

Patent Cooperation Treaty (PCT)

Working Group

Seventh Session
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GENERAL POWER OF ATTORNEY

Document prepared by the International Bureau

SUMMARY

1. It is proposed to amend Rule 90.5(d) to require an agent who has been appointed by means of a general power of attorney and who submits a notice of withdrawal pursuant to Rule 90*bis* to the International Bureau to also submit a copy of the general power of attorney to the International Bureau.
2. Furthermore, it is proposed to delete the reference to the “International Searching Authority” in Rule 90.5(d), since that Authority does not receive any notices of withdrawal under Rule 90*bis*.

BACKGROUND

3. Under present Rule 90*bis*, agents who have been appointed by means of a general power of attorney may submit notices of withdrawal (of the international application, designations, priority claims, the request for supplementary search, the demand and elections) (also) to the International Bureau. Before the introduction (through the addition of Rule 90.5(c), see PCT/A/32/8, Annex III) of the possibility for Offices and Authorities to waive the requirement to receive a copy of a general power of attorney, the International Bureau always received a copy of a general power of attorney from the Office or Authority to which such copy of a general power of attorney had been submitted; thus, the International Bureau always had such a copy on file whenever a notice of withdrawal was submitted to it. However, through the introduction of the possibility to waive that requirement, applicants changed their practice in this regard and now often no longer submit a copy of a general power of attorney to Offices and Authorities.

4. This means in practice that, at present, where the International Bureau receives a notice of withdrawal from the agent who was appointed by means of a general power of attorney, it neither has a copy of the general power of attorney on file, nor can the International Bureau accept a copy of it, as Rule 90.5(d) does not envisage the International Bureau to be a recipient of such a copy submitted by the applicant. In such a case, the International Bureau is required to invite the agent to submit a separate power of attorney to it.

5. In addition, present Rule 90.5(d) states that, if an agent submits a notice of withdrawal to the International Searching Authority, a copy of the general power of attorney should also be submitted to that Authority. However, under Rule 90*bis*, International Searching Authorities are not competent to receive any notices of withdrawals.

PROPOSAL

6. It is thus proposed to amend Rule 90.5(d) so that an agent who has been appointed by a general power of attorney and who submits a notice of withdrawal to the International Bureau would be required to submit a copy of the general power of attorney to the International Bureau together with the notice of withdrawal. This would enable the International Bureau, in cases where it receives a notice of withdrawal together with a copy of the general power of attorney, to process the notice of withdrawal without requiring the agent to submit a separate power of attorney.

7. In addition, it is proposed to amend Rule 90.5(d) so as to delete the reference to the International Searching Authority, since that Authority does not receive notices of withdrawals under Rule 90*bis*.

8. *The Working Group is invited to consider the proposal set out in the Annex to this document.*

[Annex follows]

PROPOSED AMENDMENTS TO THE PCT REGULATIONS¹

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¹ Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned.

Rule 90

Agents and Common Representatives

90.1 to 90.4 [No change]

90.5 General Power of Attorney

(a) [No change] Appointment of an agent in relation to a particular international application may be effected by referring in the request, the demand or a separate notice to an existing separate power of attorney appointing that agent to represent the applicant in relation to any international application which may be filed by that applicant (i.e., a "general power of attorney"), provided that:

(i) the general power of attorney has been deposited in accordance with paragraph (b), and

(ii) a copy of it is attached to the request, the demand or the separate notice, as the case may be; that copy need not be signed.

(b) [No change] The general power of attorney shall be deposited with the receiving Office, provided that, where it appoints an agent under Rule 90.1(b), (b-bis), (c) or (d)(ii), it shall be deposited with the International Searching Authority, the Authority specified for supplementary search or the International Preliminary Examining Authority, as the case may be.

(c) [No change] Any receiving Office, any International Searching Authority, any Authority competent to carry out supplementary searches and any International Preliminary Examining Authority may waive the requirement under paragraph (a)(ii) that a copy of the general power of attorney is attached to the request, the demand or the separate notice, as the case may be.

(d) Notwithstanding paragraph (c), where the agent submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4 to the receiving Office, ~~the International Searching Authority,~~ the Authority specified for supplementary search, ~~or~~ the International Preliminary Examining Authority or the International Bureau, as the case may be, a copy of the general power of attorney shall be submitted to that Office, ~~or~~ Authority or Bureau.

90.6 [No change]

[End of Annex and of document]