

EPO cooperation with Standards Developing Organisations

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What led EPO to consider standards documents ?

- Examiners coming from industry first indicated the need to access standards documents for patent search
- Priority areas : Telecommunications, Audio Video and Computer technologies
- In specific cases, oppositions to granted patents were filed based on standards documents
- Priorities in standards documents acquisition were defined by the expert patent examiners in their technical fields

Why standards-related documentation?

- Ever-increasing relevance of non patent documents as prior art for patent-related search
- Standards documents very pertinent in patent examination, in some fields contributing a very significant proportion of relevant citations
- Need of "standards proof patents"

Introduction of standards documents in EPO databases

- EPO has a long experience in non-patent literature in different technical areas
- Standards documents acquired as non-patent literature via public databases or through individual agreements with SDOs
- Specific needs and particularly the need to acquire drafts and working group documents led to individual agreements with providers and SDOs
- Patent Offices' main interest are early drafts, more than final resulting standards.

Particular needs of Patent Offices from SDOs

- Access to **all non-confidential technical documents** (standards, temporary, drafts, contributions, ...)
- Technical field (publishing **working group**) on each document
- **Effective publication date** of submitted contributions
- Discussions on dissemination policy

Contacts with SDOs

- Need to promote communication and cooperation in view of common goals and interests
- First step : participation in key conferences and bilateral or multilateral meetings
- Second step : proposals of MoU or cooperation agreements
- General terms : availability of documents for patent examination and cooperation for adapting format with proposal to link SDO essential patent declaration databases in real time to EPO publically available patent document databases

Achievements in relations between SDOs and Patent Offices

- **Bridging SDOs and POs:** Resolutions at Global Standards Collaboration Conferences GSC 12 reaffirmed until GSC 16, encouraging SDOs "to cooperate with the relevant Patent and Trademark Offices to provide access to technical information for use by such Agencies that should help them improve the quality of patents being granted"
- **Bilateral Cooperation:** MoU EPO with IEEE and ETSI, as well as Cooperation Agreement with ITU, formalising and intensifying cooperation.
- ETSI has linked its SDO essential patent declaration database to EPO publically available patent document database
- Cooperation Agreement with IEC
- Meetings and discussions with a number of national SDOs
- Invitation and contribution in a number of international fora on Patents and Standards interrelation
- Informing of other Patent Offices (IP5, composed of USPTO, JPO, KIPO, SIPO, EPO), as well as European National Patent Offices on EPO approach

Standards documents available for EPO examination

- 3GPP Standards and contributions
- ETSI Standards and contributions
- ITU Standards and contributions
- IEEE Standards and contributions
- IETF Standards and contributions
- 3GPP2 Standards and contributions, expected to be added in 2012/2013
- OMA Standards and contributions, expected to be added in 2012/2013
- Cryptography Standards (IACR later also USENIX, BSI, NIST), expected to be added in 2012/2013

Costs from cooperation with SDOs for the EPO

- Cooperation needed long effort to convince on common interests and goals
- Despite proliferation of IPR in standards and increased reference to standards in patent applications, resistance to convergence remains very strong
- EPO had to become member of SDOs, often with similar conditions to industry, although not participating in standards development and certainly not profiting as participating industry
- Acquisition of standards documentation and the necessary processing for extracting the necessary bibliographic data and introducing data in internal databases has considerable cost (order of 0,5 mio. Euros/yr), depending on the format of each documentation
- Training of examiners to ensure awareness of importance, and ability to access standards in search

EPO benefits from cooperation and agreements with SDOs

- In many technical areas with high number of industrially and commercially very important patent applications, standards documents consist a high proportion of pertinent prior art, therefore quality and legal security of granted patents in these areas without search in standards documents is not acceptable
- Number of IPR for standards of ICT systems developed actually is still substantially increasing therefore this cooperation is expected to be even more compulsory in the future
- As standards developed in different SDOs have different format and access rules and possibilities are very variable, the need of accessing this documentation by a single query through uniform internal databases becomes mandatory in order to assure qualitative but also efficient patent searches
- MoU and cooperation agreements make commitment to cooperation irrevocable

Teachings from cooperation with SDOs for the EPO

- Still possibility to extend and ameliorate cooperation with SDOs where agreements exist and certainly to conclude further MoU or cooperation agreements
- Cooperation with SDOs in areas beyond ICT, like for example energy, new automotive technologies and other is desirable and useful
- Including standards documentation in patent examination related prior art highly appreciated and encouraged by technology innovators and patent applicants
- Knowing that the EPO has access to standards documents at the earliest stage encourages innovators to participate with security in standards developing procedure

Goals set to be achieved 1/2

- **Contribute towards transparency:**
both in technical (up-to-date, informative databases) and structural (clear landscapes and boundaries) regard.
- Cooperation among major Patent Offices (IP5, composed of USPTO, JPO, KIPO, SIPO, EPO) for a coordinated approach, including a common, standards-related documentation database
- In long term include such documentation as PCT minimum requirement.

Goals set to be achieved 2/2

- Standardisation organisations could link their IP declarations databases to the public registers of the major Patent Offices, such that the included information (validity of application, scope of granted patents, patent family, etc.) is constantly updated and valid.
- Patent rules of standardisation organisations, in particular dissemination and confidentiality rules, should be made more clear.
- In general: proper functioning of both systems needs coordinated and long-term strategies and action at their interface
- Use of templates, and "standardisation" of format of SDO documentation, to reduce processing costs for EPO and promote further dissemination

Need more information?



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