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Patent Prosecution Highway Status Report and PPH metrics Trilateral Offices and Users Meeting

13 April 2012, Tokyo

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PPH: the EPO pilots - current status

PPH pilot	Launch date (all EPO PPH pilots operational until 28 January 2014)	Number of requests 29 February 2012, total of 1022
EPO/USPTO	29 September 2008	304 (210 eligible)
EPO/JPO	29 January 2010	459 (432 eligible)
Trilateral PCT - PPH	29 January 2010	259 (246 eligible)



Participation volumes in Europe relatively moderate



PPH: the EPO pilots - current status

- **Bilateral PPH pilot between the EPO and the USPTO**
 - launch date 29 September 2008
 - EPO OJ 2012, 60
- **Bilateral PPH pilot between the EPO and the JPO**
 - launch date 29 January 2010
 - EPO OJ 2012, 75
- **Trilateral PCT - PPH pilot**
 - launch date 29 January 2010
 - EPO OJ 2012, 89

latest extension and revision **29 January 2012**

operational until **28 January 2014**

no current plans to conclude further bilateral PPH pilot agreements



PPH: latest developments

- **JPO proposal "MOTTAINAI"** : relaxation of priority requirements
 - so far PPH schemes based on OFF - OSF workflow
 - shift to OEE - OLE workflow, de-linking priority
 - eligibility of PPH request would depend on availability of work from a participating office on a patent family member, regardless of
 - order of filing
 - of whether the office which provides work results is the OFF
 - **TIMING** of **EXAMINATION** is crucial
- **USPTO proposal "PPH 2.0"**: next-generation PPH framework aiming at streamlining/liberalising PPH requirements
 - Builds on MOTTAINAI and simplifies requirements
 - relaxation of the applicable PPH documentation requirements involving *inter alia* the increased use of DAS and machine translation,
 - harmonisation of claim correspondence concept
 - **self-certification of claims correspondence**
 - establishment of a common framework to replace bilateral PPH arrangements

PPH: future plans

- **Trend:** harmonisation/simplification of participation/eligibility requirements
 - user-friendliness
 - efficiency
 - further standardisation of practice
- Issue of **Quality** is now explicitly being addressed in international discussions
- **Increased use of the PCT PPH**
 - in particular as regards work products issued by the EPO
 - makes PCT international phase work products (i.e. WO/ISA, IPER) a key element of global work sharing
 - underlines the philosophy behind the PCT

Trilateral PPH Metrics Study

Background

- November 2011 Trilateral Meeting: Offices agreed to start a Trilateral PPH study; EPO was invited to take the lead and draft study proposals.
- February 2012: Study proposals distributed; JPO and USPTO agreed to the EPO's high-level study proposal.

Main aspects of the study

- Procedures & efficiency
- Quality

Study objectives

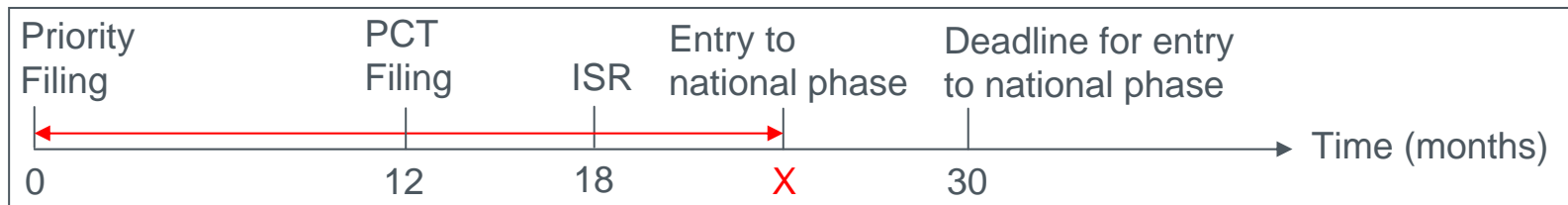
- Establish common metrics and benchmarks.
- Facilitate greater understanding of PPH at the three offices.
- Create a template for future PPH monitoring.

Trilateral PPH Metrics Study: Procedures & efficiency

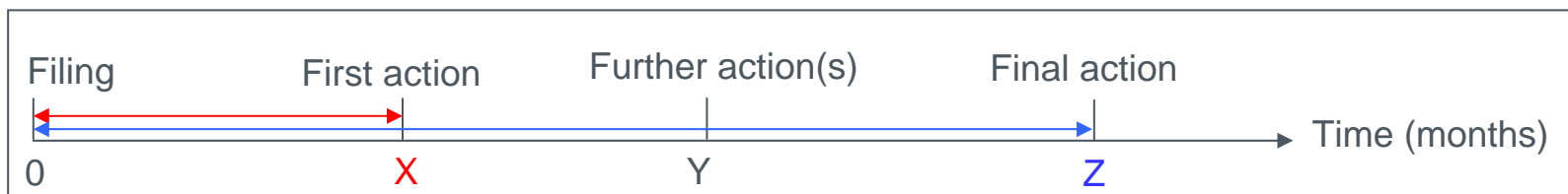
- Data can be collected from the offices' data bases.

Examples of metrics:

- Early entry to national phase following PCT processing

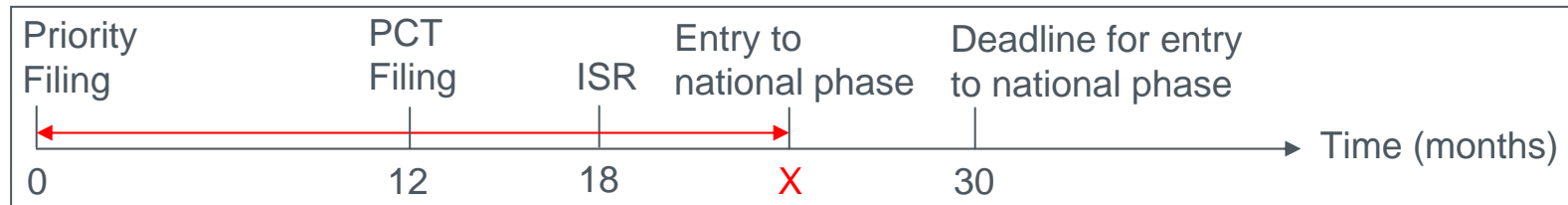


- Pendency to first & final OLE action



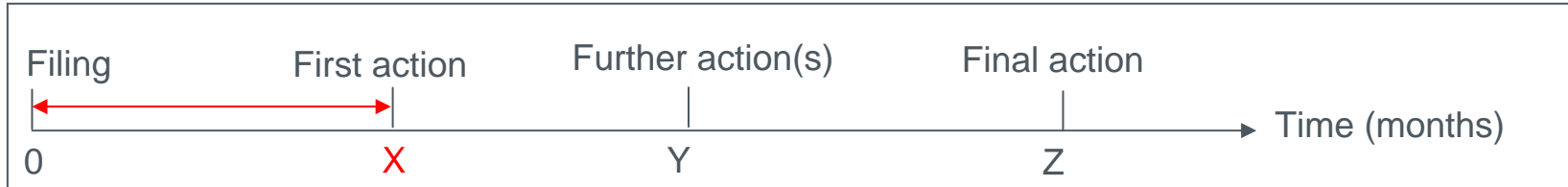
- Number of actions until final action
- Grant rates

Trilateral PPH Metrics Study: Early national phase entry

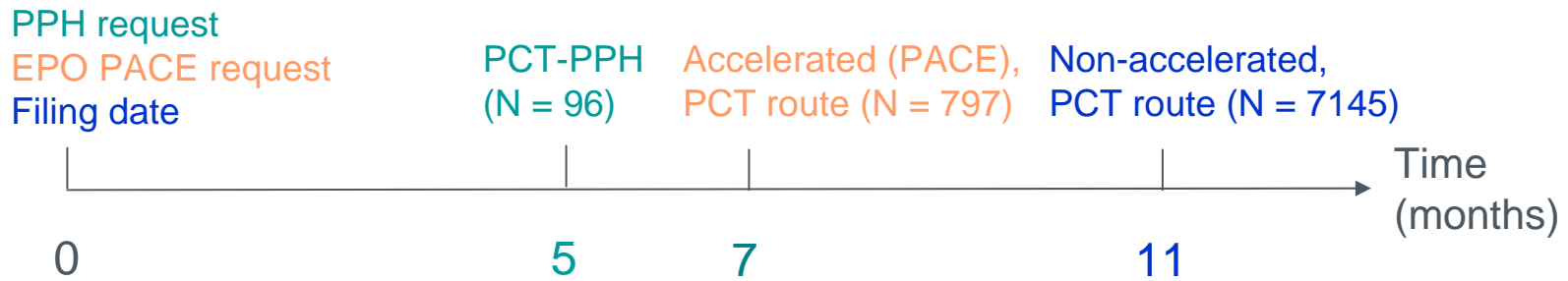


Population	Average time of entry to regional phase in months	% Requests for early entry to regional phase	Number of analysed PCT applications
PCT-PPH, ISA = JPO	26	41	226
PCT-PPH, ISA = USPTO	29	13	15
Accelerated non-PPH (PACE), PCT route, ISA = JPO	28	35	1061
Accelerated non-PPH (PACE), PCT route, ISA = USPTO	29	18	320
Non-accelerated applications, PCT route, ISA = JPO	30	7	22340
Non-accelerated applications, PCT route, ISA = USPTO	30	2	15617

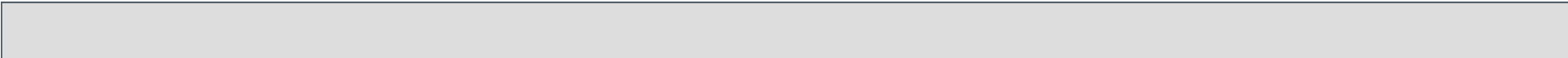
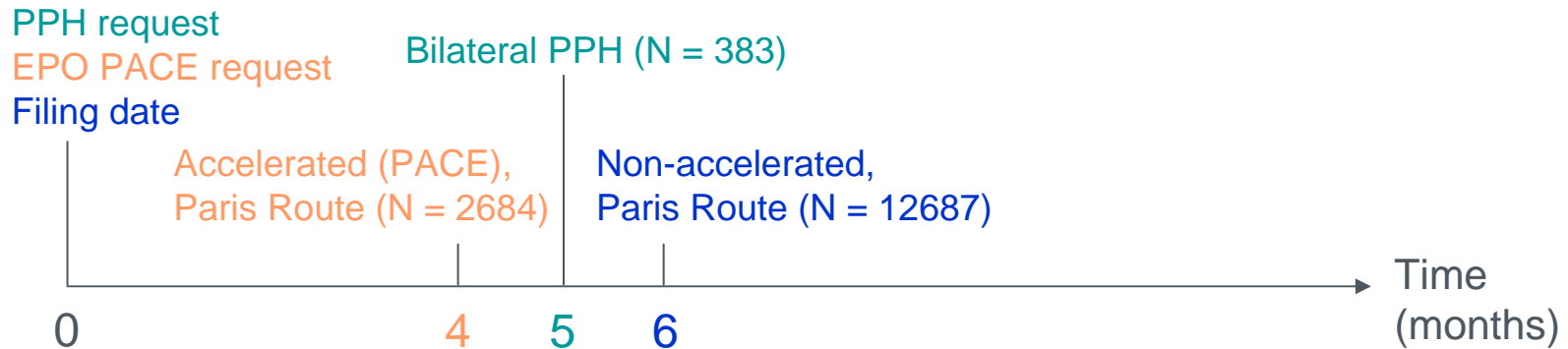
Trilateral PPH Metrics Study: Average pendency to first action



PCT Route:



Bilateral PPH / Paris Route:



Trilateral PPH Metrics Study: Quality

- Aim of this section: ascertain the quality of PPH applications as determined by the first office action in the national/regional phase.
- Data has to be collected manually by inspecting WOISAs or IPERs and national phase first actions.

Examples of metrics:

- The number of patentable claims identified by the second office.
- Causes of divergence of outcome between OEE and OLE due to new prior art found by the OLE.
- Percentage of positive first action outcomes.

Trilateral PPH Metrics Study: New prior art found by OLE

- The level of new prior art found at the office of later examination can indicate one possible cause for divergences.
- The table below is an example of the type of metric that will be determined from the manual collection of prior art in the national phase first action.

Population (Date of entry to regional phase >= 29.01.2010)	% with only A citations in ISR	% of the EPO searches citing no additional X, Y or E documents	Number of analysed applications
PCT-PPH files with first action in European phase	76%	34%	96
Non-PPH accelerated search (PACE) reference population weighted by ISA to match the above PCT-PPH population	32%	27%	797

Trilateral PPH Metrics Study: Outcome of first action

Population (Date of entry to regional phase >= 29.01.2010).	% positive EPO written opinions	Total number of analysed first actions
PCT-PPH, ISA = JPO	14	88
Accelerated non-PPH (PACE), PCT route, ISA = JPO	8	599
Non-accelerated applications, PCT route, ISA = JPO	5	4053
PCT-PPH, ISA = USPTO	0	8
Accelerated non-PPH (PACE), PCT route, ISA = USPTO	4	198
Non-accelerated applications, PCT route, ISA = USPTO	1	3089



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Thank you for your attention