

Patent Prosecution Highway Pilot Program between the United States Patent and Trademark Office and the Portugal National Institute of Industrial Property based on Patent Cooperation Treaty Work Products

I. Background

Since 2006, the United States Patent and Trademark Office (USPTO) has established Patent Prosecution Highway (PPH) pilot programs with several offices. In general, such PPH pilot programs permit an applicant who receives a determination from one office that at least one claim is allowable or patentable to request that a corresponding application in another office be accorded special status and advanced out of turn for examination. These PPH pilot programs are limited to the utilization of search and examination results of national applications between cross filings under the Paris Convention.

In order to expand the potential of the PPH program, the USPTO implemented new PPH pilot programs with various offices based on Patent Cooperation Treaty (PCT) work products. The USPTO had discussions with the Portugal National Institute of Industrial Property (INPI-PT) to launch a PPH pilot program based on PCT work products (PCT-PPH pilot program) similar to the established PCT-PPH pilot programs mentioned above. The USPTO and the INPI-PT agreed that consistency between PCT-PPH pilot programs should be maintained to the extent possible, to avoid creating burdens on applicants and offices, and to ensure maximum work-sharing potential.

II. PCT-PPH Pilot Program

The PCT-PPH pilot program was established to enable an applicant, who has received:

- (1) a Written Opinion from the United States International Searching Authority, or
- (2) a Written Opinion from the United States International Preliminary Examining Authority, or
- (3) an International Preliminary Examination Report from the United States International Preliminary Examining Authority,

that indicates that at least one claim in the PCT application has novelty, inventive step and industrial applicability, to file a request to participate in the PCT-PPH pilot program and request accelerated examination for the corresponding application filed with the INPI-PT. The procedures and requirements for filing a request in the INPI-PT for participation in the PCT-PPH pilot program were made available on January 29, 2013, from the INPI-PT Web site at: <http://www.marcaspatentes.pt/>.

III. Trial Period for the PCT-PPH Pilot Program

The USPTO and the INPI-PT agreed that the PCT-PPH pilot program will commence on January 29, 2013, for a period of one year ending on January 28, 2014. The trial period may be extended if necessary to adequately assess the feasibility of the PCT-PPH pilot program. The USPTO and the INPI-PT may also terminate the PCT-PPH pilot program early if the volume of participation exceeds a manageable level, or for any other reasons. Notice will be published if the PCT-PPH pilot program will be terminated before January 28, 2014.

Any inquiries concerning this notice may be directed to Bryan Lin, Office of PCT Legal Administration at 571-272-3303, or via e-mail addressed to bryan.lin@uspto.gov.

Specific questions about the Patent Prosecution Highway should be directed to the Office of Petitions at 571-272-3282, or via e-mail addressed to PPHfeedback@uspto.gov.

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Teresa Stanek Rea
Acting Under Secretary of Commerce for Intellectual Property and
Acting Director of the United States Patent and Trademark Office