

**Administrative Instructions Under the
Patent Cooperation Treaty (PCT)
Standard for the Electronic Filing and Processing of International Applications**

**Instructions administratives du
Traité de coopération en matière de brevets (PCT)
Norme concernant le dépôt et le traitement électroniques**

PROPOSAL FOR CHANGE FILE/
DOSSIER RELATIF A LA PROPOSITION DE MODIFICATION

SUBJECT: Changes to Annex F, Appendix I, section 3.6 (modifications of the DTDs for the request and application-body)		PROPOSED BY: IB	
SUJET : Modifications de la section 3.6 de l'appendice I de l'annexe F (modification des DTD de la requête et du corps de la demande)		PROPOSÉES PAR : IB	
HANDLING: Expedited cycle		PROPOSED DATE OF ENTRY INTO FORCE: 01.07.2017	
TRAITEMENT : Cycle accéléré		DATE PROPOSÉE D'ENTRÉE EN VIGUEUR :	
Annex/ Annexe	Content/Contenu	Origin/ Origine	Date
1	Modifications of the DTDs for the request and application-body to add an indicator of color drawings in the application Modification des DTD de la requête et du corps de la demande en vue d'ajouter un indicateur de dessins en couleur dans la demande	IB	13.3.2017
2	Comments	DE	11.4.2017
3	Comments	CH	19.4.2017
4	Comments	CN	24.4.2017
5	Comments	CL	24.4.2017
6	Comments	SK	25.4.2017

7	Comments	CR	25.4.2017
8	Comments	AU	27.4.2017
9	Comments	CO	3.5.2017
10	Comments	EP	12.5.2017
11	Comments	JP	24.5.2017
12	Comments	IB	30.5.2017

Next action:	Entry into force	By:	1.7.2017
Prochaine action :	Entrée en vigueur	Pour le :	

[Annex I follows/
L'annexe I suit]

Item 1	
Location:	Annex F, Appendix I, section 3.6, request DTD
Change:	<p>FROM:</p> <pre><!ELEMENT request ((file-reference-id? , request-petition , invention-title? , parties , designation-of-states? , priority-claims? , search-authority? , declarations? , check- list? , figure-to-publish? , language-of-filing? , signatories? , store-in-digital-library? , dtext* , office- specific-data*) doc-page+)></pre> <pre><!ATTLIST request lang CDATA #REQUIRED dtd-version CDATA #IMPLIED file CDATA #IMPLIED produced-by (applicant RO ISA IPEA IB DO EO national-office regional-office) #REQUIRED date-produced CDATA #IMPLIED ro CDATA #REQUIRED status CDATA #IMPLIED ></pre> <p>TO:</p> <pre><!ELEMENT request ((file-reference-id? , request-petition , invention-title? , parties , designation-of-states? , priority-claims? , search-authority? , declarations? , check- list? , figure-to-publish? , figures-in-color?, language-of- filing? , signatories? , store-in-digital-library? , dtext* , office-specific-data*) doc-page+)></pre> <pre><!ATTLIST request lang CDATA #REQUIRED dtd-version CDATA #IMPLIED file CDATA #IMPLIED produced-by (applicant RO ISA IPEA IB DO EO national-office regional-office) #REQUIRED date-produced CDATA #IMPLIED ro CDATA #REQUIRED status CDATA #IMPLIED ></pre> <p><!-- Indicator used to flag the fact that the drawings of the application have been furnished as color images The indicators presence implies the drawings are in color</p>

	<p>format and its absence implies that they are black and white.</p> <p>--></p> <p><!ELEMENT figures-in-color EMPTY></p>
Reason:	<p>This additional element is to enable the implementation of the interim solution for the support of color drawings for international applications. See PCT Working Group document, PCT/WG/9/19 (http://www.wipo.int/edocs/mdocs/pct/en/pct_wg_9/pct_wg_9_19.pdf), paragraphs 11 to 15.</p> <p>The new optional element, when present, gives an indication that the original document contains color figures. This indication is to be made at the time of filing in PCT electronic filing clients.</p> <p>This indication will be furnished in the PCT publication to make recipients of that application aware that there may be a need to retrieve the original color drawings for this application from the unconverted filing package available on the Patentscope website. It will be furnished by a publication-texts indicator on the front page of the PCT publication.</p> <p>The figure element in application body has also been updated in item 2 of this PFC to make it equivalent to doc-page, and would potentially allow for an extension to supporting color doc-page images in the drawings section of the application body. It should be noted that at the time of filing the figure element of application body may not be editable.</p> <p>This proposal is backwardly compatible.</p>

Item 2	
Location:	Annex F, Appendix I, section 3.6, application-body DTD
Change:	<p>FROM:</p> <pre><!ATTLIST figure id ID #IMPLIED num CDATA #REQUIRED figure-labels CDATA #IMPLIED ></pre> <p>TO:</p> <pre><!ATTLIST figure id ID #IMPLIED num CDATA #REQUIRED figure-labels CDATA #IMPLIED color (color bw) #IMPLIED></pre>
Reason:	<p>The figure element in application body has also been updated in item 2 of this PFC to make it equivalent to doc-page, and would potentially allow for an extension to supporting color doc-page images in the drawings section of the application body.</p> <p>This element cannot be assumed to be editable at the time of filing.</p> <p>This proposal is backwardly compatible.</p>

[Annex II follows /
L'annexe II suit]

Comments by the German Patent and Trade Mark Office

Comments made with respect to PCT/EF/PFC 17/001 only.

[Annex III follows /
L'annexe III suit]

Comments from the Swiss Federal Institute of Intellectual Property

L'Institut Fédéral de la Propriété Intellectuelle a consenti à cette façon de procéder concernant la circulaire C.PCT 1505.

The Swiss Federal Institute of Intellectual Property has consented to proceed with circular C.PCT 1505.

[Annex IV follows /
L'annexe IV suit]

Comments from the State Intellectual Property Office of the P.R.C (SIPO)

1. Only considering the system, even if our CEPCT system is not updated and continues to use the old form, it can still exchange documents with the International Bureau in a normal way; however, if the use of the new form is required, we need to update the CEPCT system accordingly.

2. If the International Bureau updates SAFE to a new version and the applicant submits an application using the new version of SAFE, the CEPCT system of the SIPO must be modified, otherwise it will not be able to process the application submitted through the new version of SAFE. Unfortunately this modification would involve many procedures and modules, and would take some time.

[Annex V follows /
L'annexe V suit]

Comments from the National Institute of Industrial Property of Chile

Please find below the comments of INAPI to Circular C. PCT 1505 dated 03/22/2017 on a series of proposals for changes to the standard for the electronic filing and processing of (Annex F of the Administrative Instructions of the PCT) concerning the PCT request form (PCT / RO / 101), the declarations, the search report and the written opinion.

In this regard, having reviewed all proposals made by the International Bureau, and taking into consideration that INAPI uses the ePCT system for the electronic filing of PCT international applications, we have no comments on them and we agree on their content.

[Annex VI follows /
L'annexe VI suit]

Comments from the Industrial Property Office of the Slovak Republic

The Industrial Property Office of the Slovak Republic (hereafter "the IPO SR") in its capacity as a receiving Office, International Search Authority, International Examining Preliminary Authority and designated or elected Office under the Patent Cooperation Treaty would like to inform you, that the proposals prepared by International Bureau were discussed with internal IT experts and the IPO SR has no comments on changes concerning the Standard for the Filing and Processing in Electronic Form of International Applications, declarations, search report and written opinion mentioned in the Circular C.PCT 1505.

We would like to thank the International Bureau for the prepared documents.

[Annex VII follows /
L'annexe VII suit]

Comments by the Register of Industrial Property of Costa Rica

For the moment, Costa Rica does not allow electronic filing of international applications.

However, by communication dated February 10, 2017, we reiterated to WIPO our interest in obtaining access to the e-PCT system for the reception, sending and consultation of international applications, which is in the process of authorization.

In accordance with the above, we currently have no comments or queries regarding the requirements of Circular C. PCT 1505 of March 22, 2017.

[Annex VIII follows /
L'annexe VIII suit]

Comments by IP Australia

PCT/EF/PFC 17/003:

The XML comment "Indicator used to flag the fact that the drawings of the application have been furnished as color images

The indicators presence implies the drawings are in color format and absence implies that they are black and white" has some spelling mistakes. It would be better to change to "Indicator used to flag the fact that the drawings of the application have been furnished as color images; The indicator's presence implies that the drawings are in color format and its absence implies that they are black and white."

[Annex IX follows /
L'annexe IX suit]

Comments from the Superintendencia de Industria y Comercio
Ministerio de Industria, Comercio y Turismo of Colombia

The SIC agrees to modify the form in the field of the request and the body of the request to add an item in which it can be indicated that the drawings of the request come in color

[Annex X follows /
L'annexe X suit]

Comments from European Patent Office

In reply to Circular C. PCT 1505, and particular in view of the PFC-17-003, for the EPO it is not totally clear what would be the exact workflow of a color filing at the RO/EP in terms of publication.

Further, the EPO suggest not encouraging a systematic use of color in filings but clearly indicating that those filings shall be made in color where necessary for a better understanding of the application.

At present the EPO could receive electronic filings including color but not process the color. However, it is a future goal to be able also to process color.

[Annex XI follows /
L'annexe XI suit]

Comments from the Japan Patent Office

1. As to the changes to the Annex F, we do not have any comments on any of the suggested modifications. However, as our internal IT system needs some adjustments, please note that the complete implementation by our Office of the modified DTDs is expected to be within 2019, at the earliest.

2. We do have some comments on the color drawings.

3. In the 9th session of PCT Working Group, it was agreed that the International Bureau should issue one or more PCT Circulars to collect comments from Member states on some issues with respect to color drawings. Assuming the present Circular 1505 is meant to be one of such Circulars, we consider that “the technical, legal and administrative issues involved in beginning the interim solution” should be addressed before the interim solution starts (see PCT/WG/9/27, Chair’s Summary, above all paragraphs 104 and 109 (a)).

4. We believe that such “legal and administrative issues” includes, inter alia, the following:

(1) We understand that, even at present, international applications containing color drawings can be filed in practice. However, this may not be in compliance with the Rule 11.13(a). We would like to know if the IB intends to propose modification to this rule in the future.

(2) It is not clear either (i) the color drawings as filed or (ii) the black and white ones deriving therefrom should be treated as the original document in the subsequent procedure after the national entry to an office which only accepts drawings in black and white. Thus it is not clear which drawings (color or black and white drawings) are used to judge if new matters are added or not.

(3) In cases where the national entry of an international application which originally contains color drawings occurs before the international publication, the color drawings may not be available for the examiner of that Office by the time of search and examination.

(4) The interim solution allows that national Offices, under its relevant laws and regulations, to restrict the drawings only to black-and-white, while being liberal for applicants to submit both color and black-and-white drawings. Such a national requirement may not be in line with the Article 27(1) of the Treaty, which states that “no national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.”

5. Our Office would also like to inform that the color drawings are not acceptable for either domestic or PCT international filings in Japan. In order for our Office to accept color drawings under the PCT system, we will need to revise our domestic regulations, as well as our internal IT systems. Therefore, as stated in the previous sessions of the Working Group, it might take time for the JPO to start receiving international applications including color drawings.

[Annex XII follows /
L’annexe XII suit]

Comments from The International Bureau

The International Bureau would like to express its thanks to the Offices that have reviewed the proposal and provided comments.

In respect of the comments received the international Bureau advises that it has taken into consideration the points raised by the EPO and IP Australia; in respect of the typographical errors in the DTD comments, the International Bureau has implemented the suggested text, and in respect of the concerns raised by the EPO, the international Bureau takes note of the concerns. The International Bureau holds the opinion that these concerns, related to the current ability to process color drawings do not affect the details and the future implementation of the proposal.

Considering the comments received from PCT member states and with no controversial comments outstanding the International Bureau will adopt the proposal for entry into force on July 1, 2017.

[End of Annex XII and of document/
Fin de l'annexe XII et du document]