

End of PDX Agreements – Certified copies of US, KR, and CN Priority Patent Applications are no longer Automatically added to the corresponding European Patent Application File

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The Priority Document Exchange (PDX) Agreements between the EPO and the United States Patent and Trademark Office (USPTO), the Korean Intellectual Property Office (KIPO) and the China National Intellectual Property Administration (CNIPA) have reached an end.

This means that for

- a) any European Patent Application filed on or after 1st of January 2022,
- b) any Euro-PCT applications entering the European phase on or after 1st of January 2022,

and claiming priority from a US, Korean or Chinese patent or utility model application, **the EPO does not longer include the corresponding US, Korean or Chinese priority document in the file automatically.**

This **applies also to:**

- c) European patent applications or Euro-PCT applications filed earlier than 1st January 2022,
- d) Euro-PCT applications having entered the European phase earlier than 1st January 2022,

and claiming priority from a US, Korean or Chinese patent or utility model application **for which the required priority document is not included in the file by 30th June 2023.**

Nonetheless, the termination of the PDX Agreements **will not affect the exchange of priority documents via DAS**, which will remain available for all applications claiming priority from a previous application of a state participating in DAS, which includes US, Korean and Chinese applications.

In conclusions, from now on Applicants may:

- i. request the office of first filing (i.e., USPTO, KIPO or CNIPA) to make a certified copy of a previously filed patent application available via the DAS system and then request the EPO to retrieve the copy of the priority application via the DAS system by indicating the corresponding DAS access code, or
- ii. obtain a certified copy of the priority patent application from the office of first filing and provide such document to the EPO within the within sixteen months of the claimed priority date, pursuant to Rule 53 EPC.

sources:

- GL (2022) A-III, 6.7: https://www.epo.org/law-practice/legal-texts/html/guidelines/e/a_iii_6_7.htm,
- OJ 2021 EPO, A84: <https://www.epo.org/law-practice/legal-texts/official-journal/2021/11/a84.html>