MEMORANDUM OF UNDERSTANDING
ON THE PATENT PROSECUTION HIGHWAY PILOT PROGRAMME
BETWEEN
THE EUROPEAN PATENT OFFICE AND THE EURASIAN PATENT OFFICE

The European Patent Office ("EPO") and the Eurasian Patent Office ("EAPO"), hereinafter referred to as "the Offices";

Recognizing the importance of patent protection in promoting a strong national and global economy, encouraging economic investment, and fostering technological innovation;

Seeking a global solution to the increasing necessity of coping with the ever-growing number of internationally filed patent applications, which have arisen from a growing need for patent protection in the context of globalization of the world economy;

Striving to ensure the benefits of high-quality, expeditious, and inexpensive examination for applicants and the benefits of avoiding duplicative work and reducing the examination workload for offices; and

Aiming at promoting inter-Office cooperation and enhancing leadership in cooperative worldwide efforts in the patent field;

The Offices:

Have reached the following understanding:

1. The Offices mutually consent to implement a comprehensive Patent Prosecution Highway (PPH) pilot programme. The programme will cover both PCT and Paris Route applications and its implementation will be based on the principles set out in the Annex and each Office's respective guidelines.

2. The Offices mutually consent that the pilot programme will commence in the second half of 2017. The exact launch date will be determined at working level between the two Offices. The programme will commence for an initial period of three (3) years and may be extended, amended or terminated early by mutual consent, for example if the volume of participation exceeds a manageable level. The Offices will evaluate the results of the PPH Pilot program to determine whether and how the PPH should be fully implemented after the trial period.
3. In particular the Offices accept that where the Office of Earlier Examination (OEE) has assessed the patentability of a patent application, the Office of Later Examination (OLE) ensures that the applicant enjoys the benefit of an accelerated examination for the corresponding application, provided the conditions for participation in the pilot programme as outlined in the Annex and stated in each Office's respective guidelines are met.

4. The Offices intend to prepare, exchange for mutual review and publish guidelines setting out the conditions, procedures and requirements referred to in paragraph 3 before the PPH Pilot programme starts.

5. The Offices intend to periodically evaluate and exchange information on the status of the pilot programme and may consider modifying the programme on the basis of the evaluation results. If the conditions, procedures or requirements are modified, the guidelines will be modified accordingly and the modifications will be published on each Office's website.

6. The Offices intend to hold consultations, at any time, in order to address any aspect regarding the implementation of the pilot programme or the interpretation of this Memorandum of Understanding ("MoU").

7. This MoU may be amended at any time with the mutual written consent of the Offices.

8. This MoU does not and is not intended to create any legally binding rights or obligations under international law. The pilot programme outlined in this MoU will be carried out within the framework of the respective laws and regulations of both Offices and subject to the availability of funds and personnel of the Offices.
Signed in Munich, on 27 April of 2017, in two copies, in Russian and English, both texts being equally authentic. In case of any divergence of interpretation between the English and Russian version of this MoU, the English text shall prevail.

ON BEHALF OF THE EUROPEAN PATENT OFFICE

[Signature]

Benoît Battistelli
President

ON BEHALF OF THE EURASIAN PATENT OFFICE

[Signature]

Saule Tlevlessova
President
Patent Prosecution Highway pilot programme between the EPO and EAPO based on PCT and national work products

The Patent Prosecution Highway (PPH) leverages fast-track patent examination procedures already available at the offices to allow applicants to obtain corresponding patents faster and more efficiently. It also permits each office to exploit the search and examination work previously done by the other office. This PPH pilot programme reproduces the participation conditions and requirements currently applicable to PPH programmes operational worldwide and also reflects the so-called PPH Global Principles.

A. Requirements for requesting participation in the PPH pilot programme

In order to be eligible to participate in the PPH pilot programme at the XXXX, the following requirements must be met:

(1) The XX application for which participation in the PPH pilot programme is requested and the corresponding national application filed with the other Office or a corresponding PCT international application for which one of the Offices has been ISA and/or IPEA must have the same earliest date whether this be the priority or filing data.

(2) The corresponding application(s) has/have at least one claim indicated by the OEE in its capacity as a rational or regional Office, ISA and/or IPEA, to be patentable/allowable. The claim(s) determined as novel, inventive and industrially applicable by the ISA and/or IPEA has/have the meaning of patentable/allowable for the purposes of this document.

(3) All claims in the application for which a request for participation in the PPH pilot programme is made must sufficiently correspond to the patentable/allowable claims in the corresponding application(s). Claims are considered to sufficiently correspond where, accounting for differences due to claim format requirements, the claims are of the same or a similar scope or the claims in the application for which PPH is requested are narrower in scope than the claims in the corresponding application(s). In this regard, a claim that is narrower in scope occurs when an OEE claim is amended to be further limited by an additional feature that is supported in the specification (description and/or claims). Additionally, a claim in the OLE application which introduces a new/different category of claims than those indicated to be patentable/allowable by the OEE is not considered to sufficiently correspond, unless national/regional laws permit such claim types. For example, where the OLE claims only contain claims to a process of manufacturing a product, then the claims in the OLE application are not considered to sufficiently correspond if the OLE claims introduce product claims that are dependent on the corresponding process claims.

(4) Substantive examination of the OLE application for which participation in the PPH pilot programme is requested has not begun.

B. Documents required for participation in the PPH pilot programme

For participation in the PPH pilot programme at the XXXX the applicant has to:

(1) file a request for participation in the PPH pilot programme. A request form (______) is available via the XXXX website at ____.
(2) file a claims correspondence table

or

where applicable, a declaration of claims correspondence;

(3) submit a copy of

either all the office actions or, where applicable, the latest office action for the OEE corresponding application(s) containing the patentable/allowable claims that are the basis for the PPH request and a translation thereof in one of the acceptable languages at the XXXX,

or

the latest work product in the international phase of a PCT application, the WO-ISA or, where a demand under PCT Chapter II has been filed, the WO-IEPA or the IPER, and a translation thereof in one of the acceptable languages at the XXXX.

(4) submit a copy of the patentable/allowable claim(s) from the OEE application(s) and a translation thereof in one of the acceptable languages of the XXXX.

(5) submit copies of all the documents cited in the office action(s) or the PCT work product identified in point (3) above. If the cited document is a patent document, the applicant is not required to submit it, unless the XXXX has difficulty in obtaining it, in which case the applicant may be asked to submit it.

Where the request for participation in the PPH pilot programme is granted, the XX application will be processed in an accelerated manner. In those instances where the request for participation in the PPH pilot programme does not meet all the requirements set forth above, the applicant will be notified and the defects in the request will be identified. The applicant will be given at least one opportunity to correct deficiencies identified in the request. If the request is not corrected, the application will be taken out of the PPH programme and the applicant will be notified.

If any of the documents identified in points (3) and (4) above

(a) have already been filed in the XX application prior to the request for participation in the PPH pilot programme, it will not be necessary for the applicant to resubmit these documents with the PPH request. The applicant may simply refer to these documents and indicate in the request for participation in the PPH pilot programme when these documents were previously filed in the XX application.

(b) are available via DAS (Dossier Access System) or Patentscope, the applicant does not need to submit a copy thereof, but has to provide a list of the documents to be retrieved. Machine translations will be admissible for the documents identified in points (3) and (4). The XXXX can request applicants to submit an accurate translation, if the machine translation is insufficient. If the OEE application(s) is (are) unpublished, the applicant must submit the documents identified in points (3) and (4) above upon filing the PPH request.