
Kluwer Patent Blog

New "PCT Direct" Service of the EPO – an opportunity for PCT applicants at the EPO to comment on objections raised by the EPO in an earlier search

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The September edition of the Official Journal of the EPO contained some important news for applicants who file international applications at the EPO claiming priority from European and national applications which have been searched by the EPO.

Many applicants receive a search report and search opinion from the EPO on their priority application before they file the international application with the EPO. However, although the international application can be modified prior to filing in light of the objections raised, it is not currently possible to submit arguments which aim to overcome the objections.

Under the new PCT Direct initiative announced in the [Official Journal](#), it will, from 1 November 2014, be possible to respond to objections raised by the EPO against the priority application *on filing the international application*. This significantly streamlines the process of applying for an international application, and essentially gives the applicant an extra opportunity in the International Phase to overcome objections already raised by the EPO against the priority application, by submitting arguments or modifications with the international application.

In order to use the PCT Direct scheme, it will be necessary to fulfill the following requirements:

Priority Application

This must be an application which was searched by the EPO, as part of a European or national filing.

International Filing

The international application must be filed on or after 1 November 2014 with the EPO as the receiving office claiming priority from an earlier application searched by the EPO. The application must be filed together with the "PCT Direct Letter".

Form of Request

The "PCT Direct Letter" may contain comments for overcoming the objections raised in the European search opinion against the priority application. In addition, the letter may also contain explanations regarding modifications of the application documents with respect to the priority application, and a marked-up copy of the priority application should preferably also be included, indicating how the international application differs. The letter should be formatted as a single PDF

document with the application number of the earlier application identified in the header, and should be submitted as a separate document entitled “PCT Direct / informal comments” when filing the international application.

Processing

According to the announcement in the Official Journal, the examiner will take the informal comments into account when preparing the International Search Report and Written Opinion of the International Searching Authority. However, no explicit reference to the PCT Direct Letter will be made by the Examiner. In accordance with the PCT provisions on file inspection, PCT Direct letters will however be available to the public on WIPO’s PATENTSCOPE.

EPO President Benoît Battistelli said in a recent blog posting that he expects the new system to allow the International Phase to be concluded more frequently with a positive Written Opinion of the International Searching Authority or International Preliminary Report on Patentability, without introducing any extra costs. This, it is hoped, will lead to smoother grant proceedings in the EPO and other designated or elected offices.

Adam Lacy / Klemens Stratmann

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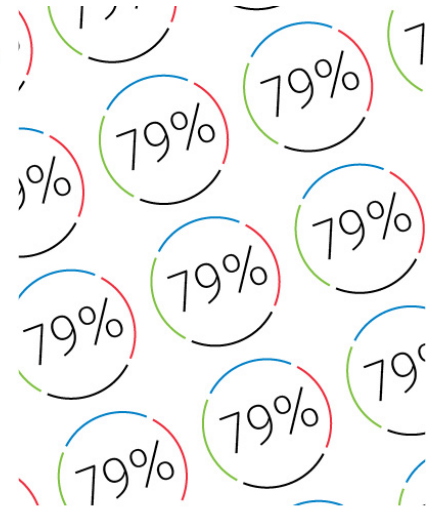
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