

## Meeting of International Authorities under the Patent Cooperation Treaty (PCT) Working Group

**Eighteenth Session**  
**March 15 to 17, 2011, Moscow**

### PCT Sequence Listing Standard

*Document prepared by the International Bureau*

#### **BACKGROUND**

1. At its first session, held from October 25 to 29, 2010, the Committee on WIPO Standards (CWS) discussed a proposal by the European Patent Office (EPO) for a new standard on the presentation of nucleotide and amino acid sequence listings based on eXtensible Markup Language (XML). The discussions of the Committee are set out in paragraphs 26 to 29 of the draft report of that session (document CWS/1/10 Prov.), reproduced in the following paragraphs:
  - “26. Discussions were based on document CWS/1/5, which contained a proposal for a new standard on the presentation of nucleotide and amino acid sequence listings based on eXtensible Markup Language (XML). The CWS noted the request made by the EPO on the preparation of the said new WIPO standard. For a number of technical and practical reasons, WIPO Standard ST.25 should be replaced, or at least supplemented, by a new standard based on XML format. Such new standard would mitigate the shortcomings of WIPO Standard ST.25 and provide additional advantages for both applicants and IPOs since the drafting and submission of high quality sequence listings would enable more efficient downstream processes.
  - “27. The CWS also noted that WIPO Standard ST.25 recommended that, *mutatis mutandis*, offices should apply the provisions set out in the Annex C to the Administrative Instructions under the PCT. Therefore, when discussing the proposal for a new standard, due consideration should be given to the impact of the future standard on the current WIPO Standard ST.25, entailing changes to WIPO Standard ST.25 and Annex C to the PCT Administrative Instructions.

“28. The CWS agreed to:

- “(a) create the following Task: “Prepare a recommendation on the presentation of nucleotide and amino acid sequence listings based on eXtensible Markup Language (XML) for adoption as a WIPO standard. The proposal of the new WIPO standard should be presented along with a report on the impact of the said standard on the current WIPO Standard ST.25, including the proposed necessary changes to Standard ST.25”;
- “(b) establish a Task Force to handle the Task;
- “(c) request the Task Force to liaise with the appropriate PCT body with regard to the possible impact of such standard on Annex C to the Administrative Instructions under the PCT; and
- “(d) request the Task Force to present the proposal of the new WIPO standard and necessary changes to Standard ST.25 for consideration and approval by the CWS at its session to be held in 2011.

“29. The CWS welcomed the offer of the EPO, which was designated as the Task Force Leader”.

2. Following the first session of the CWS, the International Bureau, in a Circular dated December 10, 2010 (Circular C.CWS 10), invited offices wishing to participate actively in the Task Force to nominate a representative having the required knowledge of XML technologies and WIPO Standard ST.25 to join the Task Force. In response to Circular C. CWS 10, 10 Offices have expressed an interest in joining the Task Force. It is expected that work of that Task Force will soon begin on the establishment of a possible new WIPO XML sequence listing standard, based on a first draft by the EPO as the Task Force Leader.

#### **RELATIONSHIP BETWEEN WIPO STANDARD ST.25 AND THE PCT SEQUENCE LISTING STANDARD**

3. As referred to in paragraph 27 of the draft report of the first session of the CWS (reproduced in paragraph 1, above), the present WIPO Standard ST.25 consists of a single paragraph, recommending “that Offices apply the provisions of the “Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in International Patent Applications Under the Patent Cooperation Treaty (PCT)” as set out in Annex C to the Administrative Instructions under the PCT, *mutatis mutandis*, to all patent applications other than the PCT international applications, noting that certain provisions specific to the PCT procedures and requirements may not be applicable to patent applications other than PCT international applications.” In other words, all of the substantive provisions making up the international sequence listing standard are contained in Annex C to the Administrative Instructions under the PCT rather than, as one would perhaps expect, in WIPO Standard ST.25.
4. Looking back, one of the main reasons for the relationship between the two Standards appears to be that Member States, at the time of the establishment of the first common sequence listing standard back in 1997/1998, found it preferable “to get things off the ground” within the framework of the PCT. The applicability of the PCT Standard was then broadened to applications filed outside of the PCT by referring to the PCT Standard in WIPO Standard ST.25. As a consequence, WIPO Standard ST.25 contains not only details of the presentation of sequence listings but also processing arrangements which

are specific to the PCT system only. Despite the fact that WIPO Standard ST.25 expressly states that “certain provisions specific to the PCT procedures and requirements may not be applicable to patent applications other than PCT international applications”, the focus of the Standard on the PCT adds complexity and can appear confusing.

#### **OPPORTUNITY FOR REVIEW**

5. As noted in paragraph 27 of the draft report of the first session of the CWS (reproduced in paragraph 1, above), the establishment of a new WIPO XML Sequence Listing Standard will have an impact on the current WIPO Standard ST.25 and thus also on the PCT Standard for presentation of sequence listings. Both will therefore have to be modified to take account of the fact that applicants will be permitted, and indeed encouraged, to submit sequence listings in XML format. It is in this context that the International Bureau would like to propose to take the opportunity arising from the need to modify WIPO Standard ST.25 and the PCT Sequence Listing Standard to review the relationship between these two Standards.
6. Rather than simply moving WIPO Standard ST.25 into an XML environment and thus "cementing" the PCT focus of the WIPO Standard for the foreseeable future, it proposed to consider whether the relationship between the PCT Standard and the WIPO Standard should be “turned around”. This approach would aim to establish, on the one hand, a general "filing-route neutral" WIPO Standard (or Standards) on the presentation of sequence listings in national, regional and international applications (be they in text format or in the XML format) and, on the other hand, a PCT Standard dealing only with PCT-specific issues.
7. The revised PCT Standard in Annex C of the Administrative Instructions would therefore deal with the acceptable forms of sequence listing to form part of the international application only by way of reference to the WIPO Standard(s). The substantive contents would be limited to:
  - (a) additional details of how and where sequence listings should be presented in relation to the remainder of the application body (where the listing is filed in paper form);
  - (b) details of whether, how and in what formats other copies of the sequence listing may be submitted, for example, to deal with corrections, rectifications or copies for the purpose of international search or preliminary examination; and
  - (c) the provisions from existing paragraph 42 of Annex C relating to treatment of the sequence listings before designated and elected Offices.

#### **FURTHER STEPS**

8. As indicated in paragraph 28(c) of document CWS/1/10 Prov. (reproduced in paragraph 1, above), the Task Force is requested to liaise with “the appropriate PCT body” with regard to the possible impact of the new XML Sequence Listing Standard on the PCT Standard. The International Bureau (represented by staff from the PCT and the WIPO Standards area) will work closely with the Task Force in developing the new XML Standard and the consequential modifications to WIPO Standard ST.25 and the PCT Standard.
9. One important factor the Task Force will need to consider when proposing modifications to the PCT Sequence Listing Standard will be acceptance of the new XML standard into practice at International Authorities. Ideally, this should avoid the filing requirements for sequence listings being dependent on the competent International Searching Authority. It

could also be desirable that the new XML standard is accepted quickly to avoid the need for transitional provisions.

10. Depending on progress in the Task Force, it is the International Bureau's intention to present an initial draft of proposed modifications to the PCT Sequence Listing Standard as contained in Annex C of the Administrative Instructions, including proposals as to how best to address the issue set out in paragraphs 5 to 7, above, to the fourth session of the PCT Working Group, scheduled to take place from June 6 to 10, 2011.

11. *The Meeting is invited to comment on the issues set out in this document.*

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