



**GUIDELINES ON THE USE OF
EXCHANGED ELECTRONIC INTELLECTUAL PROPERTY INFORMATION DATA
BETWEEN
THE DIRECTORATE GENERAL OF INTELLECTUAL PROPERTY
AND
THE JAPAN PATENT OFFICE**

1. BACKGROUND

The Directorate General of Intellectual Property (DGIP) and the Japan Patent Office (JPO) will exchange electronic intellectual property information data (refer to Annex A.) for the benefit of the two Offices and the public. This data be provided on various electronic data carriers, e.g. optical discs, magnetic tapes, Internet, File Transfer Protocol (FTP), etc. These are free exchanges and chosen from available means. The guidelines on the use of this data is set forth in this document to provide uniform minimum standards for using the data exchanged under this document.

The intention of this document is to implement a liberal view and rules on exchanged data in order to improve support of the intellectual property information users.

The DGIP and the JPO are referred as IP Office hereinafter.

2. DEFINITIONS

2.1. INSTITUTIONAL DEFINITIONS

2.1.1. Libraries

“Libraries” will be understood to cover institutions governed directly by IP Offices or operated as non-commercial institutions authorized to disseminate intellectual property information, and established or controlled by public or semi-public bodies (for example, depository libraries) for the dissemination of information to the public.

2.1.2. Third party

A “third party” is any intellectual property office, organization, individual or enterprise which is neither the data providing IP Office nor the data receiving IP Office (or its Libraries).

2.2. USE OF DATA

2.2.1. External use

“External use” of data means the use, the processing, and the provision of the exchanged data to third parties (which are not intellectual property offices) for personal use, for company use and for commercial use. It is intended that said third parties should only further distribute said data with "added value", not "as is"¹. The use of data by third party shall be notified to the respective IP Office.

2.2.2. Internal use

“Internal use” of data consists of “official use”, “library use” and “data exchange use” by the receiving IP office as provided for below:

2.2.2.1. Official use

“Official use” is the use of data by officials of a receiving IP Office or, where applicable, by an official of a library:

1. in the course of official procedures for the grant of intellectual property titles, including search, examination, maintenance and appeal procedures;
2. for the purpose of statistical and technical analyses in the framework of the official business of the IP Office;
3. to provide special services for the public to meet specific requirements of individual and corporate users based on their own needs;
4. for the purpose of providing systematic training activities, provided that the use of the data is compatible with fair practice and does not exceed the extent justified by the purpose; or
5. for the purpose of providing copies of the data for the use of the receiving IP Office or library;
6. for the use in any existing or future public services of the receiving IP Office;
7. in the provision of tools in order to support the users in using intellectual property information more efficiently.

2.2.2.2. Library use

“Library use” is the use of data by members of the public in search rooms of IP Office or

¹ This intention should be reflected in the bilateral arrangement made between IP Office and any commercial vendors.

in libraries.

2.2.2.3. Data exchange use

"Data exchange use" is the use of exchanged data for provision to third party intellectual property offices (under the condition of mutual acceptance of the reciprocity principle).

2.2.3. Reciprocity principle

The "Reciprocity principle" defines that if IP Office allows provision of its own data to third party intellectual property offices, then it should also be eligible to receive data of such third party intellectual property offices.

Both IP Offices should be prepared to inform the originating office of the data, to whom its data has been sent.

Any intellectual property office that wishes to receive both IP Offices' data should be ready to provide also its own data without restriction, and this may be made available to both IP Offices.

Furthermore, provision of said data to third (commercial) parties should only be carried out on the basis that this provision is either free of charge or at marginal cost. Therefore, any exchanged data must not then be provided by any office to external partners at price higher than marginal cost.

2.2.4. Marginal cost

The marginal cost of a product comprises all costs, with the exception of the production costs, in making the product available (cost of the blank tape, use of the computer, the copy, packing/transport and labour)

2.3. DATA TYPES

The policy outlined in this document applies to all types of exchanged data, as set or subset of data of the receiving or providing IP Office, further also as subset or as database containing data from several offices.

Data to be exchanged will be listed in Available List as provided separately. If there is any renewal in the list, both of the two IP Offices at the working level (Director) will separately discuss such renewal and renew the list based on the arrangement between the two IP Offices.

3. BASIC PRINCIPLES

Both IP Offices share the common understanding that intellectual property information

will be provided to the public and to any third party based on the existing principle of marginal cost or free of charge. In order to support a barrier free flow of information among intellectual property offices, data exchanged by IP Office may be provided to third party intellectual property offices in accordance with this document and under the condition that the reciprocity principle is accepted by the third party intellectual property office.

4. POLICY

Intellectual property information data provided as part of a free exchange by IP Office is provided by the originating IP Office for the internal and external use of the receiving IP Office.

This means in detail:

4.1. AUTHORISATION FOR INTERNAL USE

1. Receiving IP Office is allowed to use exchanged data internally without any restrictions for 'official use' and 'library use'.
2. Receiving IP Office is allowed to provide exchanged data to third party intellectual property office(s) under the provision that in accordance with this document the reciprocity principle is respected by the third party intellectual property office.

4.2. AUTHORISATION FOR EXTERNAL USE

Receiving IP Office is allowed to provide exchanged data in any form (including bulk form) to third parties (which are not intellectual property offices) for external and commercial use based on bilateral arrangement made between receiving IP office and any commercial vendors.

4.3. AUTHORISATION TO DISSEMINATE AS A PUBLIC SERVICE

IP Office, having received exchanged data may provide public access to all or parts of these data as part of a public service, for example, using the Internet.

The provision of such public services underlies no restrictions, neither in volume nor in functionality.

5. COPYING AND SHIPPING COSTS

The costs of copying, shipping or any other technical way of data provision for exchanged data to an IP Office or a third party will be borne by the IP Office providing the data.

6. WARRANTY AND DATA QUALITY

The originating IP Office will be the authoritative source for data provided directly to receiving IP Office.

Third party recipients of IP exchanged data will hold free the originating IP Office of any liabilities for any reason, including defects of the provided data (e.g. the completeness, accuracy and correctness of the data made available or supplied to a third party). Third party recipients waive all commitments to claims against the originating IP Office.

Claims from third parties are to be dealt exclusively with the IP Office directly providing the data for internal or external use. In any case the originating IP Office is not responsible for data provided by the receiving IP Office to any third party.

Any questions, issues, or support, and costs associated therewith, arising from the data provided to the third party will be handled by the IP Office directly providing the data and not the originating IP Office. IP Office which handles such questions or issues from the third parties may inform originating IP Office if considered appropriate.

The IP Office will put in place data error correction processes so as to report on detected errors to the originating IP Office when appropriate. Consequently, the originating IP Office will strive to correct those errors at the source.

This guideline signed in duplicate,
on July 19, 2016 by

Prof. Ahmad M. Ramli,
Director General, on behalf of the DGIP

Mr. Yoshinori KOMIYA,
Commissioner, on behalf of the JPO

