

The European Patent Office (EPO), the Japan Patent Office (JPO), and the United States Patent and Trademark Office (USPTO) met at the 27th Trilateral Conference in Kyoto, Japan, on 13 November 2009:

- Reconfirming their commitments to Trilateral co-operation based on common recognition of the role of industrial property as a basic system supporting the progress of industry, technology, and international economic growth,
- Identifying timely processing of increased workloads of patent applications and high quality examination processes as common objectives of the Trilateral Offices and its user communities,
- Acknowledging the benefits of promoting reduction of processing times and reducing or eliminating redundant work through a co-ordinated Trilateral approach,
- Recognising the benefits of promoting the improvement of the quality of incoming applications as a means to reduce Office workloads,
- Reaffirming the significance of the IP5 Co-operation and its foundation projects,
- Noting the importance of enhancement of the cooperation between the Trilateral Offices and its user communities,
- Understanding the benefits of harmonising patent law and procedures,
- Recognising the benefits of developing common infrastructure and compatible data for electronic business systems and search tools,
- Reaffirming the value of patent information as means for raising the quality of applications filed,

Highlight the following as major achievements of the common efforts of the three Offices this year:

- Agreed to begin to utilize the PCT work products as a basis for a PPH request within their respective PPH pilot arrangements in 2010
- Evaluated the results of the work-sharing JP-FIRST pilot project and agreed to continue the JP-FIRST pilot programme with a view to developing a trilateral SHARE/JP-FIRST program.
- Agreed to further explore various proposals to advance the PCT Roadmap
- Launched the e-learning portal site

- Conducted a comparative study on novelty and a new use of a known product
- Agreed to compile a manual of different examination practices
- Accepted Common Application Format applications
- JPO and USPTO have implemented the Priority Document Exchange via WIPO-DAS and EPO is considering implementation.
- Published for the first time the Four Office Statistics Report, including the statistical data of KIPO

Furthermore, understand as follows:

### **1. Work Sharing (Project WM1)**

The Trilateral Offices reaffirmed their commitment to further development of the various work sharing initiatives. The Trilateral Offices will continue to explore possible methodology thereof.

#### **(a) Patent Prosecution Highway**

The Trilateral Offices agreed to utilise the PCT work products as a basis for a PPH request by means of a pilot starting on January 29, 2010. The Trilateral Offices shared the view that a PPH programme permitting the use of PCT work products would also contribute to the promotion of the PCT Roadmap initiative led by the WIPO.

As for the individual PPH programmes, the EPO and the USPTO have extended the period for the pilot program until September 2010. The EPO and the JPO agreed to commence a bilateral pilot programme starting on January 29, 2010. The JPO and the USPTO have implemented the PPH on a permanent basis since January, 2008.

#### **(b) SHARE**

Whereas prioritisation of first filings is standard practice for the EPO, the JPO has realized the concept of SHARE in the JP-FIRST initiative. The USPTO will, in consultation with stake holders, and consistent with applicable laws/regulations also implement the prioritization of first filings according to the SHARE concept.

#### **(c) Triway**

The Trilateral Offices have implemented the Triway pilot programme for one year starting from July 2008. The USPTO will analyse the result and the Trilateral Offices will, subsequently, evaluate the programme in 2010.

#### **(d) New Route**

The JPO and the USPTO have implemented the New Route analogous pilot for one year starting from January 2008. The Trilateral Offices will make use of the experience to develop other work sharing initiatives.

#### **2. Examiner Exchange (Project WM3)**

The Trilateral Offices conducted an examiner exchange in Tokyo in December, 2008, where the effect of work sharing in work sharing initiatives among Trilateral Offices was evaluated.

The next examiner exchange will be held in Alexandria in February 2010.

#### **3. E-learning (Project WM3)**

The Trilateral Offices launched the e-learning portal site. The site will facilitate the understanding of laws and examination practices in other Offices for examiners.

The Trilateral Offices agreed to invite the KIPO and SIPO to the ELWG.

#### **4. Using the PCT**

The Trilateral Offices recognised the importance of continuing effort on PCT reform and agreed to explore various proposals to advance the PCT Roadmap.

The Trilateral Offices agreed to discuss a PCT collaborative international search and preliminary examination pilot.

#### **5. Examination Practices and Quality Issues (Project LEG)**

##### **(a) Comparative Study on Examination Practice**

The Trilateral Offices conducted the comparative study on novelty and a new use of a known product and will shortly disseminate the result by posting it on the Trilateral website.

##### **(b) Quality**

The Trilateral Offices agreed to compile the manual of different examination practices. The Trilateral Offices recognised that the manual could be beneficial for examiners utilizing the work results in other Offices.

The Trilateral Offices agreed to enhance the quality management and investigate measures for improving quality, promoting mutual understanding of the philosophy on quality.

## **6. Enhancement of IT Collaboration**

### **(a) Search Tools (Project WT5)**

The Trilateral Offices agreed that before launching the project, it is necessary to have thorough and careful considerations about the long-term benefits, along with cost-benefit analysis, that may be produced by a shared search environment which will produce similar results for all examiners. The search environment should to the maximum extent possible utilize the existing system at each Office.

### **(b) Search Strategy**

The Trilateral Offices agreed that the useful information to be exchanged, should consider the efficiency in search and examination, workload for making search record, and effectiveness on work-sharing.

It was agreed that for such considerations, a search pilot project should be conducted in the area of DNA (sequence listing) or chemical structure where search differences caused by languages or environment are anticipated to be relatively small. Other pilots should be explored for exchanging and studying existing search records currently being captured by the IP5 offices. An investigation should be performed on what content/element to be documented and how much burden to be put on the examiners.

### **(c) Priority Document Exchange (Project DTR3)**

The Trilateral Offices agreed the modification of Service Level Agreement (SLA) of Trilateral Dossier Access (TDA) for the WIPO Digital Access System (DAS). And the JPO and the USPTO participated in the WIPO DAS in April 2009.

The Trilateral Offices agreed to ask the WIPO IB to take further initiatives in facilitating and promoting WIPO DAS.

### **(d) Dossier Access (Project EB3)**

The Trilateral Offices confirmed the importance of One Portal Dossier (OPD) and agreed to cooperate for advancing this project according to the roadmap agreed on in the IP5 Deputy-Head meeting in June, 2009.

The Trilateral Offices agreed to utilize existing IT resources, such as TDA systems and EPO's Open Patent Service•OPS€, as much as possible at first phase of the said roadmap.

### **(e) Electronic Filing, Data Standards (Project EB1, STD1)**

Moving toward the realization of the use of an XML standard in the three Offices, the Trilateral Offices and WIPO confirmed the importance of XML formatted digitization and will continuously exchange information on the utilization status of the XML standards internally as well as between the Offices. To this end, the USPTO will begin processing of XML formatted data for internal use, and develop tools to encourage e-filing of XML by applicants.

Regarding the refactoring of Annex F, the Trilateral Offices shared common understanding that there is no urgent need and agreed that it should be delayed until a rewrite is warranted. The Trilateral Offices agreed that when they discuss the refactoring of Annex F, they would respect the 2006 Trilateral agreement as much as possible in order to secure the principle of interoperability, confidentiality, integrity and authenticity.

#### **(f) Zero Paper Emission**

The Trilateral Offices agreed to consider legal issues including modifications of PCT AI as well as technical issues including XML standardization, with a positive support of the WIPO IB's intermediate goals targeting at digitization and the e2e project worked on by each of the Trilateral Offices, and with a full comprehension of the current status for Trilateral Offices. The Trilateral Offices will take a lead in accomplishing the "Zero Paper Emission" project which handles PCT documents in electronic form as much as possible.

#### **(g) TRINet (Project IT3)**

The Trilateral Offices and Member Offices agreed on TRINet technology refreshment, and introduced necessary devices. And the Trilateral Offices agreed on continuous cooperation in order to migrate applications using the existing TRINet, smoothly at the earliest convenience in 2010. The Trilateral Offices also agreed on a service level agreement for Trinnet.

### **7. Classification (Project WT2)**

The Trilateral Working Group on Classification has been extended to the KIPO to move forward with the corresponding foundation project of the IP5. The SIPO will continue to attend the Working Group as an observer at SIPO's request. The Trilateral Offices will finalize the existing Harmony projects by 2011.

### **8. Biotechnology (Project DR2)**

The Trilateral Offices agreed that the Biotechnology Working Group completed its work and should be closed. The possible future issues relating to biotechnology will be addressed in the proper working group among Trilateral Offices.

### **9. Common Application Format (CAF) (Project LEG)**

The Trilateral Offices started to accept applications in Common Application Format (CAF) in January, 2009. The Trilateral Offices agreed to work on promoting of utilization of the CAF by using websites.

## **10. Information Dissemination/Public Awareness (Project PI)**

The Trilateral Offices reaffirmed the significance of enhancing the cooperation with its user communities to improve the global patent systems. In this respect opportunities of joint participation by the Trilateral Offices should be used wherever possible.

The Trilateral Offices held the meetings with Industry Trilateral in June and November, 2009. In November, the Trilateral Offices also collaborated with universities to hold a symposium for raising public awareness of the Trilateral activities.

The Trilateral Offices evaluated the outcome of the roundtable discussions conducted in 2008 and agreed to have roundtable discussions as appropriate in the future.

The Trilateral Offices will use the approved communications plan to support future outreach to our customers.

The Trilateral Offices reaffirmed the strategic importance of the Trilateral information dissemination policy of free flow of information of data. The Trilateral Offices are committed to continue to review dissemination policies and practices in order to enhance and expand access to a broader user community.

## **11. Statistics (Project MAN)**

The Trilateral Offices and KIPO released Four Office Statistics Report in November 2009. The Trilateral Offices invited the KIPO to the Trilateral Statistical Working Group as a full member and the WG has expanded to the Four Office's full participation.

## **12. Technical Cooperation Activities**

The JPO, USPTO and OHIM held the joint seminar on design protection in Shunde, China in June, 2009, in cooperation with the SIPO.