



On the way to more effective patent examination proceedings in Europe

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Increasing workload of the major patent offices

- Number of applications has increased dramatically over the past 25 years
- In 2008, the EPO received 146.000 applications for processing
 - + 3% in contrast to 2007
 - + 200% in contrast to 1996

⇒ Increasing workload and longer pendency periods
- Up to May 2009: - 3% in contrast to 2008 (provisional figures)

⇒ General tendency at the global level unclear concerning the number of applications



Reasons for growth in workload

- Business activities in transcontinental markets have increased
- Complexity and volume of applications have increased
- Different claiming practices in the major patent offices
- New emerging technologies: ICT, nanotechnology
- Increasing use of patents as business tools

⇒ Impact on quality and efficiency of the patent system



Dealing with increased workload

Basic approaches

- How can we work more efficiently and maintain and improve the quality of patents?
- How can we cooperate with other Offices so as to reduce transnational duplication of effort?



Dealing with increased workload

European level

"Raising the bar" initiative: European patents are to be granted only for innovations with sufficient inventive merit

- Legal framework project: level of inventive step must be applied within the existing legal framework by strengthening the current practice
- Internal practice project:
 - ⇒ Increasing the quality of incoming patent applications
 - ⇒ Streamlining the grant procedure
 - ⇒ Amendments to the implementing Regulations which will enter into force on 1 April 2010



Dealing with increased workload

European level

Introduction of a utilisation scheme: The EPO together with the EPC contracting states decided in December 2008 to introduce a utilisation scheme

- ⇒ First step: applicants will be requested to submit to the EPO search and examination reports from the Office of first filing (OFF)
- ⇒ Second step: establishment of an online access system to the relevant data which will make it possible to have direct access to the search and examination products of OFF



Dealing with increased workload

European level

Unit cost - cost coverage

ACTIVITY	COST (€ m)	REVENUE (€ m)	COST COVERAGE
Filing	84	22	27%
Search	572	277	48%
Examination	361	164	45%
Opposition	47	3	5%
Appeal	59	2	4%



Dealing with increased workload

European level

Fee debate

Due to the decrease in the level of fees in the past years, today applicants pay less in terms of procedural fees for filing applications

⇒ Reflections on a possible re-adjustment between procedural and maintenance fees incomes, not least in order to steer applicants behaviour



Dealing with increased workload

Global level

- IP 5 (EPO, JPO, KIPO, SIPO, USPTO)
 - **Quality and timeliness of the work done by OFF** essential for effective work sharing
 - **PCT** should be further developed
 - **Goal:** Elimination of unnecessary search work between the OFF and the OSF

- **10 "foundation projects"**
 - Common documentation database (EPO)
 - Common approach for a hybrid classification (EPO)
 - Sharing and documenting search strategies (USPTO)
 - Common examination support tools (USPTO)
 - Common training policy (KIPO)
 - Mutual machine translation (KIPO)
 - Common application format (JPO)
 - Common access to search and examination (JPO)
 - Common rules for examination practice and quality control (SIPO)
 - Common statistical parameter system for examination (SIPO)



Dealing with increased workload

Global level

- **TRIWAY:** Trilateral Offices conduct searches on corresponding applications filed under the Paris Convention in each of the Offices in a sufficiently early time period
 - ⇒ Limited pilot project started on 28 July 2008

- **Patent Prosecution Highway (PPH):** Accelerated prosecution of patent applications of OSF if OFF provided a positive statement concerning the patentability of the invention
 - ⇒ Pilot project with the USPTO started at the end of September 2008
 - ⇒ Pilot project with the JPO in preparation



Dealing with increased workload

- **PCT** as the global worksharing scheme:
 - Due to harmonised legal framework, established procedures, and a central secretariat in place.
 - It covers 140 states worldwide.
 - It is widely used by applicants: more than 163.000 PCT applications filed in 2008.
 - It already deals with important aspects of work-sharing like timeliness and quality.



Resources should be spent to improve the PCT system and to incorporate work-sharing initiatives



Thank you for your attention

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