

Annex 2

DEFINITIONS FOR STATISTICS ON PROCEDURES

Here are detailed definitions of terms that appear in table 4.

EXAMINATION RATE

This rate shows the proportion of those applications for which the period to file a request for examination expired in the reporting year that resulted in a request for examination up to and including the reporting year.

For the EPO, where the request for examination has to be filed no later than six months after publication of the search, the rate for 2007 relates to applications mainly filed in the years 2006 and 2007.

For the JPO, the period to file a request for examination has been three years from filing date since October 2001. The rate for 2007 relates to applications filed in the year 2004. (The rate for 2006 relates to applications filed in the year 2003.)

At the USPTO, as filing an application implies a request for examination such a request is made for all applications.

GRANT RATE

For the EPO, this is the number of applications that were granted during the reporting period, divided by the number of disposals in the reporting period (applications granted plus those abandoned or refused).

For the JPO, the grant rate is the number of decisions to grant a patent divided by the number of disposals in the reporting year (decisions to grant or to refuse and withdrawals or abandonment after first office action).

For the USPTO, an allowance rate is reported, which is based on applications allowed to be granted divided by the number of disposals. This rate includes plant patents and reissue patents in addition to utility patents. However, since utility patents comprise over 90 percent of patent applications, and over 90 percent of issued patents, this rate is almost identical to a rate based strictly on utility patents.

OPPOSITION RATE

The opposition rate for the EPO is the number of granted patents for which the opposition period ended in the reporting year and against which one or more oppositions are filed, divided by the total number of patents for which the opposition period ended in the reporting year.

This rate does not apply to the JPO, or to the USPTO, since there is no opposition procedure there.

MAINTENANCE RATE IN THE OPPOSITION PROCEDURE

The maintenance rate for the EPO is the number of decisions (in the opposition procedure) to maintain, possibly in amended form, a patent during the reporting year, divided by the total number of decisions in the opposition procedure during the reporting year.

Data are not available for the JPO and this rate does not apply to the USPTO.

APPEAL RATE

For the EPO, appeal rates are given for examination and opposition, being the numbers of decisions in the examination and opposition procedures respectively, against which an appeal was lodged in the reporting year, divided by the number of all decisions for which the time limit for appeal ended in the reporting year.

The USPTO appeal rate, which includes utility, plant, and reissue categories, captures the number of appeals filed after an examiner's decision to issue a final rejection against a patent application. The rate is the number of examiner answers written during the year in response to appeal briefs divided by the number of final rejections issued that year.

For all Trilateral Offices, any subsequent litigation proceedings in national courts are not included.

PENDENCY IN THE SEARCH PROCEDURE

This only applies to the EPO. Pending applications in search is the number of applications received up to and including the reporting year for which a search report has not been made by the end of the reporting year. Pending searches in months is defined as the number of pending applications in search by the end of the reporting year divided by the average monthly number of disposed searches in the reporting year.

In the case of Euro-direct applications, there is a target to produce the search report by the time of the publication of the applications.

PENDENCY APPLICATIONS AWAITING REQUEST FOR EXAMINATION

This only applies to the EPO and the JPO. This statistic indicates the number of filed applications awaiting a request for examination by the applicant for the EPO after publication of the search report and for the JPO at any time during three years after filing.

For the EPO, pending applications awaiting request for examination is the number of applications for which the search report has been published by the end of the reporting year and for which the prescribed period for the request has not expired (six months after publication of the search).

For the JPO, pending applications awaiting request for examination indicates the number of applications for which no request for examination has been filed by the end of the reporting year, and for which the prescribed period for the request has not expired (three years from the date of its filing).

PENDING EXAMINATIONS

For the EPO, pending applications in examination are applications filed for which the search was completed and the request for examination was filed, yet they have not been disposed of (granted, refused or abandoned) by the end of the reporting year.

For the JPO, pending applications in examination are applications for which the requests for examination were filed and which have been waiting for a first action and have not been subject to a final action such as withdrawal or abandonment by the end of the reporting year.

For the EPO, pendency examination in months is the number of pending applications in examination as of the end of the reporting year, divided by the average monthly number of disposals (decisions to grant or refuse, withdrawals, abandonments) during the reporting year.

For the JPO, pendency examination in months is the total amount of months for disposing applications as final actions (decisions to grant or to refuse, withdrawals or abandonments) in the reporting year, divided by the average monthly number of final actions during the reporting year.

For the USPTO, pendency examination in months for utility, plant, and reissue applications is calculated by measuring the time from filing to abandonment or issue for all applications that are abandoned or issued during a three month period. The average of these times is the pendency in months.

PENDENCY FIRST OFFICE ACTIONS

At the EPO, for applications filed since July 2005, the search report that is sent to the applicant is accompanied by an opinion on patentability. As long as the applicant then makes a request for examination, this opinion is then resent as the first communication in examination. The pendency first office action is the average time measured from filing at the EPO to issue of this first communication in examination.

For the JPO, pendency first office action is the average time period, in months, from the request for examination to first office action in examination.

For the USPTO, pendency first office action is the average amount of time, in months, from filing to First office Action On Merits (FAOM). A FAOM is generally defined as the first time an examiner either formally rejects or allows the claims in a patent application.

PENDENCY IN OPPOSITIONS

This only applies to the EPO.

Pending applications in opposition is the number of patents against which one or more oppositions have been filed and for which no decision has been taken by the end of the reporting year.

Pendency opposition in months is the number of pending applications in opposition at the end of the reporting year, divided by the average number of disposals in opposition per month in the reporting year.