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SUBJECT: Report of the meeting of 06.10.2006 between the PatCom Group and the EPO

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: Working Party on Technical Information (for information)

SUMMARY

The PatCom Group was established towards the end of 1999 and is an association of commercial companies that provide patent information products and services that include EPO data. It has been agreed to hold regular meetings with PatCom on a six-monthly basis. The meeting on 6 October 2006 was the 13th such meeting.

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I. INTRODUCTION

The PatCom Group was established towards the end of 1999 and is an association of commercial companies that provide patent information products and services that include EPO data. The EPO has agreed to hold regular meetings with PatCom on a six-monthly basis.

The 13th meeting between the PatCom Group and the EPO took place in Vienna on 6 October 2006. The present document is a report of that meeting.

The agenda for the meeting was based on a list of points submitted in advance by PatCom.

PatCom was represented by:

Lighthouse I.P. (current PatCom Presidency), Incom, Minesoft, Questel-Orbit, Thomson Scientific, FIZ Karlsruhe and Chemical Abstracts Service (CAS), RWS, unycom and LexisNexis.

II. MINUTES OF THE LAST MEETING IN VIENNA

PatCom had no comments on the report of the last meeting (CA/T 3/06).

III. GENERAL ISSUES

A. TECHNICAL SEMINAR OF 4/5 OCTOBER 2006

PatCom remarked that the technical seminar for commercial providers held in Vienna on 4/5 October had been very well received. The EPO thanked PatCom for the praise and said that it would gladly hold similar meetings in future when the need arose.

B. IPC REFORM

PatCom asked if the EPO would support a further WIPO forum on the IPC reform to be held in Geneva in early 2007. The EPO confirmed that if were invited by the WIPO, it would certainly participate.

C. REFORMULATION OF THE PATENT INFORMATION POLICY

The EPO said that the Working Party on Technical Information (WPTI) and Administrative Council had requested it to consider recent developments in the patent information field and to study whether they had had an effect on the European patent information policy. The EPO had therefore drafted a paper that had been discussed in the WPTI in September.

The EPO expected the Administrative Council debate on the paper to lead to the inclusion of some clarifications, followed by resubmission to the WPTI in spring 2007.

The paper looked at changes to affecting the patent information field since the original policy was written in 1988, including the language landscape, changes in the user community, technical developments, changes in the patent information providers community, membership of the European Patent Organisation, increasing globalisation, etc.

The EPO stated that this "reformulation of the patent information policy" would take account of these, and that it would emphasise the lead role of national patent offices with regard to patent information dissemination and of the EPO with regard to data preparation and distribution. The creation of the European Patent Network would make the division of roles very clear. The policy would not address the question of the relationship between national patent offices and the commercial sector. It would, however, confirm that the EPO would continue to offer raw data to the commercial sector, and would put a clear focus on data standardisation and completeness of data as well as on the question of full text data delivery.

PatCom confirmed that data standardisation was an important issue. PatCom were also always very interested in seeing what effect policy had on the development of services.

The EPO said that it did not plan a dramatic change to current activities. Its goal was to use modern technologies to provide good services to the European public in a "barrier-free manner". SMEs and first-time users would remain the real target group for the EPO. In parallel, the EPO would continue to support the commercial sector in its efforts to provide professional patent information services to experts and large industry.

PatCom responded that the "tension fields" were areas where the EPO felt that some technologies were "common" and could be applied generally, whilst the impact on commercial services could be considerable. Nevertheless, if the reformulated policy brought clarity on some of these issues, it was certainly in principle a welcome development.

PatCom asked whether the EPO had any evidence that its activities were helping to increase patent information awareness among Europe's SMEs. The EPO referred to its 2003 survey on the use of patent information and stated that it would be considering repeating the survey in 2007 or 2008.

D. DISTRIBUTION OF THE COMMERCIAL NEWSFLASH

PatCom said it appreciated the newsflash for commercial providers recently introduced by the EPO and agreed to supply an e-mail list to the EPO of names who should receive the newsflash.

IV. AUTOMATION PLAN EXCERPT OF MARCH MEETING

PatCom asked if there was any news for it on the activities listed in the excerpt of the Automation Plan CA 30/05 distributed at the last meeting. The EPO responded that due to budget consolidation at the EPO, some projects were delayed and others put on hold for the time being. The Automation Plan had been updated to reflect these changes. The EPO promised to distribute an excerpt of the updated version to PatCom.

V. TRANSLATION OF CHINESE PATENTS

PatCom requested that this agenda point should also cover Korean patent documents.

The EPO explained that the Patent Documentation Group (PDG) had become very aware of the difficulties in obtaining information on the situation in China with regard to existing patent and utility model rights, and in monitoring prior art publications from China. They had asked the EPO to consider the issue of translations into English of full-text documentation from China. Taking into account that documentation from Japan, Korea, China and, soon, India was becoming a major component of world wide patent documentation, they had also remarked that in their opinion the EPO should have access to this documentation (in full text) for its patentability searches. The consequences for the EPO in terms of budget and in terms of the impact on the search documentation would be considerable. Moreover, industry not only saw the importance of this data in the context of the completeness of the EPO search files, but also for industry to evaluate existing IP rights, ie a need which went far beyond the documentation for novelty search. The EPO said that it had become clear that such an immense project could only be realised as a co-operation activity with the involvement of industry. PDG was lobbying for a contribution in this area from the European Commission.

The current situation, said the EPO, was that its databases were reasonably complete where the bibliographies and English-language abstracts of Chinese patent abstracts were concerned. About 10% of abstracts for domestic filings in China were missing.

The issue now for the EPO was to establish exactly what the objectives should be in this entire area. The focus was thus on clarifying the facts, and defining what was concretely required. At the same time, the EPO had been looking at machine-translation in this area, but Chinese-to-English translation was a particularly difficult language combination and it would take some time for a good solution to become available. The EPO expected that if the project were to move ahead, then several tenders would be issued. It was in any event clear that if the EPO succeeded in this area, then it would make its solution available outside the EPO.

On a related issue, PatCom remarked that Korea was a country that did not apply marginal cost in its patent information policy. This meant that its data was sold at a high price. The EPO responded that it had made considerable progress in loading Korean data into its databases and that the bibliography, images and

abstracts (applications and granted patents, but not utility models at this stage) would be available in EPO databases by the end of 2006, in time for Korea's entry into the PCT minimum documentation.

VI. END USER COMMENTS ON IPC 8 (PATCOM)

The EPO reported that it had converted 95% (ie 58 million documents) of its bibliographic collections to IPC 8. This task was completed in mid-August of 2006, when the EPO had re-issued the Master Classification Database to subscribers.

PatCom thanked the EPO for its readiness to issue a data DVD containing only updated records, which had made their work much easier. However, they had noted that there was a lot of confusion on the new IPC among users and how to use it. A particular area of uncertainty was the question of what would happen at the time of the first update to the Advanced Level, when it was implemented in January 2007. Another issue was the harmonisation of classifications across different patent offices.

The EPO responded as follows:

- the different features of IPC 8 was not entirely obvious to users, but that was not a surprise due to the complexity involved. A growth in understanding would certainly come with time;
- IPC 8 was an international initiative co-ordinated by WIPO, so the general questions should be addressed to WIPO;
- despite the complexity, the EPO had achieved consistency and probably unparalleled quality in its databases as a result of IPC 8 and had successfully completed the tasks given to it in the framework of this project;
- rather than simply providing updates, the EPO would look into ways of communicating changes to the data and reasons for changes in a clear and consistent manner.

VII. QUALITY OF DATA SUPPLIED BY EPO

A. CHANGE OF DOCDB TO XML

The EPO reported that the change of the DOCDB database to XML had brought about some enhancements to the data, including cited references (EP, DE, FR, US and AU on the day of publication). Abstracts would also be introduced systematically in future, both in English and the original publication language, where available.

The backlog would be distributed very soon to subscribers. There would be a six-month transition period, during which the old and new style DOCDB file would be produced.

The EPO announced that the DOCDB name would be changed to "EPO Patent Information Resource".

B. EFFECTS OF "OUTSOURCING" ON QUALITY

PatCom said that this point addressed two issues:

- The Strategy Debate at the EPO
- The effect on patent information products of outsourcing by the USPTO

The EPO replied that it would be working with national patent offices on streamlining activities in order to save costs. The EPO would outsource activities which are not part of the patent granting process, like re-classification. The EPO would, however, place very high importance on quality when accepting such outsourced work. So, should any work be done on behalf of the EPO in future, it would nevertheless be checked that it met agreed quality levels.

With regard to USPTO outsourcing, the EPO said that it had no direct influence. The latest news from the USPTO was that it would recruit many new examiners in order to deal with the search load. PatCom replied that the USPTO seemed to have outsourced classification work and PCT search, but was recruiting in order to deal with its own search and examination backlog and expressed some concern that the quality of the outsourced work would influence the quality of the search work.

VIII. DATA, FORMATS AND MEDIA

The EPO announced that recent work had meant the inclusion of facsimile copies of Chinese utility models. 500 000 Japanese utility models had also been included in BNS, and there has been progress on the collections for Korea and Taiwan.

The format used is TIFF, but the EPO would like to introduce PDF as soon as possible.

The EPO was also working on providing "clipped images" as part of its raw data collections and hopes that these will be available soon.

PatCom confirmed that it was interested in high-volume acquisition of documents from the EPO's facsimile collections and wondered what the pricing levels would be. The EPO replied that current marginal-price policy would continue to apply. For backfile products the price calculation would be independent of the carrier chosen and generally based on the volume of data delivered. In the case of BNS data, the price would be based on the number of documents. It would, however, not be possible to provide the entire EPO facsimile collection in one order, due to resource limits.

PatCom stressed that they would very much appreciate it, if the EPO could look into providing its entire collection, because it is the goal of a number of commercial vendors of patent information to offer the full EPO collection.

PatCom asked if the EPO had made any progress on capturing chemical structures or gene sequences in an electronic format.

The EPO said there had been no substantial progress on the question of chemical structures, partly because the main patent applicants do not see the value of providing the data in electronic format. It suggested that there may however be a positive side-effect for this via the growth in electronic filings, but further study would be required. Genetic sequences, on the other hand, were already being submitted to the EPO electronically. The EPO was hopeful that it would be possible to publish gene sequences in EP patent applications in electronic form in the foreseeable future.

IX. DEVELOPMENTS OF *esp@cenet*

In a change to previous announcements, the EPO informed PatCom that "on-the-fly" machine translation would be ready earlier than expected and will be introduced in *esp@cenet* starting with level I very soon. This first launch would work without special dictionaries. The dictionaries being developed for use with these systems in the next phase would be made available in the framework of the existing patent information policy for purchase by the commercial sector by mid-2007. The languages concerned were currently German/English and Spanish/English.

The system to be launched soon would be able to translate, titles, abstracts and the entire original full text of the patent document.

The system would work in the same way as the European Union's Dictaton system, ie that there would be a central place to collect improvements, which would be collated in a new edition of the dictionary on a regular basis.

The EPO informed PatCom about future developments currently planned for *esp@cenet* Level 2:

Forward citations

The "cited documents" field in *esp@cenet* covers documents cited in the examination procedure. A new search field, called "Forward citations" would soon become available, allowing users to find in which records a particular record is cited.

The EPO explained that the citations were simple indexes and that no tools for the graphic representation or automatic tracing of citations over several levels had been developed so far.

Links to the European Patent Register

A link from *esp@cenet* to the European Patent Register would be added soon (the EPO remarked that a similar link would also be introduced from the European Publication Server to the Register).

Other, more cosmetic changes, included improve navigation and better presentation of the results list.

Implementation of these changes was planned for the end of 2006.

PatCom remarked that the introduction of forward citations was an example of a feature introduced by the commercial sector, only to see a comparable EPO service introduced soon afterwards, long before the commercial company affected had had any opportunity to recoup its investment. The time between the announcement of the EPO of its intentions and the implementation of the feature was too short for the commercial sector to adjust without considerable negative financial impact.

To ease this kind of tension, PatCom asked if a way could be found to announce developments and changes more immediately, instead of waiting for the next formal meeting. The EPO agreed to provide intermediate updates on *esp@cenet* developments, roughly on a quarterly basis.

As a final remark for this agenda point, the EPO stressed that full-text data was already available both in *esp@cenet* and OPS, and that search engines certainly could handle full-text searching. While this would initially be implemented only for Level 1 (starting with the Belgian server), implementation later for Level 2 was very likely.

X. DEVELOPMENT OF OPS

The EPO said that in order to tackle capacity problems with downloading from OPS, it was planning on introducing a "Fair use policy". Here, the priority would be on providing the right level of performance according to the type of use, and the EPO would ask users to respect the concept of "fair use". Users who needed very high quantities of data should consider using the FTP or physical carrier data delivery services available for this. There would be policies for *esp@cenet*, OPS, FTP and for physical carriers.

PatCom suggested that some of the "abuse" might stem from the fact that records were not tagged as being update records, so users had to carry out "speculative" searches, creating very big datasets in order to retrieve the information they needed. This applied in particular to people trying to identify new data in the backfile. The EPO agreed that this was a good suggestion and said that it was in fact working on a filtering solution to be deployed on the DOCDB database. Only after this change in the DOCDB database is introduced, would it be possible to exploit this feature in order to provide a solution of the type proposed.

PatCom said that the implementation of the new OPS developments had actually been rather good, and that they had had good time to react, and test the new features.

The EPO informed PatCom that the extensive testing phase for the new OPS had yielded a lot of information, which had allowed the EPO to improve the service, although had also led to a delay in implementation to September 2006. The new data available is as follows:

- improved bibliographies, including all publication levels
- cited references
- full-text in character-coded form for EP and WO documents (published in EN, FR, DE)
- non-standardised values.

The statistics had revealed a ten-fold increase in the number of requests and an even higher increase in terms of the volume of data, since the launch of the new service.

Search and filtering possibilities (with similar fields and restrictions to *esp@cenet*) would be among further developments planned for the end of 2007. Currently OPS used a form of XML not compliant with ST.36. The migration to ST.36 was certainly necessary, but no fixed date had been set for this.

PatCom stressed that the migration to ST.36 was an important issue for the commercial sector, and possibly more important even than improved search facilities.

PatCom would also appreciate some statistics on the use of OPS, and where use had increased. The EPO said it would investigate what statistics could be provided.

XI. DEVELOPMENT OF PUBLICATION SERVER, OPEN WEB SERVICE INTERFACE

PatCom noted that the Web service on the Publication Server had a download limit of 2GB, which was just on the limit of a complete week's worth of data. The EPO said that it had indeed been its intention to allow downloading of a week's data, but nothing more. If the limit needed adjusting slightly to ensure this, then that should not be a problem.

The EPO confirmed that the Publication Server provided data in ST.36 format and included backfile data (or a link to *esp@cenet* or the WIPO Patentscope service, where appropriate).

Futhermore the EPO explained that several national offices planned to offer their data with exactly the same technology.

A further development was the introduction of applicants' citation references within the XML dataset for each record.

The Web service for the Publication Server had been well received by users.

As far as the patent documents themselves were concerned, the new challenge was the consequences of the implementation of the EPC 2000, including the introduction of "B3" documents stemming from changes in claims made by the applicant.

PatCom highlighted what they saw as a "conflict of business interest" concerning the EPO's choice of the contractor Jouve for the publication of European patent documents and the hosting of the Publication Server. The conflict, they said, lay in the fact that Jouve could offer commercial patent information services with the advantage that they had data prior to publication date (by virtue of their publication contract for the EPO), whereas other commercial companies did not.

The EPO said that the business relationship with Jouve was very professional and that a good basis of trust existed with Jouve. It promised to watch the situation carefully and to react at the first sign of any abuse.

XII. DEVELOPMENT OF MIMOSA

The EPO announced that the production of ESPACE WORLD was systematically delayed compared to the old production scheme due to WIPO's new policy of not releasing any PCT data before publication date. The current total delay was about 14 days ESPACE WORLD (for *esp@cenet*, the total delay was 3-6 days). These production delays had increased by four days due to the new schedule. PatCom felt this was a "bad example" by WIPO, and hoped that no other patent offices would adopt a similar policy. They also hoped that WIPO could be persuaded to return to its earlier practice of giving the EPO data in advance of publication day.

Noting that the BENELUX countries had announced the abandonment of their ESPACE BENELUX product, the EPO asked PatCom to comment on the usefulness of optical disks as data archives. PatCom agreed to submit comments in writing.

XIII. DATE OF THE NEXT MEETING

The next meeting should be in March 2007, in Vienna. Possible dates are 16 or 30 March 2007.