

FICPI/AIPLA Colloquium

A Comprehensive Approach to Patent Quality

„PCT quality and timeliness - Impact of PCT changes“

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Background information

- Vereenigde is a free practice firm
- Vereenigde represents individual inventors, SME's, multinationals, universities, research institutes
- Vereenigde files PCT applications
- Vereenigde files Euro(PCT) applications

Some data

**In 2002 we filed 220 PCT applications;
in 2006 258**

**In 2002 we filed 300 Euro/PCT applications;
in 2006 370**

PCT is successful

- **exploding growth in number of patent applications**
- **impact on the functioning of patent system**
- **crush of unexamined applications in the PCT**
- **crush of unexamined applications in regional/national offices**
- **public perceives the pressure to reduce the backlog of pending applications**
- **lower quality search and examination of patent applications**

Effects of PCT Changes 2001-2007

- The number of applications increases
- The administrative formalities associated with an international application are very user-friendly
- Art 22 PCT: the number of demands decreases drastically (about 1 per 30 applications)
- R 54*bis* PCT: in about 3 of the 10 applications, the time limit to file the demand expires 3 months from the transmittal of the International Search Report; that is after the 22 months' time limit
- WIPO information: 56% of ISR for 16 months; 16% after 20 months

Side-effects (I)

- In the written opinion attached to the search report, we see more often clarity and non-unity-of-invention objections which make that not all claims are searched
- When a demand is filed, it is difficult to obtain an IPER that differs from the written opinion, when no claim amendments are filed

Side-effects (II)

- **When entering the European phase, the written opinion is maintained as first substantive examination report; if no claim amendments are filed, it is difficult to avoid a summons to attend oral proceedings as second communication**
- **When entering the European phase with claims wherein the limitations added during the international phase are removed, it is very difficult to avoid a summons to attend oral proceedings as second communication**

Proposals to find time in the international and regional/national phase

- Many PCT-applicants would not have a problem in receiving the ISR late, provided that it is of high quality and, hence, refers to relevant prior art
- Even more Euro/PCT-applicants would rather appreciate to slow down the procedure up to grant instead of having speedy proceedings