Memorandum of Understanding No. 2015/0099
between
the Mexican Institute of Industrial Property of the
United Mexican States (IMPI)
and
the European Patent Office (EPO)
relating to the
Introduction of the Cooperative Patent Classification (CPC) at IMPI
Memorandum of Understanding No. 2015/0099

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Introduction of the Cooperative Patent Classification (CPC) at IMPI

The European Patent Office (hereinafter referred to as "the EPO")
and
the Mexican Institute of Industrial Property of the United Mexican States (hereinafter referred to as "IMPI"),
hereinafter jointly referred to as "the Offices",

Conclude this Memorandum of Understanding, as a working instrument between the Offices, as follows:

PREAMBLE

HAVING REGARD TO:

- the Agreement No. 2013/0116 relating to the granting of access to the EPO’s EPOQUE Net to the Instituto Mexicano de la Propiedad Industrial, as signed on 9 July 2013 and applicable until 31 December 2017;

- the Memorandum of Understanding No. 2013/0264 between IMPI and the EPO, as signed on 25 September 2013 and applicable until 25 September 2017;

- the Biennial Work Programme 2015-2016, as signed on 22 December 2014;

- the Memorandum of Understanding No. 2014/0535 on the Patent Prosecution Highway Pilot Program between IMPI and the EPO, as signed on 22 September 2014 and applicable until 31 December 2017;

CONSIDERING THAT:

- quality and timeliness of the Offices’ services, procedures and end products, in particular the timely availability of work results, constitute essential elements of
the international patent system;
- timely and accurate classification of patent literature is essential for the optimal functioning of the global IP community’s access to patent information;
- efficient access to patent information and literature for patent examiners is of great importance;
- classification of patent documents in a refined classification scheme makes the retrieval of relevant prior art in the search process more efficient and improves the quality of the patent granting process;
- classification of patent documents in a refined classification scheme enables the relevant prior art to be retrieved in a controlled and language-independent way;
- classification practices at patent offices need to be improved for the benefit of the public and of patent examiners;
- IMPI and the EPO wish to enhance their co-operation in the areas of classification for the benefit of patent examiners and end users;

WITH A VIEW TO ACHIEVING THE FOLLOWING PURPOSES:
- contributing to the improvement of the functioning of the global patent system;
- enhancing and expanding the Offices' co-operation in classification, so as to enable IMPI to classify its invention patent and utility model patent documents in the CPC;

IMPI AND THE EPO WILL ENHANCE THEIR CO-OPERATION BY INTRODUCING THE CPC AT IMPI, AND HAVE REACHED THE FOLLOWING UNDERSTANDING:

GENERAL PROVISIONS:

First
The implementation of all activities under this Memorandum of Understanding will be subject to the availability of necessary resources and will be carried out by each Office, within the framework of its respective competences, in compliance with its respective applicable legislation and regulations. This Memorandum of Understanding is not intended to create legally binding rights or obligations.

For the implementation of all activities under this Memorandum of Understanding, each of the Offices will, unless otherwise decided by mutual written agreement, bear its own costs and devote the necessary resources, subject to availability of the requisite funds in its annual budget as well as the availability of all other necessary means and resources, such as - but not limited to - information and communication technologies, human resources or staff time.

Second
The Offices will exchange information and consult each other on a regular basis.
The Heads of the Offices will oversee and, where they consider it necessary, adjust the implementation of the co-operation activities covered by this Memorandum of Understanding. Relevant meetings will be organised accordingly.

Third

This Memorandum of Understanding will start after its signature by both Offices, on the day following the date of the last signature. It will have an initial term of three (3) years, with a yearly review, and will be extended for another period of three (3) years unless otherwise decided in writing by either of the Offices, in accordance with their respective internal decision-making process.

Each Office may terminate its co-operation activities under this Memorandum of Understanding at any earlier time, by giving at least 60 (sixty) calendar days' written notice to the other Office. In the event of early termination, including for a cause falling under the fifth provision below, the Offices may, as an exception, agree to continue co-operation activities already initiated. The Offices must agree in writing the details for such continuation of activities, which may not be presumed or agreed implicitly.

Fourth

Nothing in or relating to this Memorandum of Understanding may be deemed a waiver, express or implied, of any of the privileges and immunities of the European Patent Organisation, including its organs, pursuant to the international constituent acts of this international organisation.

Considering that the decisions of the Administrative Council of the European Patent Organisation and/or its ancillary bodies may have a direct effect on the subject-matters covered by this Memorandum of Understanding, the latter is subject to these decisions, as in force at any time.

Should a relevant decision of the Administrative Council and/or its ancillary bodies contain provisions whose impact on this Memorandum of Understanding needs to be established, the EPO will assess this impact and propose, if necessary and after consulting IMPI, amendments to this Memorandum of Understanding.

Deviating from the third provision above, the Offices agree that, if no agreement is reached between both Offices on said amendments within a period of three months, this Memorandum of Understanding will then be automatically terminated, without any written notice.

Fifth

If a dispute or claim arises from or relates to the interpretation, application or performance of this Memorandum of Understanding, in whole or in part, including but not limited to - its existence, validity or termination, the Offices undertake to do their utmost to amicably settle such dispute or claim by mutual agreement.

Where no amicable settlement is ultimately reached, the Offices will either agree to terminate this Memorandum of Understanding, as foreseen under the third provision above, and/or refer the matter for settlement by arbitration in accordance with the Permanent Court of Arbitration Optional Rules of Arbitration Involving International Organisations and States, as in force on the date of this Memorandum of Understanding.
SPECIFIC TECHNICAL PROVISIONS:

1. IMPI is introducing the CPC as its internal classification scheme alongside the International Patent Classification (IPC).

2. IMPI will use the CPC to classify invention patent documents (including invention patent applications and grants) and utility model patent grants which are:
   - first filed in Mexico; or
   - filed under the Paris Union Convention in Mexico.

   For the purposes of this Memorandum of Understanding, the documents described above are collectively referred to as "patent documents".

3. Classification will be done in accordance with the rules of the CPC Scheme and Definitions in force at the time of classification. The Offices may use the CPC to classify other documents.

4. The Offices will share information and practices for discussion and evaluation of how to manage the non-patent literature in the CPC, without any binding obligation for the EPO or IMPI.

Governance

5. A temporary joint EPO-IMPI CPC Implementation Group (EPO-IMPI IG) will be set up to deal with implementation-related matters such as training, quality measures, IT and communication. The EPO-IMPI IG will meet as required, alternating office locations, and use electronic communication means as much as possible.

6. Each Office will appoint a CPC Project Manager.

Training

7. The Offices will draw up a joint training plan, which includes face-to-face training. Other means such as online training and virtual classroom training will also be considered.

8. The EPO's training material will be used solely to train IMPI's staff. IMPI will not further disseminate the EPO's training material, unless prior authorisation has been given by the EPO in writing.

   The same terms and conditions will apply by analogy to the EPO for training material developed by IMPI.

9. The CPC Training comprises three cumulative phases: general training, advanced training and field-specific training, all provided by the EPO.

10. The general training is to be held at IMPI and aimed at all IMPI Examiners. It includes an overview of the CPC classification system, e.g. CPC Scheme and Definitions.

11. The advanced training will be held at IMPI in accordance with the Offices' needs and subject to the availability of resources. It is the second phase of the CPC Training,
aimed at a selected number of IMPI examiners. It includes an illustration of the major classification principles in the broad technical areas of Mechanics, Electricity-Physics and Chemistry.

12. The field-specific training is to be held in the last phase of the CPC training and is based on a "train-the-trainers" approach. It consists of a training conducted by EPO staff members having expertise in specific parts of the CPC. It is expected to run this field-specific training as collective training workshops at the EPO in major technical areas together with other patent offices.

13. It is expected that representatives of all IMPI Divisions will have undergone the entire training process by the end of 2016.

Quality measures

14. The Offices will consider developing quality measures to ensure a harmonised and consistent use of the CPC between the EPO and IMPI.

15. The following quality measures could be considered:
   - quality feedback follow-ups: feedback provided by the EPO on a number of selected documents classified by IMPI;
   - statistical analysis on documents classified in CPC by both offices;
   - sampling of documents classified by IMPI, subject to the availability of resources.

IT aspects

16. The EPO will provide IMPI with technical support in the form of consultancy to enable IMPI to classify and reclassify in CPC.

17. The Offices will explore ways of enabling IMPI to deliver CPC data to the EPO, for example by using web services.

Timeline for delivery of CPC data

18. IMPI’s patent documents published as of 1 January 2017 will bear CPC symbols. IMPI will make the corresponding CPC data available to the EPO within one month of publication.

19. Subject to the availability of resources, IMPI will use the CPC from 1 January 2017 onwards to classify already published patent documents and which are not already classified in CPC. IMPI will make the corresponding CPC data available to the EPO as soon as possible thereafter.

Communication

20. The Offices will set up a dedicated communication channel allowing the EPO to receive and evaluate IMPI's suggestions for CPC scheme revisions.

21. IMPI will be granted "read access" to the CPC Electronic Forum (CEF) administered by the EPO, so that IMPI's staff can follow and participate in all CPC discussions on CPC scheme revisions, as mentioned in paragraph 20.
FINAL PROVISIONS:

IMPI and the EPO sign this Memorandum of Understanding in two originals, each one in English and in Spanish languages, being both versions equally authentic.

SIGNATURES:

For the European Patent Office

Benoît Battistelli
President of the European Patent Office

For the Mexican Institute of Industrial Property of the United Mexican States

Miguel Ángel Margáin
Director General of the Mexican Institute of Industrial Property of the United Mexican States

Munich, 15 July 2015

Munich, 15 July 2015