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PCT quality and timeliness: Impact of PCT changes

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Encouraging creativity and innovation



**WORLD
INTELLECTUAL
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Granted patents and S&E quality

- Quality must be high enough for customers to rely on
 - reasonable “presumption of validity”
 - enforceability of patents
- An international issue affecting national interests
 - domestic and foreign applicants
 - domestic and foreign competitors
 - domestic consumers
 - domestic applicants wanting patents abroad
 - domestic and foreign investment



An international issue

- Applicants want patents in two or more jurisdictions
- Duplication of work is becoming a bigger issue
 - need to draw better on PCT search and examination (and earlier national work where available)
 - greater harmonization of laws is needed, but complete harmonization is not essential
 - recognized quality of work is vital
- Different (complementary) directions of approach
 - PCT Guidelines including Quality Framework
 - SPLT
 - international, multilateral, bilateral collaboration



A balancing act

- Raise quality while
 - managing growing workload (big and smaller Offices)
 - avoiding duplication of effort
 - reducing costs for applicants
- The quality of granted patents affects
 - patentees and (potential) licensees and partners
 - their competitors
 - the general public
 - at home and abroad



What level of quality?

- Poor quality helps no-one
 - low, or false, sense of security
- 100% quality is impossible
 - even for a large Office charging high fees
 - expertise in all fields of technology?
 - searching in all languages and all sources?
- Q: Where should the line be drawn?
- Q: How do current Authorities measure up?
- Q: Do all applications need identical treatment?



Changes to PCT system

- Since 2004, written (examination) opinions in all cases
 - Q: Are they established to an appropriate standard?
 - Q: Are they relevant to the national phase everywhere?
- Quality management systems are now mandatory
- PatentScope
 - improving access to information
 - national phase entry data and statistics
 - wider access to search and examination reports and search strategy information?



Searches by different Offices

- Proposal to Assembly to allow earlier searches by Offices other than the ISA to be taken into account
- Supplementary search proposals discussed by PCT reform working group but not agreed
 - greater coverage of increasingly linguistically diverse prior art
 - optional participation by applicants
 - optional participation by Authorities
 - strong support by users



Initiatives by PCT Authorities (PCT/MIA)

- All Authorities must have quality management systems
 - PCT Rules 36 and 63
- Common quality framework
 - Chapter 21 of PCT S&E Guidelines
- Reports by Authorities on quality management to be publicly available
 - <http://www.wipo.int/pct/en/quality/authorities.html>
- Future work
 - quality standards; manuals and documentation; examiner skills and training; metrics useful for measuring quality
 - awaiting developments in EPC context



Impact of PCT changes

- Concrete steps towards better quality systems
 - more sharing among PCT Authorities
 - more openness to Offices and users
 - flow-on to non-PCT procedures seems likely
- Quality systems + workload problem \Rightarrow less duplication + lower costs
- Requires confidence and will of Offices to be truly effective
 - users can make their views known

