

**MEMORANDUM OF UNDERSTANDING ON A REINFORCED TECHNICAL
AND STRATEGIC PARTNERSHIP BETWEEN THE MEXICAN INSTITUTE
OF INDUSTRIAL PROPERTY OF THE UNITED MEXICAN STATES
AND THE EUROPEAN PATENT OFFICE**

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

SEEKING to reinforce their mutually beneficial co-operation in technical and strategic areas of common interest, established by the Memorandum of Understanding on Bilateral Co-operation (No 2013/0264), signed by the heads of the Offices in Geneva on 25 September 2013 and further enhanced by the Memorandum of Understanding on the Introduction of the Cooperative Patent Classification (CPC) at the IMPI No. 2015/0099, signed in Munich on 15 July 2015;

RECOGNISING the importance of a robust patent system and a well-functioning patent grant procedure as essential instruments for stimulating innovation, entrepreneurship, economic development and technology transfer;

ACKNOWLEDGING the paramount importance of ensuring high-quality patenting and legal certainty for the proper functioning of the patent system; as well as the common challenges facing patent offices as a result of globalisation, digitalisation and emerging technologies;

CONSIDERING the impact of industrial property on socio-economic development and the importance of IP awareness and capacity building;

SEEKING a response to the growing number of patent applications filed in multiple jurisdictions, reflecting an ever-increasing demand for international patent protection;

NOTING their common objective to render their respective patent systems as efficient, user-friendly and predictable as possible for the benefit of domestic and foreign applicants alike;

CONSIDERING the advantages for patent offices of avoiding duplicative work through work sharing for increasing efficiency and quality in the patent examination process;

SEEKING on the one hand, to strengthen the search and examination capacities and skills to ensure a high quality, timely and efficient examination of national first filings, and to provide the technical support required to achieve this;

AIMING, on the other hand, to enhance the capacities and skills to ensure the high-quality, timely and efficient processing of national second filings through a more

systematic and efficient reutilisation of EPO search and examination results, and to provide the technical support required to achieve this;

CONSIDERING that the IMPI and the EPO have an instrument of mutual collaboration that covers both the Patent Cooperation Treaty (PCT) and the Paris Route applications, to ensure the benefits of high-quality, expeditious, and inexpensive examination for applicants, and the benefits of avoiding duplicate work and reducing the workload;

RECOGNISING that the effectiveness of the technical co-operation under the Reinforced Partnership depends on the extent to which the respective substantive patent laws and patent examination practices are aligned or similar,

HAVE REACHED THE FOLLOWING UNDERSTANDING:

1. Purpose

The purpose of this Memorandum of Understanding (MoU) is to set up a wide-ranging and flexible framework to facilitate the further development of the mutually beneficial long-term partnership between the Offices in strategic and technical areas of common interest in the field of patents, in accordance with the Offices' respective responsibilities in this area.

2. Common co-operation objectives

Within the scope of this Reinforced Partnership, the Offices intend to:

- a. Ensure efficient patent examination and high patent quality in order to foster innovation and economic development, support bilateral trade and investment between Europe and Mexico;
- b. Increase the quality, efficiency and timeliness of the processing of second filings by efficiently reutilising EPO work products in the national patent examination process of the IMPI to the maximum extent possible and by providing related EPO training, tools and technical and legal support;
- c. Increase the quality, efficiency and timeliness of the processing of first filings in the national patent examination process of the IMPI by providing EPO training, tools and technical support;
- d. Ensure the long-term sustainability of bilateral co-operation activities by exchanging best practices in all areas relevant to the Reinforced Partnership;
- e. Establish regular exchanges of patent data and legal status information, subject to each Office's laws and regulations, to enhance patent examination quality and legal certainty;

- f. Promote patent information and related tools as beneficial instruments for stimulating innovation, commercialisation and technology transfer.

3. Common principles of the Reinforced Partnership

In implementing their Reinforced Partnership, the Offices intend to:

- a. Develop projects and activities with clear operational objectives and evaluation criteria;
- b. Undertake activities aimed at improving the patent system in the interest of both local innovators and the global user community;
- c. Carry out the co-operation activities under this Reinforced Partnership, where feasible, in co-ordination or co-operation with any third party the Offices may mutually decide to, e.g. member states of the European Patent Organisation, the Pacific Alliance, the Iberoamerican Programme on Industrial Property (IBEPI), the European Union or the World Intellectual Property Organization (WIPO), to avoid duplication and harness potential synergies.

4. Reutilisation of EPO work products in the patent examination process

4.1. Reutilisation EPO work products

The Offices intend to implement a scheme for the standardised reutilisation of EPO work products in the national patent grant process of the IMPI, in particular the European Search Opinion (ESOP), the Written Opinion of the EPO as International Searching Authority (WO-ISA), the International Preliminary Examination Report (IPER) and the Decision to Grant an European Patent, with a view to enabling the IMPI to enhance and expedite the processing of subsequent patent applications received by the IMPI with the same earliest date. The IMPI will, in all cases, perform the substantive examination of the patent applications in line with its own national legislation and existing guidelines.

To this end, the IMPI will reutilise the EPO work products in the national patent examination process in a timely manner and to the maximum extent practicable.

The EPO may assist the IMPI in preparing revised patent examination guidelines setting out, *inter alia*, the technical and procedural details applicable to the reutilisation of EPO work products.

The Offices will periodically evaluate and exchange information on the implementation and functioning of the scheme for reutilising EPO work products. In particular, the IMPI will periodically inform the EPO of the number and status of the national patent applications and grants for which it has been able to reutilise EPO

work products. Further details regarding the practical implementation of the review process may be defined upon between the Offices in the Work Plans pursuant to paragraph 6 of this MoU, where practical.

4.2. Technical co-operation measures to support the re-use of EPO work products

To facilitate the implementation of the scheme for making use of EPO work products in the patent examination process of the IMPI, the EPO will provide the IMPI with:

- a. Advanced training in effectively accessing, interpreting and effectively making use of the relevant EPO work products;

This may include:

- The joint development by the Offices of a training programme relating to new technologies;
 - Training on the effective use of New Espacenet and the European Patent Register;
 - Training on the effective use of the Global Dossier tool to easily access, interpret and understand EPO file wrappers via web services;
 - Training on the effective use of the Common Citation Document.
- b. Technical and legal assistance for the effective implementation of the reutilisation scheme.

Further details of the assistance to be provided by the EPO in the implementation of the reutilisation scheme will be given in the work plans on bilateral co-operation.

5. Technical and strategic co-operation

5.1. EPO technical assistance for effectively processing national first filings

The EPO will provide the IMPI with the training necessary to conduct substantive search and examination for national first filings and to issue search reports and written opinions.

This may include:

- Exchange of best practices between patent examiners of the respective Offices;
- Field specific exchange of best practices and training.

5.2. Supporting infrastructure

The Offices intend to work together on upgrading and enhancing their respective information technology systems to optimise workflows, patent administration systems, data exchange and mutual access to databases.

This may include:

- Preferential access to EPOQUE Net, with at least 50% discount from standard fee for up to 100 users;
- On-site training to EPOQUE Net at the IMPI;
- Comprehensive distance learning courses;
- Train-the trainer courses to ensure sustainability and durability of the knowledge capital acquired at the IMPI.

5.3. Exchange of patent data and legal status information

The Offices will exchange complete and high-quality patent documentation, including legal status information, and make it available to their examiners and the public, according to the corresponding applicable legislation.

The Offices will review the patent information flow of Mexican data within the framework of LATIPAT and jointly ensure its completeness, timeliness and quality (front file data), an essential element to guarantee that examiners at both Offices carry out correct and comprehensive searches.

Providing access to this information in a user-friendly manner will also support the public in acquiring technical knowledge, running statistics, building on existing innovation, and carrying out freedom to operate analyses.

5.4. Innovation support and awareness raising

The Offices will co-operate in awareness-raising campaigns and initiatives to support innovation, addressed to relevant stakeholders, including small and medium-sized enterprises, chambers of commerce, universities, and technology transfer offices.

The Offices may co-operate in conducting studies and reports, such as patent landscapes, for the promotion of informed decision-making in the field of innovation and technology. If deemed useful by the IMPI, it may request free-of-charge access to

the Worldwide Patent Statistical Database (PATSTAT) and to the Global Patent Index (GPI) for the duration of this MoU.

The Offices may cooperate in the field of intellectual property training, for instance by developing supporting material, case studies and teaching content.

The Offices may, where appropriate, inform and consult the public on their bilateral co-operation activities. Joint events can be organised by the two Offices with the purposes of promoting their strategic collaborative partnership.

Each Office may request that the other provide staff to assist it by acting as consultants for expert missions, or as instructors and speakers at seminars and training courses it has organised.

5.5. Exchange of best practices in patent examination and administration

The Offices may, where feasible, exchange information on their respective patent grant procedures, classification systems, quality assurance and examination practices, including the Patent Cooperation Treaty (PCT), with a view to improving the functioning of their respective patent systems.

6. Bilateral co-operation work plans

The Offices will jointly draw up work plans every two years that set out the specific aspects of their co-operation, detailing the activities to be undertaken each year. Each work plan should include a breakdown of the estimated cost of implementing the co-operation activities, as well as detailed information on the scope, administration and assignment of resources and time schedules and any other information deemed necessary. It should feature a detailed analysis and definition of planned activities, and be geared towards achieving the common co-operation objectives, as set out in section 2. It should also include clear operational objectives and criteria.

The work plans on bilateral co-operation are incorporated herein by reference and constitute an integral part of this MoU.

7. Programme co-ordination

Each Office will appoint a co-ordinator who will be in charge of implementing, monitoring and evaluating the co-operation activities arising from this Reinforced Partnership.

The co-ordinator will also act as the main interface for all communications between the Offices and co-ordinate any bilateral exchange and activity resulting from this Reinforced Partnership.

The Offices will hold regular consultations and meetings, both at a working and management level, to monitor and review the implementation or interpretation of this Reinforced Partnership and to decide on the work plans for bilateral co-operation.

8. Funding of the co-operation

The implementation of any activity planned as part of this Reinforced Partnership will be subject to the availability of the funds required to finance it in the Offices' annual budgets allocated to co-operation activities, as well as the availability of the other necessary means and resources. They will also be subject to the procurement processes and travel-related policies that may be applicable at each Office.

9. Status of assigned staff

Staff assigned by either Office to co-ordinate the co-operation activities initiated, as part of this Reinforced Partnership will remain under the direction and authority of their Office. No employment relationship will exist with the other Office, which will not be considered a substitute employer under any circumstances.

10. Amendments

This MoU may be amended by mutual consent of the Offices either in an amending memorandum of understanding or by exchange of letters, specifying the starting date of the amendments and signed by the authorised signatory or signatories of each Office.

Work plan(s), even if signed by both Offices, are not to be construed as amending this MoU. In case of conflict between work plan(s) and the provisions of this MoU, the latter will prevail.

11. Settlement of disputes

Any dispute that may arise in connection with the interpretation or implementation of this MoU will be settled by mutual understanding between the Offices. Where no amicable settlement is reached after four (4) months of negotiation, either Office may terminate this MoU by giving at least one (1) week's written notice, without prejudice to the possible application of the second paragraph of section 12 below.

12. Duration

This MoU will take effect as of November 5, 2019 for a period of five (5) years, and will be extended for a further five (5) year period unless one of them objects to this in writing no later than six (6) months prior to the end of the five (5) year period in force.

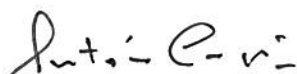
Either Office may terminate this MoU at any time by giving at least ninety (90) calendar days' written notice to the other Office.

In the case of early termination of this MoU, the re-use of EPO work results by the IMPI as per section 4.1. above will continue during the notice period and the Offices may mutually consent to continue any co-operation activities already initiated under the biennial work plan. To this end, the Offices have to consent in writing to the details of the continuation of activities, which cannot be presumed or deemed implicitly decided.

Signed in Mexico City on November 4th of two thousand nineteen, in four original copies, in the Spanish and English language, all texts being equally authentic.

FOR THE EUROPEAN PATENT OFFICE

**FOR THE INSTITUTO MEXICANO
DE LA PROPIEDAD INDUSTRIAL
OF THE UNITED MEXICAN STATES**



António Campinos
President



Juan Lozano Tovar
Director General