

QUESTION 109

PCT - Patent Cooperation Treaty

Yearbook 1994/II, page 395
Executive Committee of Copenhagen, June 12 - 18, 1994

Q109

Question Q109

PCT - Patent Cooperation Treaty

Resolution

AIPPI has taken note of the proposal of the Director General of WIPO, made in his Address at the Opening Ceremony of the Executive Committee of AIPPI in Copenhagen, which reads as follows:

Under the multiple search system, an applicant filing an international (PCT) application could, **if he so desired**, ask for an international search not only from one, but from two or more International Searching Authorities. For example, he could ask for search reports from the European, the United States and the Japanese Patent Office. He could ask for them simultaneously or, subject to certain conditions, one after the other. The latter would permit the applicant to undertake the expense for any further report or reports only if the report or reports that he already has are, in his opinion, not conclusive.

AIPPI welcomes any further development of the PCT and supports the further study of the above proposal.

(Earlier Reports concerning the same question respectively the same subject matter: Q -/1970, 77; Q -/1971 I, 235; Q 109/1991 I, 352; Q 109/1992 II, 103; Q 109/1992 II, 417 E; Q 109/1993 I, 94 E.)

QUESTION 109

PCT - Patent Cooperation Treaty

Yearbook 1998/VIII, page 393
37th Congress of Rio de Janeiro, May 24 - 29, 1998

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Question Q109

PCT - Patent Cooperation Treaty

Resolution

The AIPPI EXCO in Rio de Janeiro from 25th to 29th of May 1998 has noted with great interest the proposal of WIPO, as outlined in WIPO-Documents PCT/SEM/368/2(IV), to supplement the existing PCT with an optional procedure leading to the grant of a "PCT Patent".

AIPPI welcomes the initiative of WIPO to improve the PCT system and resolves to study this proposal in cooperation with WIPO.

QUESTION 109

PCT - Patent Cooperation Treaty

38th Congress of Melbourne, March 23 - 30, 2001

Q109

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PCT - Patent Cooperation Treaty

Resolution

Online (electronic) filing of patent applications

AIPPI considers

that online filing of patent applications comes nearer and nearer. Countries with the larger Patent Offices and the PCT are prepared for the introduction of online filing. The necessary software is in preparation. The EPO has developed EASY, which is now in a testphase. It is not clear whether this software is compatible with software for PCT applications of WIPO. The US-PTO has developed its own software. Additionally some European national Patent Offices cooperate for development of their own software (Patent Offices of UK, Denmark, Finland, Germany, The Netherlands, Sweden, Switzerland) under the MIPEX project. The consequence of all these efforts is, the applicants and their representatives will have to face a situation in which their offices have to manage quite a number of different software packages each of which requires a corresponding investment. A further problem of this diversity will be the possibility of mistakes with fatal consequences because of a choice of wrong software in a particular case.

AIPPI takes the view that this technical new development, which essentially takes into consideration the wishes and needs of the various Patent Offices and of course legal certainty should be guided also by the needs of the applicants who are really the clients of the Patent Offices. As long as the online filing systems are still under development it should be possible to harmonize the various systems so that at least they are compatible with each other.

Resolves that
all authorities dealing with systems for online filing of patent applications should consult applicants and their representatives in order to harmonize those different systems with the goal to have one common standard, which is acceptable in all major Patent Offices and WIPO.

Resolution



Question Q109

PCT - Patent Cooperation Treaty

Restitution of right of priority for PCT patent applications

Yearbook 2005/II, page 369
Executive Committee of Berlin, September 24 – 29, 2005

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AIPPI

- noting that an inventor can irreversibly lose his right by a simple failure to meet the priority term,
- noting that the failure to claim priority right may influence the definition of the applicable state of the art,
- noting that PCT assembly is going to amend the PCT rules by introducing the possibility of a late priority claim if the PCT application is filed within two months from the priority term,
- noting that the amendment under discussion at the PCT assembly foresees that the restoration of the right is subjected to the criteria applied by the receiving office at the first step and by the designated offices when the national phase is entered, namely the "due care" or the "unintentional" criterion,
- noting that already in the Resolution approved by Executive Committee of Copenhagen of June 1994 for the restitution of rights in the case of post filing defaults the criterion of "inadvertence or fortuitous circumstances" was supported,

resolves

- that for the restoration of right of priority only the criterion of "unintentional" should be required.