

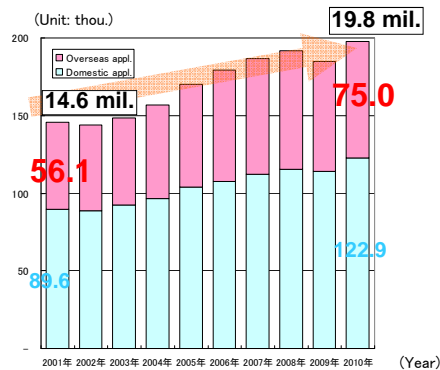
Update on harmonization discussion from the JPO's perspective

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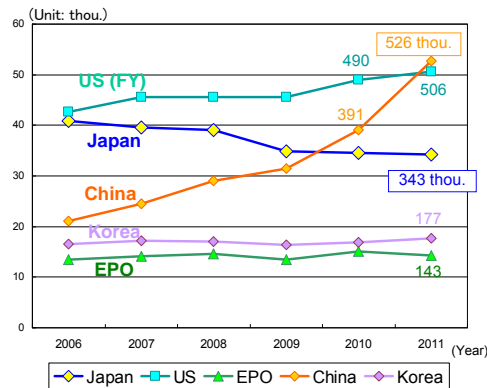
Patent Applications in the World

- The number of patent applications in the world is increasing along with the globalization of business. In particular, the number of applications filed abroad is significantly increasing.
- The number of applications filed in Japan is staying at around 340 thousand from 2009 onward.

Changes in Patent Appl. Filed in the Whole World



Changes in Patent Appl. Filed in Japan, US, Europe, China and Korea

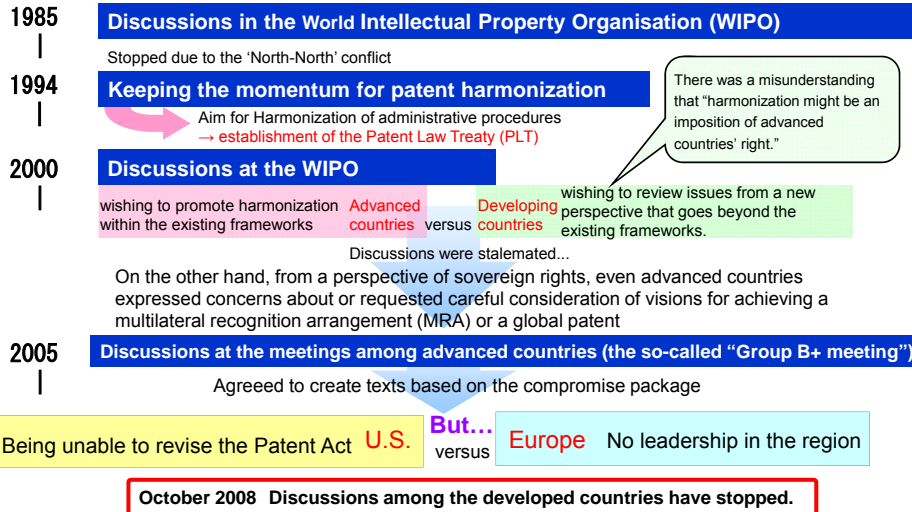


Source: WIPO Industrial Property Statistics

Issues involving Patent Harmonization – Discussions in the Past



- Discussions on patent law and practice harmonization became mired in confusion because developing countries strongly objected to harmonization.
- Even discussions on harmonization among advanced countries were not concluded and the discussions substantially stopped in October 2008.



Basic Policies toward Patent Harmonization



- In discussions on patent harmonization, it is important to clarify that it does not limit the freedom of each country to determine whether or not to grant a patent to each claimed invention. We should pursue not "Compromise" but "Best Practice" of international patent system.
- Harmonization is very important especially for Japan and major countries where a lot of applications are filed. In order not to lose momentum toward harmonization, through effective use of various fora.
- For countries where understanding of harmonization is not obtained immediately, we would like to further promote cooperation on examination and human resources development from long-term views. (So-called bottom-up approach.)

Momentum toward Patent Harmonization in 2011



Increasing momentum toward harmonization

There has been a progress stalled on the U.S. patent reform bill which include a provision of turning the U.S. patent system into a first-to-file patent system.

Along with a progress in Patent Prosecution Highway (PPH),* differences among examination results of each Office became obvious to reaffirm the necessity of harmonization.

Asia-Pacific Patent Cooperation in the 21st century Forum
(Held in March 2011) (hosted by the USPTO)
Leaders of the Offices in the Asia-Pacific region participated in the Forum to confirm, the importance of patent harmonization.
→ stimulated Europe which was not invited to the Forum.

Status of patent applications

Of 1.91 million patent applications filed in the world, approximately 80% (1.45 million) are filed in the Five Offices (JPO, USPTO, EPO, SIPO and KIPO).

China have overtaken the United States and Japan and achieved the No.1 position in terms of the number of patent applications. It aims to achive 0.75 applications in 2015. (question to discussions on harmonization without China.)

At the IP5 Heads Meeting in Tokyo, 2011, Japan suggested issues on patent harmonization as a meeting agenda.

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The 4th and 5th IP5 Heads of Office meeting



Results of the 4th meeting in Tokyo

The Heads of Office

- Reaffirmed the importance of technical and substantive patent law harmonization and emphasized the necessity of making it clear that it does not limit the freedom of each country to determine whether or not to grant a patent to each claimed invention:
- Agreed to participate in harmonization talks at various international fora including IP5.
- Agreed on conducting a study, making the most of existing works to provide a base for such harmonization discussions.

IP5 Matrix Study was led by the JPO and conducted on laws, regulations and standards of IP5 on more than 40 issues for discussion points

Results of the 5th meeting in Corsica

The Heads of Office

- Agreed to set up a Patent Harmonization Expert Panel, which was proposed by the JPO, in the IP5, to continue discussing patent harmonization at the IP5.

Maintain the momentum of discussion on harmonization

The Tegernsee Meeting (1st: July 2011, 2nd: April 2012)



The Tegernsee meeting was held among the Trilateral Patent Offices (EPO, JPO and USPTO), and patent offices (PO) of major European countries (United Kingdom, Germany, France, Denmark).

In the meeting, the participants recognized the following items as key issues for the harmonization and agreed to begin a “Fact Finding” study:

*first-inventor-to file, grace period,
prior user rights, scope of prior art,
definition of novelty and non-obviousness/inventive step,
18-month publications*



Results of the 2nd meeting

The Heads of Office

- Agreed that the Tegernsee Expert Group has been mandated to carry out a detailed comparative analysis of the result of “Fact Finding”.
- Agreed that the Expert Group would carry out studies on the following 4 issues: Grace period, 18-month publication, Prior art effect of secret prior art, Prior user rights.

Promoting Discussions on Patent Harmonization



- Discussions will be developed involving China which is moving toward superpower status via intellectual property rights. JPO will lead discussions by using the opportunities such as the IP5.

Clarify the differences in systems and practices of IP5 (Japan, US, EPO, China, Korea).

So-called IP5 Matrix Study led by JPO have been completed in May 2012. It is a comparative study on laws, regulations and standards of IP5 on more than 40 issues for discussion points, including first-to-file rule/first-to-invent rule, grace period, novelty, inventive step and descriptive requirements for claims.

Establish the Patent Harmonization Expert Panel within the IP5.

That is aiming to promote discussions on harmonization, based on the results of the research studies for systems and practices.

IP5

(Until now, no discussion)

IP5 Matrix Study under the leadership of JPO. Results of the studies will be utilized, and the discussions will continue.

Advance discussions on harmonization with China utilizing IP5.

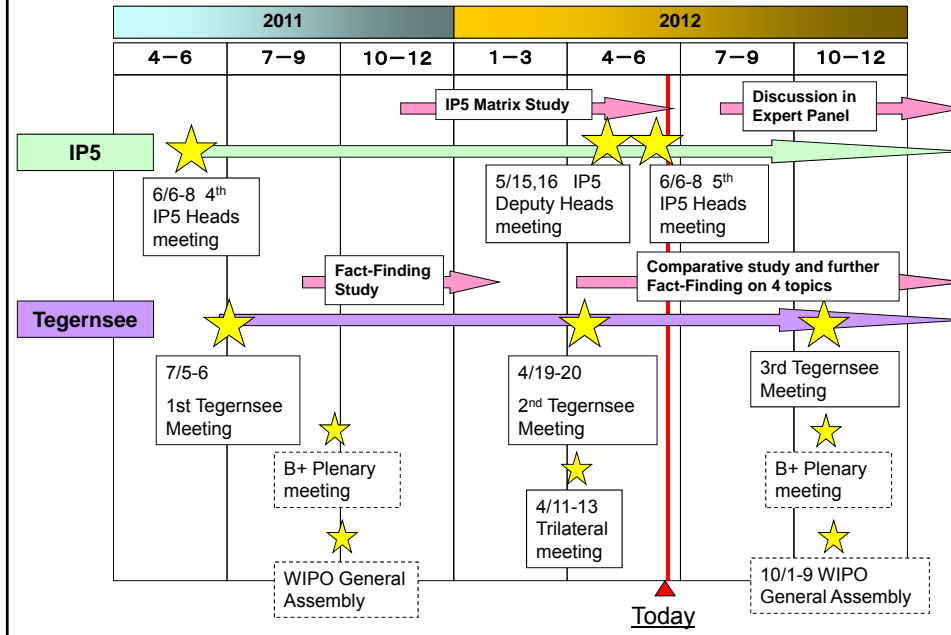
JP, US, EP

No further progress recently

In the Tegernsee Meeting, discussions among developed counties have been progressed.

Establish a common understanding among developed counties

Meeting Schedule for Harmonization talks in 2012



Thank you!