

No. 55940*

**Canada
and
World Intellectual Property Organization**

Agreement between the Government of Canada and the International Bureau of the World Intellectual Property Organization in relation to the functioning of the Canadian Commissioner of Patents as an international searching authority and international preliminary examining authority under the Patent Cooperation Treaty (with annexes). Geneva, 28 September 2018

Entry into force: *29 December 2018, in accordance with article 9*

Authentic texts: *English and French*

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**Canada
et
Organisation mondiale de la propriété intellectuelle**

Accord entre le Gouvernement du Canada et le Bureau international de l'Organisation mondiale de la propriété intellectuelle concernant les fonctions du Commissaire aux brevets du Canada en qualité d'administration chargée de la recherche internationale et chargée de l'examen préliminaire international au titre du Traité de coopération en matière de brevets (avec annexes). Genève, 28 septembre 2018

Entrée en vigueur : *29 décembre 2018, conformément à l'article 9*

Textes authentiques : *anglais et français*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Canada, 5 septembre 2019*

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**AGREEMENT
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE INTERNATIONAL BUREAU OF THE WORLD
INTELLECTUAL PROPERTY ORGANIZATION
IN RELATION TO THE FUNCTIONING OF THE CANADIAN
COMMISSIONER OF PATENTS AS AN INTERNATIONAL SEARCHING
AUTHORITY AND INTERNATIONAL PRELIMINARY EXAMINING
AUTHORITY UNDER THE PATENT COOPERATION TREATY**

Preamble

THE GOVERNMENT OF CANADA AND THE INTERNATIONAL BUREAU OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION, hereinafter referred to as the "Parties",

CONSIDERING that the Patent Cooperation Treaty Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the Canadian Commissioner of Patents as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty, done at Washington, on June 19, 1970, and approved this Agreement in accordance with Articles 16(3) and 32(3),

HEREBY AGREE as follows:

ARTICLE 1

Terms and Expressions

- (1) For the purposes of this Agreement:
 - (a) "Treaty" means the Patent Cooperation Treaty (PCT);
 - (b) "Regulations" means the Regulations under the Treaty;
 - (c) "Administrative Instructions" means the Administrative Instructions under the Treaty;
 - (d) "Article" (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
 - (e) "Rule" means a Rule of the Regulations;
 - (f) "Contracting State" means a State party to the Treaty;
 - (g) "the Authority" means the Canadian Commissioner of Patents;

- (h) "the International Bureau" means the International Bureau of the World Intellectual Property Organization.
- (2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

ARTICLE 2

Basic Obligations

- (1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.
- (2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.
- (3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.
- (4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

ARTICLE 3

Competence of Authority

- (1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.
- (2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State specified in Annex A to this Agreement, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.
- (3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).
- (4) The Authority shall conduct supplementary international searches in accordance with Rule 45*bis* to the extent decided by it, as set out in Annex B to this Agreement.

ARTICLE 4

Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex C to this Agreement.