

Remarks for Jon Dudas
Trilateral Users Conference 2006 Presentation on
“Managing Workloads Through Global Cooperation”
November 16, 2006
Tokyo, Japan

Opening

- Good afternoon. Thank you, Makoto Nakajima and Alain Pompidou.
- I am always glad to be with our friends from the European and Japanese patent offices, and with representatives from our valued industries.
- I’m also pleased to be here in the beautiful city of Tokyo. Thank you to Makoto and the Japan Patent Office for hosting us, in association with the Japan Intellectual Property Association, and the Institute of Intellectual Property.
- I also appreciate the participation of the Intellectual Property Owners Association, the American IP Law Association, and the Union of Industrial and Employer’s Confederations of Europe.
- The involvement of the private sector is critical to what we are all trying to do – ensure that our innovators’ rights are protected to promote more innovation and economic growth.
- We can all appreciate the growing emphasis being placed on intellectual property.
- In the past year, we have heard most of our national leaders speaking out about the importance of IP and its protection.

- In his 2006 State of the Union Speech, U.S. President George W. Bush announced the American Competitiveness Initiative.
- This Initiative will foster the growth of American innovation and promote America's competitiveness in the global economy.
- A key of the Initiative is establishing an environment that encourages entrepreneurship and protects IP.
- The increasing importance of IP to economic growth and prosperity is why national IP offices, like ours, must continually improve and evolve. We have to ensure that innovators can obtain appropriate protection for valuable IP assets.
- Today, I want to talk about:
 - 1) Highlights from the past year at the United States Patent and Trademark Office
 - 2) The importance of work sharing
 - 3) And the need for harmonization.

And then, we will all take your questions.

Year in Review/Need for cooperation

- Fiscal year 2006 was a record-breaking year for the USPTO!
- We had a record number of **more than 440,000** patent applications filed, and we broke other records too in terms of improving quality, efficiency, e-filing, hiring, and training.
- One of the main challenges that remains for us though is managing the record-breaking volume of applications being filed.

- We have a pending backlog of historic proportions -- more than 700,000 applications awaiting first-office action. Our pendency averages more than **31 months**.
- As a result, we hired more than 1,000 new patent examiners in FY 05. We hired 1,200 new examiners in FY 06, and we plan to hire another 1,200 in FY 07.
- But we know that hiring, alone, will not solve the problem.
- We, as IP offices, must all find ways to reduce redundancies in the international patent system that contribute to our increasing workloads.
- We must explore opportunities to more efficiently and effectively share search-and-examination work.
- We must continue our efforts to harmonize laws and practices.
- Reducing these inefficiencies will help all of our offices do a better job, reduce the costs and complexities for innovators, and improve the competitiveness of our economies.

Work sharing

- One of the most direct ways to reduce the inefficiencies of the international patent system is for offices to leverage the work already done by another office, also known as “work sharing.”
- To give you some idea about the potential effects of work sharing, consider that about 50 percent of all applications filed at the USPTO were filed somewhere else first – many of them in Japan or Europe.

- This means that in about half of the **440,000** applications we received in FY 2006, another office -- (in particular the JPO or the EPO) -- may have already searched and examined the same application.
- To put it in simple terms, the USPTO may be duplicating work already done by other offices in about **220,000 applications** from this year alone. If we look at our backlog, it could be another **350,000 applications**.
- The Trilateral Offices have been out in front of this issue for several years, and our studies show that sharing search and examination work among our offices could significantly help reduce our duplication of efforts.
- This will, in turn, help our offices speed up processing and improve patent quality.
- I encourage the Trilateral Offices to continue our efforts to refine and expand the scope of work sharing.
- Along these lines, I would like to thank the JPO and my colleagues at the USPTO for all of their hard work in launching the "Patent Prosecution Highway" pilot project this past July.
- The "Patent Prosecution Highway" represents the Trilateral Offices' first concrete implementation of a work-sharing arrangement.
- We look forward to a successful trial and to discussing other opportunities for similar cooperation with the Trilateral Offices and other interested offices.

- Along these lines, the USPTO is also considering a more comprehensive solution to work sharing in which our offices focus on first-filed applications. We will continue discussions on this proposal with our Trilateral partners during our meetings this week.

Harmonization

- But ultimately, the effectiveness of work sharing is limited by our differences in national law and practice.
- That's because -- even though one office has searched and examined an application,-- current differences in the international patent system might mean that what one office considers prior art is different from what another considers prior art.
- Harmonization of substantive patent law would help us reduce or eliminate these differences and allow our offices to better leverage work already done by another office.
- As you know, the United States, Japan, and the EPO Member States are discussing harmonization of prior art-related provisions in Group B+.
- I am pleased with the progress we've achieved in the year-and-a-half since we started.
- We have reached agreement on several very important issues, but there is still a lot of work to be done.
- In September, Group B+ took a very important step in agreeing to an aggressive work plan, and I am hopeful it will result in a final agreement next year, if not sooner.

- I am looking forward to Group B+ making significant progress in its meeting next week on this new work plan.
- I also want to thank the JPO for your hard work this year in serving as the Secretariat for Group B+, and for in hosting this year's Group B+ meetings, in addition to the Trilateral.
- One last issue I would like to address is the work being done in the Trilateral on harmonizing patent application formats.
- Last year, the Industry Trilateral presented the our Offices with a suggestion that the Offices streamline patent application format standards, so that an applicant could prepare a single application that could be accepted in each office.
- I am encouraged by the progress our Offices have made so far on establishing a harmonized application format.
- A standard format will not only simplify procedures and reduce costs for applicants. It will also greatly improve our internal office processing of applications and facilitate work-sharing -- as we continually refine our e-filing tools.

Closing

- Again, I appreciate the chance to talk about these opportunities and challenges with European and Japanese patent officials, and with the many users of our systems from industry.
- We all share the desire to significantly contribute to our countries' economic growth.
- And we all share the challenges of examining patent applications better and faster in today's rapidly-changing global economy.

- I know that all of our patent offices are working hard to find solutions to our workload and quality issues.
- So, I am confident that through mutually beneficial **Trilateral cooperation**, we will address these issues even more effectively together.
- Thank you.