

## **Patent Cooperation Treaty (PCT)**

### **Working Group**

**Seventh Session**  
**Geneva, June 10 to 13, 2014**

**PROPOSAL TO REQUIRE RECEIVING OFFICES TO FORWARD TO THE  
INTERNATIONAL BUREAU COPIES OF DECLARATIONS OR OTHER EVIDENCE  
RECEIVED IN THE CONTEXT OF A REQUEST FOR RESTORATION OF THE  
PRIORITY RIGHT**

*Document prepared by the International Bureau*

#### **SUMMARY**

1. It is proposed to amend the PCT Regulations (Rules 26*bis*.3 and 48.2(b)(viii)) so as to require any receiving Office which receives a request for restoration of the right of priority under Rule 26*bis*.3 to furnish to the International Bureau a copy of any declaration or other evidence submitted to the receiving Office by the applicant so that the International Bureau can include these documents in its file and eventually forward them to all designated Offices.

#### **BACKGROUND**

2. Rule 26*bis*.3 allows applicants to request the restoration of the right of priority if they failed to file the PCT application within the 12 month priority period. Such a request is to be submitted to the receiving Office. The applicant is to state the reasons for the failure to timely file the PCT application, and may attach a declaration or other evidence (Rule 26*bis*.3(b)). In support of such request, the receiving Office can also require that a declaration or other evidence be subsequently submitted in support of the statement of reasons (Rule 26*bis*.3(f)).

3. At present, Rule 26*bis*.3 does not require receiving Offices to forward such declarations or other evidence to the International Bureau. According to Rule 26*bis*.3(h), receiving Offices only have to notify the International Bureau of the receipt of such a request and of their decision and the criterion applied. Thus, unless the applicant himself submits a copy of such declaration or evidence to the International Bureau, at present, the International Bureau is not able to include such copies in its files (Rule 26*bis*.3(f)) and to later make them available to designated Offices so that they are able to carry out the limited review referred to in Rule 49*ter*.1(d) of the decision by the receiving Office on the restoration of the right of priority.

## PROPOSAL

4. It is thus proposed to amend Rule 26*bis*.3(f) so as to require receiving Offices to forward copies of such declarations and other evidence to the International Bureau. It is noted that, already today, applicants often submit the restoration request, the statement of reasons and any declaration or other evidence in a single document, and many (but not all) receiving Offices submit the entire file, including the statement of reasons, as well as any declarations and other evidence received by the applicant, to the International Bureau, as is encouraged by the Receiving Office Guidelines (paragraphs 166C and 166O).

5. The International Bureau would include these documents in its file and make them available to designated Offices, so that they are able to carry out the limited review referred to in Rule 49*ter*.1(d).

6. It is further proposed to delete Rule 48.2(b)(viii). Since, under Rule 26*bis*.3(f) as proposed to be amended, the International Bureau would receive copies of any declaration or other evidence from the receiving Offices directly on a regular basis, there no longer appears to be the need to indicate, on the front page of the published international application, that the applicant has (exceptionally) furnished copies of these documents to the International Bureau.

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

[Annex follows]

## PROPOSED AMENDMENTS TO THE PCT REGULATIONS<sup>1</sup>

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

**Rule 26bis**

**Correction or Addition of Priority Right**

*26bis.1 to 26bis.2 [No change]*

*26bis.3 Restoration of Right of Priority by Receiving Office*

(a) to (e) [No change]

(f) The receiving Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph (b)(iii) be filed with it within a time limit which shall be reasonable under the circumstances. The receiving Office shall ~~applicant may~~ furnish to the International Bureau a copy of any such declaration or other evidence filed with the receiving Office, in which case the International Bureau shall include such copy in its files.

(g) and (h) [No change]

## Rule 48

### International Publication

48.1 [No change]

48.2 Contents

(a) [No change]

(b) Subject to paragraph (c), the front page shall include:

(i) to (vi) [No change]

(vii) where applicable, an indication that the published international application contains information concerning a request under Rule 26*bis*.3 for restoration of the right of priority and the decision of the receiving Office upon such request<sup>1</sup>.

~~(viii) [Deleted] where applicable, an indication that the applicant has, under Rule 26*bis*.3(f), furnished copies of any declaration or other evidence to the International Bureau.~~

(c) to (k) [No change]

48.3 to 48.6 [No change]

[End of Annex and of document]