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Thanks, Malcolm. I'm just going to talk very briefly about the advantages and problems associated with the PCT from an Australian user's perspective, or I should say an Australian patent attorney's perspective. And I guess we've heard a lot about the advantages of the PCT. I won't go through all these advantages that I've listed up there, because I guess we all know about them from the applicant's point of view. There is one I want to talk about, and that is the flexibility within the international preliminary examination procedure. With the system that we currently have, there's great flexibility for the applicant here. First of all, the applicant can choose whether or not they want the application examined. And should they proceed with examination, then there's great flexibility about how they can deal with the examining authority. The reason I want to mention that advantage is that it might be an advantage that disappears fairly shortly. There might be reasons why an applicant might want the case to be examined. I'm sure everyone could think of some reasons; for example, the search report might make it clear that the person who did the search didn't really appreciate what the invention was about and that there may be no point going ahead with an examination. There might be other reasons.

But, at the moment anyway, I believe an important advantage is an applicant can enter into a dialogue with the examiner during this examination

procedure. And, from an Australian user's point of view, the Australian Patent Office, the examiners there are very cooperative. You can always ring them up on the telephone. They're quite willing to look at or to issue, you know, second written opinions, third written opinions, if necessary, to give the applicant every chance to get to a clear report. And, this is very important for lots of applicants in Australia; for example, the small start-up companies, the small biotechs, independent inventors that need a positive examination report to get investment. They can't afford to fund their patent applications themselves, and what they need is a clear report at that stage. And by entering into a dialogue with the examiner, they can explain to the examiner, you know, the nature of the invention. They can explain the distinctions over the prior art. They can also listen to the examiner and try and determine where the examiner's really coming from. All of this can be sorted out, so that the end result, the international preliminary examination report, represents something fairly useful. This is to be contrasted with an examination report that's issued without any dialogue. I guess, you know, national examination is generally a process where there is that dialogue between an applicant and examiner, and so it should be in the international examination.

I won't talk about any of the other advantages there, but I'll move on to problems. And, once again, our problems from an Australian perspective, we don't really have any translation problems in Australia. I guess the only translation problem I can think of is the fact that a non-English language PCT

application file designating Australia has a prior art effect, a whole of contents prior art effect, whether or not national phase is entered. So this is a problem in Australia, because there'll be no translation lodged obviously with the Australian Patent Office and, yet, it's relevant whole of contents, novelty, prior art.

I see the lack of a top-up search as being a problem with the PCT because, clearly, the international search report is issued at a time when all relevant prior art isn't published. If there's no top-up searching done during the PCT procedure, then it's got to be done by the national offices. And, you know, some national offices, including the Australian Patent Office, don't routinely do top-up searching. And, I'm aware of a couple of instances, in Australia anyway, where they've granted patents to, you know, two or three different applicants for the same invention just because the applications were filed around the same time. Unfortunately, my client was not the earliest, so I couldn't bring these to the attention of the patent office.

Now, another disadvantage or another problem is that you can only get one search. It would be useful, I think, for applicants in Australia anyway, to be able to get at least a European search or a U.S. search done at an early stage. For Australian applicants, the U.S. market and European markets are most important. They want to make sure they're going to get a patent in those countries, and they would feel a lot more comfortable if they had a search from the U.S. office or the

European office or even the Japanese office before they entered national phase in those countries. At the moment, there's no opportunity for these additional searches.

Now, the last four items there that I've got on this slide relate to problems that I think will be introduced on the first of January 2004 with the new, enhanced search and examination system. It looks like there will be no opportunity to formally contest a patentability opinion that is issued by the international search authority. It seems like the applicant will be able to lodge comments or something that will be published with the patentability opinion, but there's no procedure for formally contesting an adverse finding here. So the only way to really contest an adverse finding at that stage is to file a demand. But, if you file a demand, it looks like there's no guarantee that you're going to be able to enter any sort of dialogue with the examiner. It seems within the rules for an examiner to just issue a report without actually giving the applicant an opportunity to make further submissions or amendments. So, I guess the problem I see there is that there will be a lack of incentive to file the demand and to go through that sort of further examination, further dialogue. And, so, either there will be fewer international preliminary examination reports for use by other national offices, or the ones that will be issued without a dialogue will be of limited value. So, that's just a concern. I guess it remains to be seen how it will work in practice. So, I guess, if there's less

work done at the international level, at the international stage, then there'll be more work to be done down the track by the national offices.

Another problem I see is a lack of quality control over search and examination. For the small companies in Australia, it's absolutely critical that they get a good search and examination. If they get an adverse finding on examination, it could mean they don't get any investment. Or, if they get a positive finding but turns out there's a whole lot of prior art out there that wasn't found, then it could mean that although they got the investment, they don't have any patents down the track. So, it's very, very important, I believe, that that search and examination be done to a very high level.

Now, I've just mentioned there the lack of a central database at the national phase entry, because I see this as being not so much a problem for applicants, but a problem for third parties. As Thierry mentioned before, I mean, there is that period of uncertainty. Third parties don't know what an applicant's going to do. With the introduction of the late national phase entry, there's going to be that extra period now that third parties are going to have to worry about. And, also, I guess with automatic designation of all countries, then I think we need something for third parties, perhaps some sort of central database where someone can check whether or not an application is into national phase.

Now, the final problem I mention there is that the PCT only provides for the filing of a single specification. Sometimes, it would be advantageous to present, you know, a number of specifications, perhaps one for the U.S., one for Australia, one for Europe, all different requirements. For example, in the U.S., you might want to submit a specification starting with the narrow claim that you might want to broaden out during examination, whereas in Europe, you might want to start with a broad claim and sort of narrow in. There isn't that flexibility to have different, completely separate distinct claim sets or different specifications, and I see that as being a problem at the moment.

Just a comment there. You know, I think any sort of future PCT reform should make sure that they really balance in the interests of the applicants with third parties. That's critical that any reform measures strike the right balance there. And also, it's very important that if there are changes to help international processing, that those changes don't disadvantage the national offices and increase the workload and reduce efficiencies at the national patent offices. Thanks very much. (Applause)