ensure the compliance of our products with the setting standards. The system includes quality audit teams in the Office level, quality check teams in each examination department, and quality review staff in each examination division. The Quality Control Division has been set up in the Patent Examination Administration Department. One of its main duties is to support and manage the work of the quality audit teams in the Office level, which are respectively in charge of formal examination and processing of procedural matters, substantive examination and reexamination, and search and examination of PCT applications in the international phase.

QUALITY MANAGEMENT SYSTEM (PARAGRAPHS 21.03–21.09)

Establishment and maintenance of QMS (Paragraph 21.03)

The SIPO has established a quality management system ever since 1996. Many official documents regarding quality management are issued as internal instructions, and are revised periodically. Those regarding substantive examination set out basic quality targets, quality management bodies and their respective responsibilities, quality check, feedback, evaluation,

encouragement and punishment, corrective and preventive measures, and recordation and reports. A tentative metrics for evaluation of quality was also made in 2004.

An official document governing quality control for PCT applications in the international phase was issued on 1 January 2005, and set out basic requirements regarding quality standards, quality check, feedback, and quality evaluation etc. It has been implemented and is now being followed by all relevant bodies and persons within the Office.

Resources - infrastructure (Paragraph 21.05)

(a) Qualified Examiners

More than 2,000 substantive examiners are competent to do PCT search and examination. However, in order to maintain high quality of our products, we adopted a qualification system in the SIPO. Those examiners meeting the basic conditions, which include at least 3 years of experience in substantive examination, mastership of foreign language and good performance in search, may apply to pass a qualification test before being qualified for PCT work. The test covers knowledge in PCT, search skill and foreign language skill. According to the inflow of PCT work, the overall number of qualified examiners is kept so far at about 300 to ensure a high standard and a reasonable workload.

New examiners are trained for about 1-2 years before they can take the full duty. Experienced examiners can also have chances to update their knowledge, for example through lectures, seminars, and targeted trainings. Focused trainings on PCT knowledge are also provided to those PCT examiners. In addition, many foreign language courses are running annually in the Office, covering English, Japanese, German, and French etc.

(b) Administrative Staff

Many departments supporting examination of national cases are also supporting search and examination of PCT applications in the international phase. They include the Department of Documentation taking care of all searching resources, the Department of Automation in charge of computer system and network, and the Department of Flow Management responsible for file management and procedural matters, in which department a PCT division is set up specially for managing PCT files in the international phase. The staff members in those departments are all continuously trained to keep their knowledge up to date and to maintain high competency. In addition, many other administrative units and groups, including

those responsible for training, supervision, quality control, research, and legal affairs etc., also provide desirable support to PCT examiners.

(c) Equipment and Facilities

Each staff in the SIPO has a desktop connected to the Intranet, and the desktop for each examiner is equipped with software to access the search databases and the patent application electronic processing system. Recently we also equipped each examiner with a notebook computer to access the Internet to consult external databases and resources directly. The searching tools used in the SIPO include EPOQUE, CPRS (Chinese Patent Retrieval System), and some famous commercial searching tools, which can provide fair convenience to search and examination and high confidence in the resulting products.

(d) Documentation

The SIPO has a comprehensive collection of documentation referred to in Rule 34. We also have the most comprehensive collection of Chinese patent documents, which are now being transferred totally to electronic form for electronic access. The examiners in the SIPO can also access many commercial databases such as CNKI (Chinese National Knowledge Infrastructure) databases, ISI Web of Knowledge, Elsevier Science Direct, and Prior Art Database. We also have advanced collection in and easy access to documentation in some special fields, eg., in Chinese Medicine.

Apart from the large amount of patent and non-patent documentation collected in the database, our intellectual property library also collects about 7000 kinds of Chinese journals and about 400 kinds of foreign language journals in the field of science and technology. Those collections can well serve the examiners for search and examination.

(e) Work Manuals

We provide examiners with comprehensive work manuals including the up-to-date handbook of PCT Treaty, Regulations, Administrative Instructions and Guidelines. The official documents regarding quality management as internal instructions are all distributed to each relevant examiner. We also translate the relevant PCT legislations and guidelines into Chinese and provide each examiner a compilation of the translated documents periodically, depending on the frequency and extent of revision and amendments to those legislations and guidelines.

A practical and detailed work manual is under preparation for PCT examiners, which will not only collect the above mentioned PCT legislations and guidelines and quality documents, but also detail some work procedures and such guidelines as to how to fill in the PCT forms. Some case studies may also be included therein.

(f) Training and Development

The SIPO has set forth a Personnel Training Guidelines this year, which provides for systematic and regulated training programs for all of the staff, inter alia the examiners and administrative staff. It is designed to ensure each staff in each kind of post can obtain incoming and continuous training necessary for that kind of post and for the development of that staff. For PCT examiners, who already have some years of experience, targeted training seminars and lectures are held periodically, and even more are envisaged depending on the needs and effect.

(g) Continuous Monitoring

The Patent Examination Administration Department continuously and dynamically monitors all inputs to and outputs from the Office in respect of patent examination, and the compliance of our products with the quality standards as well. Once the case requires, resources will be identified promptly to ensure that demand is met and quality measures are taken to ensure that quality standards are observed.

Administration - procedures (Paragraphs 21.06(a) and (b))

The PCT Division of the Flow Management Department observes the timeframe of each search or examination demand, and an examination schedule is provided in each PCT file before it is handed over to an examiner for search or examination. The schedule indicates clearly the suggested time for the relevant actions to be completed and the deadline to finish the case. A reminder may be issued to the relevant examiner some time before the deadline. The deadline and the actual completion time are recorded and compared; severe delay will be counted as a quality defect and may face administrative measure. So far delay in finishing ISRs and IPERs has almost been eliminated in the SIPO.

In coping with fluctuations in demand and possible backlog, we may tune the number of qualified PCT examiners and the distribution of workload for each PCT examiner. So far about 300 examiners are qualified, and each PCT examiner may be required to deal with 10

PCT cases per year in average, in addition to many national cases. The proportion of international cases to national cases for each PCT examiner, and the number of PCT examiners as well, may be increased in the future if the demand continuously increases.

Quality Assurance Procedures (Paragraph 21.07)

In the SIPO as an international search and preliminary examination Authority, all ISRs and IPERs are now conducted by a two-person team consisting of a primary examiner and a reviewing examiner. After the main work is completed by the primary examiner, the reviewing examiner shall review the case comprehensively both in substantive and in formal matters, and both in search strategy and in completion of report. A reviewing opinion shall be made and kept in file, and is fed back to the primary examiner. Where the reviewing examiner has an observation different from that of the primary examiner, the primary examiner shall amend or supplement his/her action, or otherwise give an explanation in the reviewing opinion, before the ISR or IPER can be sent out.

The quality audit team checks a random sample of cases every month, and issues a quality report every two months. Corrective and preventive measures are made if necessary. A special quality circular distributed only to the leaders of each examination department is made quarterly, conveying main problems and controversial matters discovered, with some quality statistics. Every six months a training seminar is held for all PCT examiners, where the defects and deficiencies discovered in that period will be summarized and delivered and corresponding suggestions and preventive measures will be made accordingly.

Feedback arrangements (Paragraph 21.08)

The opinion of the reviewing examiner is fed back to the primary examiner, and the results of quality check in the department level and in the Office level are all fed back to the two-person team. Complaints from applicants and agents, and opinions and suggestions from the interested parties are collected and fed back to the relevant department and staff. Once a deficiency or defect is identified, corrections shall be made accordingly if possible, and preventive measures may be taken to avoid recurrence. Normally a feedback is transferred via the director to the relevant examiner, and the examiner is expected to explain to the director.

In complement to fighting against quality defects and deficiencies, some attempts have also been made to identify and disseminate best practice. We have initiated a program to recommend and elect model cases, and some were finally elected and distributed to all PCT examiners for study.

The PCT Division channels any feedback from the WIPO, designated and elected Offices to the Patent Examination Administration Department. Feedback of specific nature or concerning individual cases will be passed to the relevant examiners promptly. Feedback of common nature or on systematic issues will be studied and dealt with by all relevant departments, and harmonizing measures may be taken where appropriate.

Communication, Guidance and Responses to Users (Paragraphs 21.06(c), 21.09)

A help center has been established in the SIPO to deal with all enquiries from applicants and the public. In addition, examiner contact means are provided in all correspondence and reports, so that applicants can communicate with examiners directly and conveniently. An applicant may also apply for interview with the examiner to discuss his case.

Guidance to applicants on the search and examination process is provided by various means, including the SIPO website (www.sipo.gov.cn), PCT handbooks and brochures, and some training seminars. In recent years the SIPO has run many WIPO National Roving Seminars on PCT in cooperation with the WIPO.

External feedback on quality from applicants, industrial sectors, educational institutions, other governmental bodies, and the public are encouraged and desired. Suggestions and feedback from applicants are welcome and will be properly dealt with. Corrective and preventive actions will be taken after a problem is identified.

We have solicited for user evaluations through regular meetings. Questionnaire has also been used. Systematic, comprehensive, and regular surveys are envisaged to obtain user perception of our services and products.

INTERNAL REVIEW (PARAGRAPHS 21.10–21.15)

Required Arrangements for Internal Review (Paragraph 21.10)

The quality audit team in the Office level is responsible for quality report to the management, observing whether PCT/GL/ISPE is complied with. It consists of experienced examiners nominated by each department, and the position of membership is normally rotated every year.

The Quality Control Division of the Patent Examination Administration Department supports and monitors the running of the quality management system in the SIPO, observing the effectiveness of the QMS and proposing amendments to the QMS or other responding measures.

The Deputy Commissioner in charge may convene a Commissioner's Meeting, consisting of Director Generals of all relevant departments, to discuss the compliance with PCT/GL/ISPE, the enforcement of the QMS, and the effectiveness of the QMS. Decisions may be made to modify the QMS or to take any other necessary actions to comply with the PCT/GL/ISPE and improve the quality of our products. The Meeting may be convened at any appropriate time and at least once a year.

[End of report]