

## **ANNEX - DEFINITIONS FOR STATISTICS ON PROCEDURE**

### **EXAMINATION RATE**

This rate shows the proportion of the applications for which the period to file a request for examination expired in the reporting year, and that resulted in a request for examination up to and including the reporting year.

For the EPO, where the request for examination has to be filed not later than 6 months after publication of the search, the rate for 1997 relates to applications mainly filed in the years 1995 and 1996.

Since the JPO allows a seven-year period to file a request for examination, the rate for the JPO in 1997 relates to applications filed in 1989.

### **GRANT RATE**

This is the number of applications that were granted during the reporting period, divided by the number of disposals in the reporting period (applications granted plus those abandoned).

The grant rate given for the USPTO includes plant and reissue patents in addition to utility patents. However, since utility patents comprise over 99% of patent applications, and over 99% of those patents issued, the USPTO grant rate is almost identical to a grant rate based strictly on utility patents.

### **OPPOSITION RATE**

The opposition rate for the EPO is the number of granted patents for which the opposition period ended in the reporting year and against which one or more oppositions are filed, divided by the total number of patents for which the opposition period ended in the reporting year.

The opposition rate for the JPO is calculated by dividing the number of applications against which one or more oppositions were filed during the reporting year by the total number of decisions to grant patents during the reporting year.

This rate does not apply for the USPTO since there is no opposition procedure.

### **MAINTENANCE RATE IN THE OPPOSITION PROCEDURE**

The rate for the EPO is the number of decisions (in the opposition procedure) to maintain, possibly in amended form, a patent during the reporting year divided by the total number of decisions in the opposition procedure during the reporting year. This rate does not apply for the USPTO since there is no maintenance rate in the opposition procedure.

### **APPEAL RATE**

For the EPO, appeal rates are given for examination and opposition. These appeal rates are the number of decisions made respectively in the examination or opposition procedures against which appeals were lodged in the reporting year, divided by the number of all decisions for which the time limit for appeal ended in the reporting year. For the JPO, the total number of appeals is shown instead of the appeal rate. The JPO does not make a distinction between appeals against decisions in examination for applications against which oppositions were filed and those against which no opposition was filed.

In the United States patent system, there is no opposition procedure prior to patent issues because the patent applications are not published until after issue. The USPTO appeal rate, which includes utility, plant, and reissue categories, captures the number of appeals filed after an examiner's decision to issue a final rejection against a patent application.

The rate is determined by dividing the number of examiner answers written during the year in response to appeal briefs by the number of final rejections issued that year.

#### PENDENCY SEARCH PROCEDURE

This only applies to the EPO. For the EPO the pending applications in search is the number of applications filed (Euro-direct and Euro-PCT entering the regional phase) up to and including the reporting year for which a search report has not been made by the end of the reporting year but for which a search fee has been paid. Pending search in months is defined as the number of pending applications in search by the end of the reporting year divided by the number of searches carried out in the reporting year multiplied by 12.

#### PENDENCY BEFORE REQUEST FOR EXAMINATION

This only applies to the EPO and the JPO.

This statistic indicates the number of filed applications awaiting a request for examination by the applicant, for the EPO after publication of the search report and for the JPO at any time during seven years after filing.

For the EPO, pending applications awaiting request for examination are the number of applications for which the search report has been published by the end of the reporting year and which have not passed the prescribed period for the request (six months after publication of the search).

For the JPO, the number of patent applications awaiting request for examination indicates the number of applications for which no request for examination has been filed by the end of the reporting year, and for which the prescribed period for the request (seven years from the date of its filing) has not passed.

#### ILLUSTRATION:

Applications 1991-1997:	2,598,479
Thereof requests for examination 1991-1997:	454,714
Applications awaiting request for examination:	2,143,765

#### PENDING EXAMINATION

Pending applications in examination is the number of applications filed (in the USPTO), and the number of requests for examination filed (in the EPO) which have not been disposed of (granted or abandoned) by the end of the reporting year.

For the EPO, pendency examination in months is calculated by dividing the number of pending applications in examination as of the end of the reporting year by the number of disposals (decisions to grant or refuse, withdrawals, abandonments or converted applications) during the reporting year and by multiplying by 12.

The pendency in months in the USPTO for utility, plant and reissue applications is calculated by measuring the time from filing to abandonment or issue for all applications that are abandoned or issued during a three month period. The average time it takes for these applications to either abandon or issue from the date of filing is the pendency time in months.

#### PENDENCY FIRST OFFICE ACTION

For the EPO and JPO, pendency first office action is the average period from the request for examination to first office action in examination.

In the USPTO pendency to First Action on the Merits (FAOM) is the average amount of time, in months, from filing to first action on the merits. A FAOM is generally defined as the first time an examiner either formally rejects or allows the claims in a patent application. \*

#### PENDENCY OPPOSITION

For the EPO, pending applications in opposition are the patents against which one or more oppositions have been filed and for which no final decision has been taken by the end of the reporting year.

For the EPO, pendency opposition in months is the number of pending applications in opposition by the end of the reporting year divided by the number of disposals in opposition in the reporting year multiplied by 12.