

# D YOUNG & CO PATENT NEWSLETTER *no.44*

December 2014

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## Unwrapping the patent box Changes are on their way



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Welcome to the last edition of our patent newsletter of the year. Our apologies that we are slightly later than usual in sending out this publication this month. I hope readers will forgive the delay and appreciate the opportunity to catch up on the latest Unified Patent Court news and to learn the fate of the UK patent box scheme, both very recent news as we go to press.

2014 has been a busy and successful year for the firm. We've received positive feedback from our clients via the legal directories, where we continue to be ranked a top tier UK IP law firm. We greatly appreciate your continued support, and are proud to work with such a diverse range of individuals and businesses from such a broad range of technologies, and from all around the world.

With this edition, we send our best wishes to all our readers for a happy and peaceful 2015.

Editor:  
Neil Nachshen



## Events



### 05 January 2015

#### IPLA Annual Congress 2015, Dubai

European patent attorney Anthony Albutt will be speaking about design protection in Europe at the International IP Law Association's congress.

### 25 February 2015

#### Biotech Patent Case Law webinar

Simon O'Brien will present this ever popular webinar update regarding European biotech patent case law.

### 09-11 March 2015

#### Global IP Exchange

D Young & Co are key speakers at this high profile IP event, focusing on IP strategy, monetization, portfolio management, cost control and emerging markets challenges and opportunities.

### 10-11 March 2015

#### Wearable Technology Show, London

D Young & Co's IP specialists will be on hand to give advice and answer IP questions relating to the wearables, augmented reality and IOT industry.

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## Article 01

# Unwrapping the patent box Changes are on their way

In early November, the UK and Germany released a joint statement announcing an intention to end the existing UK patent box scheme. Doug Ealey asks what might replace the scheme, what this might mean for business in the UK and what steps can still be taken to make use of the scheme while it remains available.

### What is the patent box?

Intended as an incentive to protect and profit from innovation, the patent box is an opt-in scheme for reducing corporation tax payable on profits earned from patented inventions to potentially as little as 10%, though only a proportion of profits obtained from using patented rights receive the reduced rate.

For a more information on the patent box scheme itself, see our patent box guide: [www.dyoung.com/patentbox](http://www.dyoung.com/patentbox)

### What prompted the joint statement?

Germany has argued that the preferential tax treatment of IP in the UK creates inequality within Europe.

Whilst the UK is not the only EU member to provide a patent box, it does potentially offer the largest tax relief at 10%, compared to 15% or higher from other states offering such schemes.

Germany is also concerned that the patent box does not require the R&D underpinning an eligible patent to have actually occurred in the UK, and that consequently in addition to the legitimate effect of stimulating the commercialisation of innovation in the UK, it has the potential to act as a tax haven for multinational companies whose R&D operations are based elsewhere in Europe.

### How will the patent box change?

Among other things, the joint statement included a proposal to close the existing

patent box scheme to new entrants as of June 2016. We understand that 'new entrants' refers to businesses that have not previously used the patent box, rather than to new patent rights being relied upon within the scheme after this date.

Those already making use of the patent box by June 2016 should therefore be able to continue benefitting from the current scheme until June 2021, at which point it will be abolished.

It had been hoped that the Chancellor's Autumn Statement on 03 December 2014 would provide additional details about how the scheme will evolve. However, it seems likely that further clarity on the patent box will be deferred until the 2015 budget, leaving some uncertainty in the meantime as to its fate and what replacement scheme might follow it.

We expect that the most likely outcome will be a new scheme enabling a reduced base rate of tax closer to 15% than the 10% of the current scheme, to harmonise with IP tax breaks elsewhere in Europe. It is also likely that such a scheme will additionally require that in order to participate, the R&D that gives rise to a qualifying patent must also be conducted in the UK. This follows from the 'modified Nexus' approach, proposed by the Organisation for Economic Co-operation and Development (OECD) forum on harmful tax practices, to provide IP tax relief in the same location as the R&D expenditure.

### What does this mean for businesses in the UK?

Clearly the R&D provision is likely to affect multinational companies, and a key point will be how R&D is interpreted as satisfying any national provenance requirements given the reality of collaborative research across states. It may be, for example, that where research has been conducted within the UK only, there is no further nationality requirement, whereas where research has been conducted collaboratively across several countries, a UK national may need to be identifiable as an inventor. For now however this is speculation and we will have to wait for details.

Meanwhile, this new provision is unlikely to

# Global patent prosecution highway pilot programme Singapore and Austria sign up

Germany and the UK propose the scheme is closed to new entrants as of June 2016



affect most UK SMEs. In fact, the Chancellor's Autumn Statement appeared to directly target SMEs for further assistance, making changes to the existing R&D tax credit scheme to increase 'above the line' credit from 10% to 11% and increase the rate for the SME scheme from 225% to 230% as of 01 April 2015. The Chancellor also announced plans to streamline the application process for SMEs, with detail to be announced soon. This can only be good news.

Clearly however, it seems likely that any new patent box scheme will be less generous than the existing one.

The loss of the existing patent box could reduce the incentive for SMEs in particular to take the extra step of protecting their IP, particularly as interest in the patent box has only just started to take root; tax returns for periods covered by the scheme are only now enabling a direct illustration of its benefits. We therefore believe that it is important for the UK Government to announce a replacement scheme as soon as possible to provide continuity.

## What can businesses do now to make use of the patent box while it is still available?

Businesses who already have a patent or patent application, whose subject matter covers at least some aspect of one of their products, should already be investigating whether to make use of the patent box; but now they have a further incentive to do so before the gates are shut on the current scheme.

Those businesses that do not currently

have a patent or patent application should consider building an IP review into their product development cycle now. This should look for problems solved, efficiencies found or new features that could be the subject of a patent. Factors to consider in identifying valuable IP include how relevant it is to your unique selling point(s), how difficult it is to work around to achieve similar effects, and how easy it is to detect in competitor products; although it's worth remembering that innovation can be highly specific to your own product rather than being generalised or ground-breaking to target your competitors.

Consequently a patent application can be narrowly tailored to unique aspects of your own product, with a view to simplifying and expediting the patent grant procedure. This in turn will allow you to benefit from the patent box scheme more quickly.

This approach may be all the more relevant now that the clock is ticking.

**Author:**  
Doug Ealey



## Useful links

Germany-UK joint statement in full, online at the UK government website (PDF):

<http://dycip.com/UKGermanyIPstatement>

The Chancellor's Autumn Statement:

<http://dycip.com/ukautumnstatement>

On 01 November 2014 the Austrian Patent Office and the Intellectual Property Office of Singapore signed up to the global patent prosecution highway (GPPH) pilot programme, bringing the total number of participating offices to 19:

- Austrian Patent Office
- Canadian Intellectual Property Office
- Danish Patent and Trademark Office
- Federal Service for Intellectual Property (ROSPATENT) (Russian Federation)
- Hungarian Intellectual Property Office
- Icelandic Patent Office
- Intellectual Property Office of Singapore
- Intellectual Property Office (United Kingdom)
- IP Australia
- Israel Patent Office
- Japan Patent Office
- Korean Intellectual Property Office
- National Board of Patents and Registration of Finland
- National Institute of Industrial Property (Portugal)
- Nordic Patent Institute
- Norwegian Industrial Property Office
- Spanish Patent and Trademark Office
- Swedish Patent and Registration Office
- United States Patent and Trademark Office

The GPPH pilot programme enables a request for accelerated processing of an application to be made at a participating office based on work products from the office of earlier examination (including PCT work products, ie, a PCT Written Opinion from either the International Searching Authority or the International Preliminary Examination Authority, or an International Preliminary Report on Patentability), provided that at least one claim has been found to be patentable by the office of earlier examination, and subject to other eligibility criteria where applicable are met.

The European Patent Office and the State Intellectual Property Office of China remain notably absent from the list of participating offices.

**Author:**  
Kit Wong





# Exhaustion of Community plant variety rights

## Lessons from the KANZI nicoter apples case

> Further information

Plant variety rights specialist Bart Kiewiet advises on IP protection, research and registrations in respect of new plant varieties in the European Union as well as the registration of new varieties in other countries: [www.dyoung.com/news-plantvarietyrights](http://www.dyoung.com/news-plantvarietyrights)

Once material of a protected variety has been disposed of to others, the plant variety right (PVR) is in principle - there are some exceptions - exhausted.

This is under the condition that the disposal took place by the holder of the right or at least with the right holder's consent (Article 16 Council Regulation (EC) no.2100/94).

In a recent case that reached the Court of Justice of the European Union (CJ), the question had to be answered, whether the main condition for exhaustion, disposal by the holder or with his consent, was fulfilled.

### Better3fruit licenses nicoter/ KANZI to Nicolaï

The company Better3fruit acquired the Community PVR for the apple variety nicoter. Better3fruit was also the proprietor of the trade mark KANZI, exclusively used for the nicoter variety.

Under a license contract with Better3fruit, Nicolaï, a Belgian apple tree producer, acquired the exclusive right to grow and market apple trees of the nicoter/KANZI variety. One clause in this contract which is of utmost relevance for the ruling of the Court of Justice of the European Union (EU) is detailed below:

Licensee (Nicolaï) "... will not dispose of or sell any product covered by the licence unless the other party signs in advance the annexed grower's licence (where the other party is a grower) or the annexed marketing licence (where the other party is a trader)".

### Nicolaï, Mr Hustin and Mr Goossens

On 24 December 2004, Nicolaï sold 7,000 apple trees of the nicoter/KANZI variety to a Belgian apple producer, Mr Hustin. In that transaction, Mr Hustin was not required to sign, (at least he did not do so), a license contract with regard to the growing of the apples or the sale of the harvest.

On 4 December 2007, it was established that a Mr Goossens was selling apples under the KANZI trade mark on the market of Hasselt in Belgium. It transpired that those apples had been supplied to him by Mr Hustin.

### Two questions were put to the CJ concerning licence agreements



### Greenstar-Kanzi Europe NV v Jean Hustin, Jo Goossens

On the basis of that finding, Greenstar Kanzi Europe (GKE), the successor of Nicolaï as licensee of Better3fruit, brought a court action for infringement of the Community PVR against Mr Hustin and Mr Goossens. The proceedings reached the Belgian Court of Cassation.

The Court of Cassation decided to stay the proceedings and to refer two questions to the CJ for a so-called preliminary ruling, a binding interpretation of a provision of EU law.

The questions concerned what action may be taken against third parties (in this case Hustin and Goossens) who obtain material of a protected variety through a licensee, which do not respect the licence agreement.

### The answers of the CJ

The CJ implied that the rights holder can bring an action for infringement against a third party which has obtained material through another person who has contravened the conditions or limitations set out in the licensing contract that the other person agreed with the holder to the extent that the conditions or limitations in question relate directly to the essential features of the Community PVR concerned.

Unfortunately, the CJ did not indicate what should be considered as essential features of the Community PVR. It ruled instead, that the Belgian judiciary should make that assessment. The Belgian judges took their time. The final outcome of the procedure, a decision of the Court of Gent, is expected 1 December 2014, more than three years after the ruling of the CJ.

### What can we learn from this case?

First, that in order to avoid legal problems, the person who acquires material of a protected variety from a person other than the holder of the right, should seek the assurance that this material was acquired by the other person from the holder or with the holder's consent.

Secondly this case gives an example of the effectiveness of dual protection, ie, protection of a variety by a PVR as well as by a trade mark. Indeed, the infringement of the PVR for nicoter would probably not have been discovered, if apples of that variety had not been offered for sale under the KANZI trade mark. On the other hand, the protection offered by the PVR to this apple variety was an effective instrument to defend the KANZI trade mark.

Author:  
Bart Kiewiet



# Huawei v ZTE

## Can use of standards infringe standard essential patents?

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> **Missed anything?**  
We regularly publish IP case updates and articles between newsletters. For up to the minute IP related articles and news visit <http://dycip.com/iparticles>

**S**tandards play an important role in the establishment of modern electronics/computing devices, especially in fields such as telecommunications or broadcasting where interoperability is required. A 'standard essential patent' (SEP) – a patent which would necessarily be infringed by any products implementing the standard – can therefore be extremely valuable.

Many standards setting bodies require parties contributing to the development of the standards technology to declare any patents they hold which are considered to be essential to the standard, and to commit to granting a license for those patents to other parties on 'fair, reasonable, and non-discriminatory' (FRAND) terms. However, what is meant by FRAND and the rules for negotiating a licence are often left open.

One issue is whether a patentee who has committed to granting FRAND licences may use an SEP to bring action for an injunction against an infringer whose products implement the standard.

**Huawei Technologies Co Ltd v ZTE Corp**  
In Huawei, concerning the LTE standard

for mobile telecommunication, the Court of Justice of the European Union (CJ) was asked whether such injunctive action would constitute an abuse of a dominant position under European competition law.

The Advocate General for the CJ recently delivered his opinion on this matter. While not decisive (the court could reach a different conclusion), in most cases the court follows the Advocate General's opinion.

The Advocate General said that merely owning an SEP does not necessarily mean that the patentee holds a dominant position in the market – this would need to be determined case-by-case.

However, assuming that a dominant position is established, the Advocate General set out several considerations for determining whether the patentee's conduct is an abuse of a dominant position:

### Considerations for the patentee

1. Where the patentee has committed to granting licences for an SEP on FRAND terms, and the infringer has shown itself to be "objectively ready, willing and able to conclude such a licensing agreement", the patentee's action for an injunction would be considered abusive.
2. Unless it has been established that the infringer is fully aware of the infringement, then before bringing any action for

an injunction, the patentee must:

- inform the infringer in writing of the SEP and the reasons it is believed to be infringed (although we would advise the patentee to be careful not to infringe any national law concerning groundless threats for patent infringement)
- make a written offer of a FRAND licence, including terms setting the royalty due and how to calculate the royalty.

Otherwise, the injunctive action would be considered abusive.

3. Action to secure rendering of accounts, or a claim for damages for previous infringements of the SEP, would not be considered abusive.

### Considerations for the infringer

1. When the patentee makes an offer of a FRAND licence, the infringer must respond in a "diligent and serious manner". The infringer may make a reasonable counter-offer relating to the licence terms with which it disagrees.
2. If the infringer's conduct is "purely tactical and/or dilatory and/or not serious", then the patentee's action for an injunction would not be considered abusive.
3. A request by the infringer for the FRAND terms to be settled by the court or an arbitration tribunal would not be considered "tactical", "dilatory" or "not serious". The infringer may also reserve the right to challenge the patent's validity, whether their actions infringe the patent, or whether the patent is actually essential to the standard. Otherwise, the meaning of "tactical", "dilatory" or "not serious" has been left open!

We await with interest whether the court follows the Advocate General's Opinion.

**Author:**  
**Robbie Berryman**



**Useful link**  
Case C-170/13 Huawei Technologies Co Ltd v ZTE Corp:

<http://dycip.com/huaweicj>

Huawei's patent EP 2 090 050 B 1 is a SEP for the wireless high-speed communication of data



# Oil be back!

## Examination division ordered to return to court with certified translation

In this recent decision, the Board of Appeal (BoA) had to consider the suitability of a machine translation of a cited document which had been used to refuse a claim for lack of inventive step.

Claim 1 under appeal was directed to an oil for dust absorption comprising, amongst other things, a nonionic surfactant (B), where B comprises two components B11 and B2 and where the quantity of B is in the range of 10 to 30% by mass of the oil.

The validity of the claims was assessed in view of two Japanese documents D1 (JP 2002-069436 A) and D4 (JP 2003-055122 A) for which machine translations into English were used.

The BoA found that, according to the problem-solution approach, the problem to be solved over D1 was the provision of an oil for dust absorption having comparable properties to D1's oil but additionally exhibiting an allergen inactivation effect.

The BoA found that the outcome of the inventiveness assessment would in effect hinge on whether modifying D1's oil by incorporating an anti-allergenic composition as described in D4 and at the same time increasing the concentration of B was obvious to the skilled person trying to solve this problem.

### Lost in translation

D1 discusses the incorporation of non-ionic surfactants B11 and B2 in the oil and the incorporation of B2 is discussed in paragraph [0030]. The machine translation of the next paragraph [0031] reads: "The amount of the surface-active agent used besides the above of below 10 mass % is 0.1 to 8 mass % still more preferably preferably [sic] among the oils of this invention."

In view of the evident lack of clarity of this

### Machine translations were used to translate D1 and D4 from Japanese into English



sentence, the BoA found that it could be not derived unambiguously whether:

- the total amount of non-ionic surfactants (B11 plus B2) has to remain below 10 wt% and the range 0.1 to 8 wt% refers to a preferred embodiment within this broader range, or
- a content of more than 10 wt% of non-ionic surfactants is also possible, eg, in the sense of less than 10 wt% (B11) plus 0.1 to 8 wt% (B2), due to the wording "besides the above".

In the first case, D1 would teach away from using 10 to 30 wt% for B while in the second case D1 would imply a teaching towards oils falling under the terms of claim 1 at issue.

The BoA therefore found that the machine translation of D1 was too ambiguous and therefore not suitable for the assessment of D1.

Remittal to first examination was therefore ordered, along with an order to reconsider inventive step "in the light of a **certified translation of D1**" (BoA's emphasis).

### Limitations of machine translation for assessing content

On one hand, the decision was to be expected, as it corresponds to the current practice at the European Patent Office (EPO) regarding machine translation. In effect, the true content of a disclosure in a foreign language is always that of the document in its original language and the translation only serves the purpose of making this content available in a

different language. It is therefore clear that if a translation is ambiguous, it cannot serve its purpose of rendering the meaning of the text (see for example the guidelines, section G-IV 4.1) and is therefore not suitable for assessing the content of the original document.

### Board of Appeal orders examination division to provide certified translation

On the other hand, this decision is very unusual in that the examining division has now been ordered to obtain a certified translation of D1 to assess inventive step of the claim. The provision of a professional translation instead of a machine translation has long been used by patentees and opponents in opposition proceedings, and by applicants who believe that a machine translation provided by the examining division does not in fact accurately reflect the content of the citation. This however appears to be the first time that the EPO is being held to its own standard regarding translation of citations and that the burden of providing a reliable translation has now been shifted to the examining division itself.

Of course, it may well be that the original disclosure of D1 was ambiguous to start with, but this was impossible to determine with the machine translation previously available and the question of the actual disclosure of D1 should now be clarified soon, once the certified translation of D1 will be provided to the applicants for this case.

**Author:**  
Bénédicte Moulin



### Useful link

Full decision of T 1343/12 (Dust adsorbing oil/UNI-CHARM) of 10.10.2014:

<http://dycip.com/machinetranslation>



# Unified Patent Court

## Progress update and hot topics for 2015

**H**aving recently attended the public hearing on the 17th draft of the Rules of Procedure (in his capacity as Chair of the Laws Committee of LES (Britain & Ireland), Richard Willoughby provides an update on the main current Unified Patent Court (UPC) issues.

### Will the UPC start by end of 2015?

An end of 2015 UPC start date is based on possible ratification timing of the UPC Agreement, in particular by the UK and Germany. However, this fails to take into account the practicalities involved – of which there are many. Even if there are sufficient ratifications by the end of 2015 (which is not certain), the Preparatory Committee has said it won't be ready before the end of 2015 and even that is optimistic. Recently Expert Group member Willem Hoyng suggested he believed the UPC would be ready for business by the **beginning of 2017**. In our view, this is much more realistic. There is still much to do in all the workstreams of IT, legal, human resources, facilities and finance.

### Spanish challenge

On 18 November 2014 Advocate General Bot delivered his opinion on the Spanish challenge to the two Unitary Patent Regulations (one establishing unitary protection and the other dealing with the language regime). Spain had refused to agree these regulations hence they were passed into EU law using so-called 'enhanced co-operation'. The Advocate General considers the regulations to be validly adopted, providing effectively for unitary effect and uniform protection within participating member states. Further, the Advocate General recognizes that while the selection of French, English and German for the language regime is potentially discriminatory against those who do not understand those languages, it is justifiable on the grounds of proportionality, practicality and costs. He further urged the contracting member states to ratify the Court Agreement as part of their obligations to act in good faith.

### 26 November Rules of Procedure hearing

The 17th draft contains few revisions to the 16th version, and the hearing focused on those issues (a final draft of the rules is expected early in 2015). Most of the discussion was taken up discussing the procedure for the opt-out, the

details of which remain undecided. For example, while there is uniform desire for an effective sunrise provision, and general agreement that the EPO should receive applications for opt-outs before commencement, currently the EPO will not collect opt-out fees (and there will be a fee). This is a problem because the opt-out won't be effective until the fee is paid. So, instead of a rush of applications on commencement day, we will have a rush of fee payments that may jam the system.

Languages remain in discussion, particularly how to work the alternative language regime. Under the agreement, the language of proceedings can be either a nominated official language of the relevant member state hosting the case, or possibly one of the EPO languages. Some confusion exists as to whether the latter are alternative or additional languages (confusion which was not really clarified at the hearing). Whatever the case, some states (Germany in the main) want the 'alternative' language regime to be flexible, such that parts of the proceeding will be in the national language. For example, they would like to be able to hold the hearing in English but provide the judgment in German. This idea may add complexity but as a transitional regime it has some merit.

What wasn't discussed was the tricky issue of fees. For example, the rules continue to provide for value-based fees for counterclaims – an area of real contention in the consultation. This strikes many as being unfair on defendants to infringement claims as often the best defence is invalidity (whether directly or by way of a squeeze). Paying a large fee to defend oneself seems inequitable to many people. It's even worse when that fee is based not only on the value of the patent across **all** participating member states (as opposed to the likely much smaller area in which infringement is alleged) but also, as the rules now provide, on the value of the **entire dispute** (ie, including the value of the infringement claim **in addition**). It looks as if this will form part of the forthcoming consultation on court fees (due to start 2015) and if you are concerned, be sure to take part. There are diametrically opposing views among some member states on this issue but ultimately it is for users to make their views known. These fees could be very large

if care is not taken to ensure otherwise.

### UPC representation

A revised draft of the rules relating to the new litigation certificate (and alternative qualifications) for patent attorney representatives before the UPC is to be published in 2015. Under Article 48(2), European patent attorneys who have either the new certificate or "*an equivalent qualification*" can represent parties before the UPC. This is in addition or as an alternative to 'lawyers' who qualify under Article 48(1). An issue that has arisen in the draft Rules of Procedure relates to the definition of 'lawyer' for the purposes of Article 48(1), since in Sweden some attorneys are entitled to conduct patent litigation as if they are lawyers. They are not however 'lawyers' within the meaning of European legislation. Other countries have similar (though not identical) qualifications which may, or may not, be covered by the language of Article 48(1) or indeed the 'equivalent qualifications' route in Article 48(2). This needs clarification. This was discussed in Trier and some further amendment may be made. Whatever the outcome, parties will have considerable choice of representation before the UPC. For most cases it is likely that the skills of patent attorneys and solicitors (or other EU 'lawyers') together will provide the most effective and efficient representation before the UPC.

### Ireland to host a local division

On 14 November, the Irish Government announced its intention to establish a local division. This will have one local judge and two chosen from the pool of judges (we do not believe there are 50 or more patent cases in the Republic of Ireland each year). We now foresee local divisions in the UK, Ireland, Germany, France, Belgium, the Netherlands, Denmark, Finland, Italy, Austria and possibly Portugal. Sweden, Latvia, Lithuania and Estonia will participate in a regional division. Malta and Luxembourg will leave matters to the central division. This leaves Hungary, Czech Republic, Slovakia, Slovenia, Bulgaria, Romania, Greece and Cyprus undecided – there had been rumours of two further regional divisions but we have had no firm news on this yet.

**Author:**  
**Richard Willoughby**



# D YOUNG & CO INTELLECTUAL PROPERTY

And finally...

## EPO PCT Direct service Benefits now available for international applications

**F**rom 1 November 2014, the European Patent Office (EPO) offers their new 'PCT Direct' service for international applications filed as Receiving Office (RO).

The PCT Direct service allows an applicant of an international application claiming priority from an earlier application already searched by the European Patent Office (EPO), to provide informal comments to objections raised in the search opinion drawn up in respect of the priority application.

It is noted that an EPO search can be requested on priority applications filed at the EPO or nationally in France, Netherlands, Belgium, Luxembourg, Italy, Turkey, Greece, Cyprus, Malta, San Marino or Lithuania.

The PCT Direct service allows the applicant to benefit from the earlier search results on the priority application, and enables objections to be addressed at an early stage in the PCT application procedure. This service may be particularly useful to those applicants wishing to take advantage of the existing Patent Prosecution Highway (PPH) pilot programmes in order to expedite examination, since participation in a PPH pilot programme requires a positive

Written Opinion or International Preliminary Examination Report on Patentability.

A request for processing of the international application under PCT Direct must be made when filing the international application at the EPO. The request is made by filing a separate letter ('PCT Direct letter') containing informal comments addressing the objections raised by the EPO in respect of the priority application and/or an explanation of any changes relative to the priority application together with marked-up copies showing the changes.

The International Search Examiner will take the comments into account when preparing the International Search Report and Written Opinion, although no explicit reference to the PCT Direct letter or its contents will be made. However, PCT Direct letters will be available for public inspection via WIPO's PATENTSCOPE.

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**Useful link**  
More from the EPO regarding PCT Direct:

<http://dycip.com/PCTdirect>

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**With our thanks to contributor**  
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