

PATENTS CONSULTATION GROUP

Information paper: 7	Title: International Developments 2008
	<p>Purpose: The purpose of this agenda item is to inform the PCG about recent international developments relevant to IP Australia.</p> <p>Background: International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty</p> <ul style="list-style-type: none">• The current Agreement under which the Australian Patents Office is an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) expires on 31 December 2008.• The PCT Assembly has renewed our appointment as an ISA and IPEA until 2017 and approved the <i>Agreement Between The Government Of Australia And The International Bureau Of The World Intellectual Property Organization (WIPO) In Relation To The Functioning Of The Australian Patent Office As An International Searching Authority And International Preliminary Examining Authority Under The Patent Cooperation Treaty (2008-2017 Agreement)</i>.• This 2008-2017 Agreement was tabled in Parliament on the 16 September 2008. IP Australia will be appearing before the Joint Standing Committee on Treaties (JSCOT) on 13th October 2008. Once JSCOT's report is issued, we will seek approval from Executive Council for signing and entry into force for this agreement before 31st December 2008. <p>Background: Singapore Treaty on the Law of Trademarks, the Patent Law Treaty and formal acceptance of several other WIPO treaties.</p> <ul style="list-style-type: none">• The Joint Standing Committee on Treaties (JSCOT) has reported favourably on Australia taking legal binding action in relation to the <i>Singapore Treaty on the Law of Trademarks</i> (Singapore Treaty) and the <i>Patent Law Treaty</i> (PLT) and formally accepting amendments designed to streamline the administration provisions of several other WIPO treaties. Final approval has been obtained from relevant Ministers and IP Australia is seeking Executive Council approval in order to complete the treaty making process. <p>Background: Designation of IP Australia as an ISA/IPEA for USPTO</p> <ul style="list-style-type: none">• IP Australia has entered into an arrangement with the United States' Patent and Trademark Office (USPTO) which will enable IP Australia to act as an ISA/IPEA for international applications filed with the USPTO under the Patent Cooperation Treaty (PCT).• This arrangement will come into effect on November 1st 2008, insofar as IP Australia is chosen as the competent authority by the applicant.

	<ul style="list-style-type: none"> • Under the arrangement IP Australia will search and examine all but the mechanical engineering and analogous fields of technology as reflected in the recently concluded IP Australia-USPTO PCT work-sharing trials. • IP Australia will only act as an IPEA where it was elected as the IPEA and had performed the search. • The announcement acknowledges the quality and output of IP Australia’s work and processes internationally and will be an advantage for Australian inventors seeking patent protection in the US. <p><i>Background:</i> Mutual PCT ISA/IPEA designation -Korean Intellectual Property Office (KIPO) and IP Australia</p> <ul style="list-style-type: none"> • Mutual ISA/IPEA designations between the offices were announced in August 2008 following the successful completion of a Joint Prior Art Search program. The Joint Prior Art Search initiative demonstrated equivalent standards of search and examination quality. • Designation of KIPO as an ISA/IPEA is subject to a two year review and is expected to come into effect early 2009. Designation of KIPO as an ISA/IPEA is consistent with increasing international momentum of cooperation and recognition of work conducted by other IP offices. • This announcement opens the way for Australian applicants to have a choice in their selection of an ISA/IPEA during prosecution of a PCT patent application. Until now Australian applicants have been restricted to IP Australia for these functions. <p><i>Action:</i> Members note the information in this paper.</p>
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