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EST. 1969

Introduction to the PCT (Patent Cooperation Treaty)

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22.11.2022. • Best Practices of V4 TTOs in international patenting

What is a patent?

- Contract between the inventor and the society
- Territorial right with limited lifetime, granted by governmental authorities
- Bases on an invention (novel, non-obvious)
- Accelerates and advances technological development



How can I obtain a patent?

- National way
 - Local patent application followed by multiple foreign national applications within 12 months by claiming priority under the Paris Convention

- Regional way
 - Filing with a regional patent Office: central prosecution followed by validation in the contracting states.

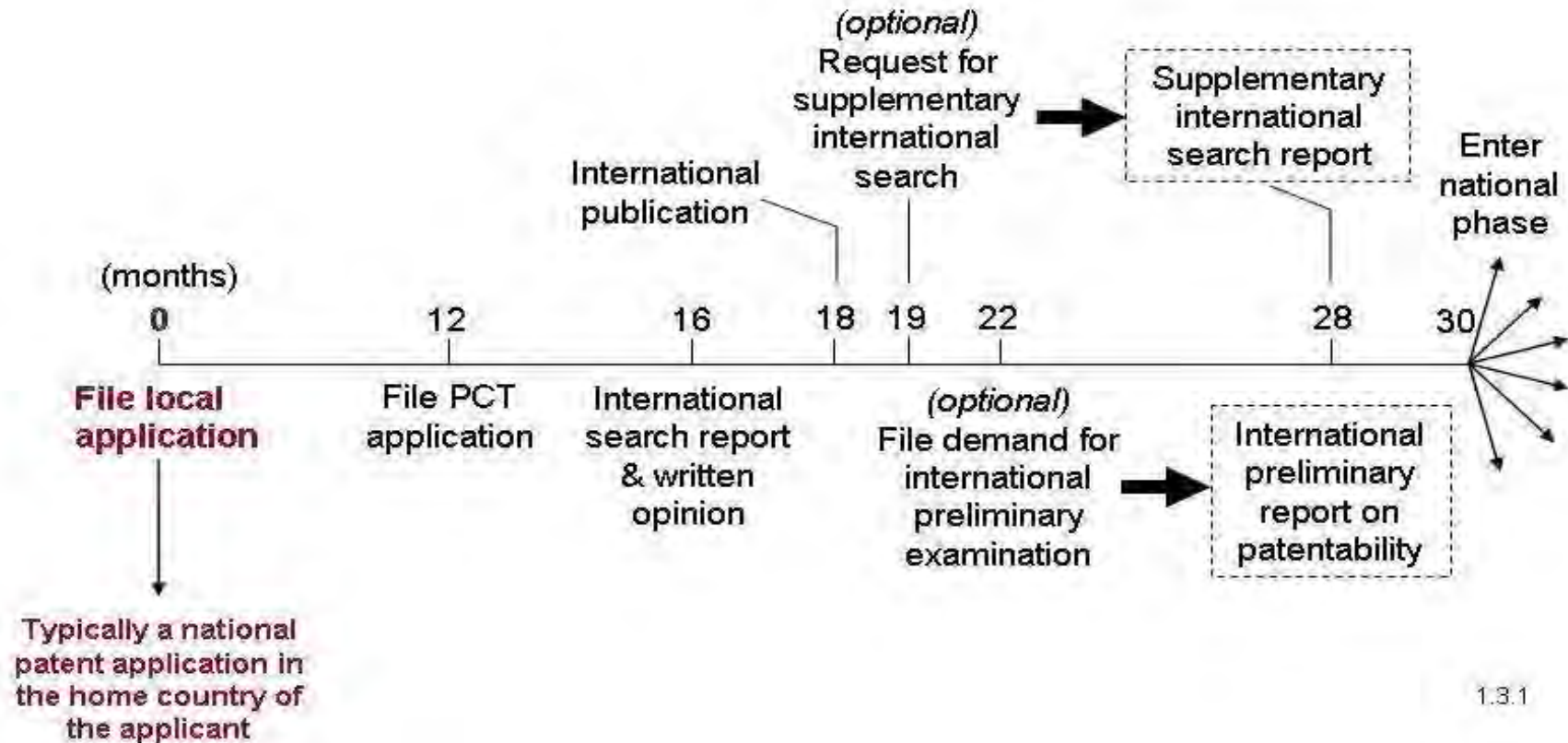
How can I obtain a patent?

PCT – Patent Cooperation Treaty

- International treaty facilitating the process of applying patents internationally – efficient and advantageous system
 - patent filing (not granting) system
 - 1) international phase
 - 2) national phases before national and regional Patent Offices



PCT – 1) international phase



PCT international phase

Main features

- Unified procedure including the filing and processing of the patent application
- Single application with legal effect in all PCT Contracting States
- Information on the patentability before the national phases
- Publication together with the International Search Report
- Time delay before the start of the national patent procedures

PCT International phase (2)

- Filing of the application – Receiving Office
 - Fee payment
 - Appointing the ISA (International Search Authority)
 - Formality check
 - Filing date (assignment or refusal of the filing date)

PCT international phase (3)

International Search

- Carried out by an ISA on basis of the PCT Minimum Documentation
- A very good basis for the determination of the presence of the main patentability criteria (novelty, inventive step)
- Data searched: everything which has been made available to the public, anywhere in the world, by means of written disclosure prior to the international filing date
- ISA: selected by the Applicant depending on quality, cost and search speed
- Important ISAs: Visegrád Patent Institute, Nordic Patent Institute, EPO, USPTO etc.
- Supplementary International Search also possible at a later stage: optional, more comprehensive overview of the prior art (also performed for example by the Visegrád Patent Institute)

PCT International phase (4)

- The International Search Report (ISR)

C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	JP 50-14535 B (NCR CORPORATION) 28 May 1975 (28.05.75), column 4, lines 3 to 27	7-9, 11
X Y A	GB 392415 A (JONES) 18 May 1933 (18.05.33) Fig. 1 page 3, lines 5-7 Fig. 5, support 36	1-3 4, 10 11-12
X Y	GB 2174500 A (STC) 5 November 1986 (05.11.86) page 1, lines 5-15, 22-34, 46-80; Fig. 1	1-3 4
A	US 4322752 A (BIXTY) 30 March 1982 (30.03.82) claim 1	1
A	GREEN, J.P. Integrated Circuit and Electronic Compass. IBM Technical Disclosure Bulletin, October 1975, Vol. 17, No. 6, pages 1344 and 1345	1-5

Document category
depending on the type of
relevance

Relevant
documents
specified

Claims affected
by the relevant
documents



PCT International phase (5)

- The Written Opinion

- A preliminary non-binding opinion on novelty, inventive step and industrial applicability
- Established at the same time as the ISR

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No.	
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>Claim(s) 3-15</u>	YES
		Claims <u>Claim(s) 16</u>	NO
	Inventive step (IS)	Claims <u>Claim(s) 8, 10-12</u>	YES
		Claims <u>Claim(s) 3-7, 9, 14-16</u>	NO
	Industrial applicability (IA)	Claims <u>Claim(s) 3-16</u>	YES
		Claims _____	NO
2.	Citations and explanations:		
	INDEPENDENT CLAIM 3		
	Document US-A-5 332 238, which is considered to represent the most relevant state of the art, discloses (cf. relevant passages indicated in the ISR) a device from which the subject-matter of INDEPENDENT CLAIM 3		
	Document US-A-5 332 238, which is considered to represent the most relevant state of the art,		

Claim patentability analysis

Detailed reasoning

PCT International phase (6)

- **Publication:** 18 months after priority date – file becomes publicly available (state of the art) contains application as filed, ISA WO, PCT forms, general correspondence
- **International Preliminary Examination procedure:** optional, on request filed with IPEA (= ISA list), opportunity to amend the application and obtain a favorable IPRP (International Preliminary Report on Patentability) before the national phases
- **International phase ends at 30 (or 31) months after priority date.** End of the international phase opens the national phases – separate examination and grant processes before the national offices.

Advantages of the PCT System

- Single application with almost global territorial coverage
- Cost deferral (national fees, translation fees, agent fees)
- Early patentability assessment (ISR, WO, IPRP solid bases for patenting decisions)
- Amendment possibilities to maximize success chances and minimize costs in the national stages
- Electronic filing and prosecuting possibilities (ePCT System)

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THANK YOU FOR YOUR ATTENTION

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