

PATCOM meeting minutes

Minutes 11th DPMA PatCom Meeting , Munich , Wednesday 28th January 2015 , 2pm

Attendees:

DPMA:

Hubert Rothe, Head of Division 2.1, (HR)

Rudolf Huesing, Head of Division 2.3, (RH)

Apologies received from Mr Michael Ganzenmüller, Head of Department 2.

PATCOM:

Jochen Lennhof (Minesoft) (JL),

Margit Hoehne, (patentGate GmbH) (MH),

Jurjen Dijkstra, (LexisNexis Univentio) (JD)

Martine Massiera, Questel (President) (MM)

Armin Foerderer, FIZ-Karlsruhe (Treasurer), (AF)

Jane List, Secretary (JAL)

Minutes

1. Introductions, and HR welcomed PatCom to the DPMA for the 11th meeting.
2. Minutes of 10. Meeting as amended by HR were approved.
3. Update on DPMA patent information initiatives (3 points)

A. DPMAmarken – extended to include a full electronic Trademark case file

A new TM system is in test phase, and launch is anticipated for 23 March 2015. It follows the format established for patent and utility models; the new case file management system for TM will handle all correspondence concerning examination of the Trademark with DPMA. The TM Gazette will be maintained, and the TM Register will be maintained. Web-services interface to TM data will also remain the same. The user will not notice any change.

DPMA are in discussions over allowing complete access to full text of EP documents where rights include Germany, currently they can be searched but not saved or downloaded. The image PDFs can be obtained from DPMA.

B. Electronic File Histories

(for details, see also separate document 20150128_Ps_11thPatCom-DPMA meeting_Rothe.pdf)

The amendment of the patent act provided the legal basis for online file histories to be made available for all. The service launched on 7th January 2014, and it has been very popular with 100,000 cases requested in 2014. When there is personal information which should not be made public, (e.g. reinstatement cases involving legal aid application), according to German Personal Data Privacy legislation, then this is blacked out from the file. NPL is also excluded due to copyright regulations.

See slide 4 for start dates of electronic file histories. Each week 5-10,000 additional cases which are requested are digitized and/or cleansed with respect to data privacy or copyright requirements and added to the collection for all to see. It takes approximately 2 weeks for the file to be handled and delivered. There are 10 people working at the DPMA on the process. The user must set up an alert on a document number in order to receive the information that the file history is ready. The DPMA does not send individual emails.

Action: (HR) to investigate if file histories of C5 documents (republishing after Opposition) will be also made available.

The file histories contain all correspondence and information in German language.

Data is gathered and generated on the fly per each request, so this cannot currently be made as a feed. Information is only available for published documents. (see Slide 9 for most important legal status events).

C. Amendment of Patent Act

Changes in German IP legislation came into effect following an amendment in the Act which was published on 24 October 2013. This provided the legal basis for online file inspection which was launched on 7 January 2014.

Four Major changes in the amendment, effective from 1 April 2014:

Applications filed in French or English languages now have up to 12 months to file a German language translation, 15 months (after the day of first filing) if it is a second application. The DPMA examiner starts working with the English or French application straight away, without waiting for the German language one. Applications in any other language, which have been allowed for many years, still need to file a German translation within 3 months. If a translation is not submitted in this timeframe, then the application is *'deemed to be withdrawn'*. When the German translation is received it must not extend the scope or the invention. There is a rare chance that an application could be published in English or French to keep to publication timelines. The B document would always be in the German Language. There is no special Kind Code for these translations.

Q: JD requested information regarding whether a language identifier would be included in the XML.

Action: HR to investigate and report back to PatCom.

The Opposition period is extended to 9 months, in-line with EPO.

DPMA now issues **extended search reports**, in line with EPO.

Oral proceedings (opposition) are now open to the public, however there are no requirements to inform the public. If someone is interested in a case they need to contact the office to obtain a date.

Oral proceedings are compulsory if requested by the Applicant during examination. The outcome of oral proceedings will be made available in the file history.

4) Developments in DPMA services

4a. DEPATIS / DEPATISnet (slide 10 – 14) Character-coded PDFs are available from week 24 (12 June 2014.) (and can be identified by colour DPMA logo.) DEPATIS is used by DPMA examiners for patentability searching, they also use EPOQUEnet. The examiners in biology and chemistry area use EPOQUEnet the most, but otherwise it is not used very frequently, too expensive. German examiners like DEPATIS. They can also use the commercial services for their searches. At the moment only DPMA examiners make use of DEPATIS.

The DPMA are improving their **bibliographic data collection** of old DE documents, by scanning and digitizing the older Gazettes, comparing the data to that in DEPATIS, and filling in the gaps. 1950-1985 collection was finished in 2014. HR explained that prior to electronic gazette production from 1986 search file inventory data containing IPC and Applicant names were used to establish the bibliographic database of DEPATIS.

Action: HR to check options regarding disseminating this improved older data more widely, and also to commercial organisations directly.

1877 – 1945 data will be treated similarly and the project is now commissioned.

F.I.A.T data (Field Intelligence Agency Technical) (slide 12). Refers to microfilmed cases from WW2. The collection is also available as microfilm in British Library in London, and in New York. Halted due to WW2, many cases were subsequently examined when the office re-opened in 1950 in Munich, about 10% were granted, and a project now is to identify families. This new historic data will be added to DEPATIS / DEPATISnet.

PatCom requested DPMA to consider making this data available to the commercial providers

Action: HR to check options for disseminating the FIAT data commercially, and to inform PatCom.

Prior to 1871 some patents were published under the separate 'German' states, the EPO are considering about making these available.

Asian patent information at DEPATISnet. (see slide 13)

The collection will continue to be enhanced for examiners and the public.

JP data collection consists of searchable English language abstract (from PAJ), and character coded original documents in DEPATIS XML format. PDFs of A,B,U,Y are also available from 1993.

Similar KR data bibio. from 1970; A,B, from 2003, with mixture of abstract and original language.

CN data. DPMA have a disc of complete data 1985 to date, but are as yet unable to complete load into DEPATISnet. It is thought that the SIPO abstracts are in Human Assisted Machine Translation (HAMT) .

The use of EP character coded set within DEPATISnet is under negotiation with EPO (slide 14). DPMA want the public to be able to search full text of all EP documents (including French and English language) . EP documents also take effect in Germany.

4b. federated register

In order for the DPMA to participate in the EPO Federated Register initiative a redesign of the DPMA register is needed. This has been on hold, but should be commissioned by end of Q1 2015, with the aim to be in a position to join EPO Federated Register early 2016.

4c. Design examination there are planned IT improvements for Q2 2015.

4d. Web-Services interfaces

Are growing in importance, more users want to access data at the office, access is possible after the conclusion of a contract. DPMAconnect (register, access free of charge) was added in 2011, and DEPATISconnect (DE documents, access for a fee) has been available for more than 10 years. The interfaces remain unchanged.

4e. weekly data delivery feeds, interest is decreasing, customers are switching to Web-Services.

5). Unitary Patent. The DPMA see this as having little impact on their core business. There is no evidence that applicants will switch to unitary patent, national filings are currently increasing, not only from German applicants, but also with Applicants from abroad, e.g. USA and Asia. This trend is expected to continue.

The German legislator is drafting laws for the Unitary patent regulation and the Unified Court Agreement, and Act for ratification of the Unified Court agreement. No date available yet, most likely it will happen in 2016. It is expected that double protection (DE and EP) will not be possible. Applicants will have to choose. Currently EP would take priority, in the case of double patenting. With Unitary Patent it may be different, and OptIn/ Opt Out may be complicated. The DPMA are ready, no information on legal status stage, and this is needed before anything can be started.

6) Classification

DPMA are observing CPC usage at the other offices, and so far there is not much use of CPC, DPMA prefer to have their own DEKLA. Changing to CPC would involve high cost, and so far there is no demand for it. The examiners classify at DPMA by IPC and DEKLA, and the workflow is organised by IPC.

DPMA prefers to remain independent, having the opinion that a choice of search tools is preferable. The results of EPO and DPMA search can be different, and an alternative view can be beneficial. DEKLA is not available in the weekly feed, as it is not published. It is in DEPATIS, and is assigned to all documents therein. (US, FR, JP etc).

7) Machine Translation (MT) (slide 15)

No active project on MT. Currently using WIPO's CLIR in English to obtain JP and KR search terms (exact and synonym) for search in the national collections. From this a hit list is created, and the documents are translated on the fly into EN, DE.

However, there are plans to procure an in house JP English Machine Translation (MT) collection. This was paused in 2013, and hopefully will be put out to tender in 2015 through the usual EU channels. The new MT collection will be used in parallel to CLIR approach and tested.

8) User groups. DPMA customer services assist users of patent information and filers. ARPAD assist the DPMA. The DPMA discusses matters affecting the public with this group, but remains in constant dialogue with end users. In time ARPAD will become the 'standing advisory board' for the DPMA, the rules are under development in 2015. The advisory board will consist of representatives from user groups such as patent attorneys, PatCom, PatLibs, industry. Members will be appointed by nomination of the President by 2016.

9) Date of next meeting: A date during January 2016 will be agreed later in the year, this time of year is preferred for the meeting.

Jane List, Cambridgeshire, 11/3/2015