



Innovative tools and processes at the European Patent Office

The European Patent Office (EPO) is committed to harmonising its work with that of other patent offices around the world with a view both to increasing efficiency and quality. If anything, these efforts have accelerated under the current EPO president, Mr Benoit Battistelli. Principal forums in which harmonisation is discussed are the bilateral meetings with the US Patent and Trademark Office (USPTO), trilateral meetings also including the Japanese Patent Office (JPO) and the "IP5" group, which additionally includes the Chinese and Korean intellectual property offices.

A tangible outcome of a recent Trilateral meeting was the so-called "Common Citation Document" (www.trilateral.net/ccd). This tool, which is hosted by the EPO and uses the EPO's patent family database, gathers citation data (prior art) from patent family members filed at the three patent offices to present it in a single format, which may be viewed on one screen. The tool should simplify practitioners' work, by removing the need to access multiple databases. It may, for example, facilitate the more rapid assembly of Information Disclosure Statements for the USPTO.

The EPO continues to participate in the Patent Prosecution Highway (PPH) pilot programmes, both bilaterally with each of the USPTO and JPO, and within the framework of an examination under the Patent Cooperation Treaty. All of these pilots allow an applicant to request accelerated prosecution of a patent application on the basis of a positive examination report in one of the other offices (or via the PCT), provided that certain formalities are complied with. The data shows that fewer PPH requests are made for acceleration of patent applications at the EPO than are made to the USPTO or the JPO. This may, to some extent, be a consequence of applicants' ability to request accelerated prosecution at the EPO without using the PPH, but it may also be a reflection of a less positive stance toward the PPH by the EPO than by sister offices.

As regards the near future, the EPO is working bilaterally with the USPTO to devise a new patent classification system, the "Cooperative Patent Classification", which both offices will use. This system, which will allow more thorough classification-based searches, should become operational from the start of 2012. The new classification may be a stepping stone on the road to IP5's "Common Hybrid Classification". Since the IP5 group handles about 90% of all patent applications worldwide, such a format would likely become a *de facto* global standard.

The EPO is not only active in collaboration with other offices, but also innovates on other fronts. In March 2011, the EPO announced a collaboration with Google[®] which provides Google's machine translation tool free of charge to users of EPO databases, such as Espacenet. The intention is to facilitate machine translation among the EPO's twenty seven languages and, eventually, to include Chinese, Japanese, Korean and Russian as well. As this article goes to press, machine translations between English, French, German, Italian, Portuguese and Spanish are already available: the other languages should be phased in by 2014. In return, the EPO is making its entire library of patent translations available to Google to enable Google to optimize its machine translation technology for patent translation. A deal on machine translation of Chinese patents was announced by the EPO and the State Intellectual Property Office of the People's Republic of China (SIPO) on 29 November 2011.

Last, but by no means least, the EPO introduced an online portal during 2011 to facilitate the submission of third party observations. Importantly, following a letter from the IP Federation, the portal (<http://tpo.epo.org/tpo/app/form/>) was modified expressly to state

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that observations in relation to clarity may be submitted. This is significant, because a lack of clarity is not an opposition ground, so such matters may not be addressed explicitly after grant, yet third parties are often best placed to explain why a given claim wording is unclear to the skilled person. Previously, some examiners had refused to consider third party observations concerning clarity of the claims of a European patent application, arguing that only objections to "patentability" (matters such as novelty and obviousness) could validly be raised.

It is to be expected that the pace of change will continue to pick up into 2012. In addition to the Common Hybrid Classification, IP5 is exploring a number of other common platforms which we shall more hear about in the near future. Of course, the most significant change for the EPO would be the Unitary Patent, if indeed it does come into being.

Richard Wilding, 16 December 2011