

Summary (made by the two co-hosts) of the Plurilateral Patent Prosecution Highway Meeting held at the DKPTO on 19-20 February 2009

The meeting was co-hosted by the Japan Patent Office (JPO) and the Danish Patent and Trademark Office (DKPTO). This document provides the two co-hosts' summary of the meeting.

Participants

The following patent authorities were represented at the meeting: IP Australia, the Canadian Intellectual Property Office, the Danish Patent and Trademark Office, the European Patent Office (day 1 only), the German Patent and Trademark Office, the Japan Patent Office, the Korean Intellectual Property Office, the Intellectual Property Office of Singapore, the UK Intellectual Property Office and the United States Patent and Trademark Office.

The national Board of Patents and Registration of Finland and World Intellectual Property Organization participated as observers.

The meeting on day 1 was at working group meeting, whereas the meeting on day 2 was a Heads of Office meeting with participation of the working group.

Day 1 – Working Group Meeting

The meeting was co-chaired by the DKPTO (Mrs Anne Rejnhold Jorgensen, Director, Policy and Legal Affairs, DKPTO) and the JPO (Mr Shintaro Takahara, Director, Multilateral Policy Office) with Mrs Rejnhold Jorgensen as lead chair. The co-hosting offices welcomed all participants and addressed various practical matters. The Chair also informed that the all participating delegations would receive the two co-host's summary of the meeting within 14 days after the meeting. The chair informed that the summary would – for transparency reasons - also be made available to interested third parties. Hereafter, **each office presented a status report on their PPH experience**. This sharing of information was most useful and provided a common understanding of where we are with the PPH. At this point in time 10 patent offices have established a total of 12 reciprocal PPH agreements and received a total of approximately 2400 requests for PPH processing. The users are showing great interest in the PPH and the number of requests for PPH processing is growing exponentially. About 9 more reciprocal PPH agreements are currently being considered. In addition, more patent offices are showing an interest in establishing PPH agreements.

There was general agreement about that the goal is an international patent system which provides high quality and speedy processing of patent applications. The delegations also agreed that the key to this was work sharing. The delegations generally expressed large support for the PPH. There was also general agreement about that the PPH had resulted in speedier processing of patent applications and that the work from the first offices in the PPH procedure provided useful information which helped to reduce the work load at the second office and to build confidence in other offices work.

In the afternoon, the first topic was “Cooperative Measures and Other Matters”. The first agenda item under this heading was **Streamlining Requirements and Procedures**. The JPO opened the discussion with a presentation of some ideas. The chair hereafter invited all participants to participate in a brainstorm about which requirements and procedures could be streamlined. This resulted in the following non-prioritized list:

- Eligible application types
- Allowed types of translations/treatment of machine translation
- Similar interpretation of what is understood by claim correspondence
- If applicants shall supply all the required material or if this can be supplied in another way – for example through on-line databases
- The option of having - as a basis for the PPH request - an affirmative statement that the claims do not have any deficiencies and that this statement is made as early as possible in the process
- Decision as to whether or not a non-binding opinion can provide the basis for a PPH request
- Creating a common request form

The next point to be discussed under the heading “Cooperative Measures and Other Matters” was **how to deepen public awareness about the PPH**. Again, the JPO opened the debate with a presentation of some ideas. Hereafter, the chair asked the delegations to put forward their various suggestions in this respect which resulted in the following non-prioritized list of suggestions:

- Creating a template PPH booklet which explains the benefits of using the PPH to the users
- Organising a national, regional or international symposium for users
- Identify patent applications which the OFF already decided was patentable, but where the OSF has not yet issued a first office action in order to contact applicants directly to offer them PPH
- Contact user groups
- Hold information meetings at patent agent consultancy firms and companies with patent portfolios
- To tell the good story about PPH every time an opportunity arises
- To display information about PPH prominently on the offices’ websites
- To inform about PPH in electronic newsletters
- To have users from one country pay a visit to the users in another country in order to share their experience about how they use the PPH
- Marketing campaigns directed at target groups - for example various interest groups, patent agents and patent attorneys
- Case studies which show the good example
- More bilateral/regional coordination

The last agenda item under the heading “Cooperative Measures and Other Matters” was **Complementary Interaction with the PCT System**. The chair opened the agenda item by expressing that she saw this agenda item as a key issue. The JPO made an initial presentation stating that the PPH is still at the developing stage and that it can be turned in many

directions. The JPO further expressed the view that there is a synergistic effect between the PPH and the PCT system, because the PPH contributes to improving the PCT system through the building of confidence in other patent offices work. Afterwards, the DKPTO presented one of several possible models for how the PPH can interact well with the PCT system - and in such a way that it promotes use of the search and examination carried out during the international phase of the PCT system to the largest possible extent. Hereafter, the chair invited all delegations to participate in a discussion about the interaction between the PCT system and the PPH. The participants shared the view that we work under the common vision that we strive to achieve a global patent system which is fit for the globalized world meaning that it provides users with high quality examinations through efficient and speedy processes. Likewise it was agreed that the key to solving the problems with backlogs and quality in today's international patent system is work sharing. The delegations shared the view that the PCT system is the backbone of the international patent system and that they have no interest in harming the PCT system. At the same time, the offices also agreed that the PCT system is not working as it was originally intended to work, as the national patent offices lack confidence in the PCT authorities' work which leads to duplication in stead of re-use of the PCT authorities work during the national phase of the PCT system. There was general agreement about that the PCT system needs to address the urgent difficulties. One delegation expressed the view that the PPH could be seen to encourage national patent offices to disregard the work of the PCT authorities and that it therefore could undermine the PCT system. Other delegations expressed the view that the PPH would promote confidence in other offices' work and in this way PPH will contribute to solving a main problem in the PCT system. Most delegations thus expressed the view that the PPH interacts very well with the PCT system and supplements the PCT system. There was general agreement about that the global backlog problems in today's international patent system is highly damaging to the industries and to innovation. Many delegations therefore expressed the view that work sharing between offices should rather happen sooner than later. Many offices expressed the view that they will seek to promote work sharing through several parallel roads – for example both through the PCT system, through the PPH and through other means.

The last point at the agenda for meeting on day 1 was a **Discussion of Future Activities**. In relation to what items the future work should concentrate on, the delegates suggested the following initiatives:

1. Data exchange for analysis/evaluation and sharing of information
 - Bilateral (or plurilateral) periodical exchange of information
 - Evaluation of PPH and sharing best practices through examiner exchanges
2. Awareness program for potential users
 - The delegations encouraged each other to make use of the various initiatives listed above as the outcome of the discussion on this topic.
3. Relaxation/standardization of requirements
(Please refer to the list mentioned above which was made during the discussion of about the streamlining of requirements and procedures).

The working group agreed that it would be beneficial to meet again in order to continue the work towards a plurilateral PPH. The JPO offered to host the next working group meeting in Tokyo in 2009. The JPO also offered to host an international symposium for the user

community of raising public awareness about PPH. The chair summarized the course of the meeting and reiterated that she would provide a similar oral summary at the next day's meeting where most of the delegations would be joined by their Heads of Offices. The chair also informed that she would ask the Heads of Offices to confirm that the topics chosen at the working group meeting were the topics that the working group's future work should concentrate on. In order to speed up the process it was suggested that the two co-hosts should provide a suggestion for a roadmap for the future work at the latest within two months after the end of the meeting.

Day 2 – Heads of Offices Meeting

Mr Takashi Suzuki, Commissioner at the JPO, and Mr Jesper Kongstad, Director General and CEO at the DKPTO, co-chaired the meeting with Mr. Kongstad as lead chair. The two co-hosts opened the meeting by welcoming the participants. Then the chair of the previous day's working group meeting presented an oral **report from the day 1 meeting** (in accordance with the content above) and asked the Heads of Offices to confirm that the topics chosen at the working group meeting were the topics that the working group's future work should concentrate on.

Hereafter, the Heads of Offices were invited to present their **opening remarks**. The Heads of Offices expressed their strong belief in work sharing and dedication to the PPH project. The Heads of Offices also expressed that they felt a responsibility to provide the applicants with the system they need – i.e. a global patent system fit for the purpose, meaning that it must deliver high quality examination through efficient and speedy processes. This is the end goal and it has become even more important in the current economic situation. The Heads of Offices find that the PPH supports this vision. The PPH offers concrete results in the form of reduced workloads, improved quality and speedier processing of patent applications. The PPH has demonstrated that work sharing is possible and that it improves efficiency.

The Heads of Offices also shared the view that the PPH strongly supports the PCT system. The Heads of Offices did not understand the concerns raised by those, who claim that the PPH is harmful to the PCT system. The Heads of Offices shared the view that the PPH and the PCT interacts very well and that the PPH supplements the PCT system. They expressed the hope that the experiences from the PPH, and the trust that it builds in other offices work, can be used to also make the PCT system more efficient. The Heads of Offices emphasized the importance of being transparent in regard to the PPH and expressed the hope that the misunderstandings about harmful effects of the PPH on the PCT system had now been cleared up. The Heads of Offices expressed support for WIPO's recent efforts to improve work sharing in the PCT system. The offices support the promotion of work sharing in the various fora in parallel.

The last agenda item was **cooperative measures and other matters and determining the next steps**. Mr. Kongstad proposed that the Heads of Offices placed the working group's proposals for **requirements and procedures to be streamlined** in 3 categories according to how easy it was expected to be to streamline the items. The Heads of Offices reached agreement on the following categorized list:

1.
 - Creating a common request form
 - If applicants shall supply all the required material or if this can be supplied in another way – for example through on-line databases
 - The option of having - as a basis for the PPH request - an affirmative statement that the claims do not have any deficiencies and that this statement is made as early as possible in the process
2.
 - Allowed types of translations/treatment of machine translation
 - Similar interpretation of what is understood by claim correspondence
 - Eligible application types
3.
 - Decision as to whether or not a non-binding opinion can provide the basis for a PPH request

Category 1 contains the items which are expected to be relatively easy to streamline, category 2 contains the items which are expected to be a bit less easy to streamline and category 3 contains the items which are expected to be more difficult to streamline.

The Heads of Offices decided that the working group shall convene for another meeting by the end of May this year and that it is the intention of the Heads of Offices that the working group shall here streamline the requirements in category 1 and 2. It is further the intention of the Heads of Offices that the working group shall strive to finish this work at the meeting and that the offices shall implement the streamlined requirements and procedures into their PPH agreements as soon as possible hereafter. At this meeting, the working group shall also come up with a proposal for how the item in category 3 can be streamlined. The Heads of Offices provided the working group with a mandate to carry out this work. The Heads of Offices also suggested that future meetings shall be prepared through an electronic platform where the various preparatory documents will be uploaded, so as much of the work as possible will be done already beforehand. The JPO offered to host the next working group meeting and to provide the electronic platform for future preparatory work. The offer was accepted and the next working group meeting will therefore take place in Tokyo and be arranged by the JPO. It was also agreed that the JPO and the DKPTO shall together be responsible for providing a “road map” for the streamlining of the items in category 1 to 3 above.

The next issue that was dealt with was **deepening public awareness** about the PPH. The Heads of Offices supported the working group's list of suggested awareness raising activities. It was decided that the offices shall seek to raise public awareness about the PPH by using the various initiatives on the list to the extent that each office find beneficial. It was further decided that the JPO and the USPTO are responsible for the development of a template for a PPH Booklet, which all patent offices participating in the PPH projects can use. The patent offices may choose to customize the template to their users, but are encouraged to stay as

close as possible to the template in order to promote a common PPH concept. In addition all offices are responsible for sharing their case studies.

The next topic that was discussed was **the sharing of information**. The Head of Offices adopted the proposal from the working group to exchange data for analysis/evaluation and sharing of information in the form of:

- Bilateral (or plurilateral) periodical exchange of information
- Evaluation of PPH and sharing best practices through examiner exchanges

The JPO will be responsible for organizing the information exchange which shall take place on a quarterly basis. The offices will have an exchange of views about what information shall be shared in connection with the data exchanges.

The Heads of Offices will continue its discussion about the Plurilateral PPH at a separate meeting in the autumn 2009 (tentatively scheduled in September).

In the light of the global economic crisis the Heads of Offices **exchanged information about filings and renewals and its projections** as the last topic at the meeting.

The two co-hosts closed the meeting by thanking all the participants for a very fruitful meeting and for the open dialogue and the active and constructive participation by all delegations which made the successful outcome possible.