The Patent Cooperation Treaty (PCT) and its Advantages
Outline

1) What is the PCT?
2) Why use the PCT? What are its advantages?
3) Recent PCT Developments
1) What is the PCT?
What is the PCT?

- A mainly procedural international treaty facilitating certain steps in the process of obtaining patents internationally.

- More specifically, the PCT establishes a procedure for the **filing** and **processing** of a single application for a patent which has legal effect in the countries which are Treaty members.

- Simplifies the procedure for obtaining patent protection in many countries, making it more efficient and economical for:
  1. users of the patent system (applicants and inventors);
  2. patent Offices.
What is the PCT?

- The decision on granting patents is made exclusively by national or regional Offices in the national phase.


- As of 1 March 2007, the PCT has 137 Contracting States.
What is the PCT?

Costa Rica
Côte d’Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Democratic People’s Republic of Korea
Denmark
Dominica
Dominican Republic (28 May 07)
Ecuador
Egypt
El Salvador
Equatorial Guinea
Estonia
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana
Greece
Grenada
Guatemala
Guinea

Honduras
Hungary
India
Indonesia
Ireland
Israel
Italy
Japan
Kazakhstan
Kenya
Kyrgyzstan
Lao People’s Dem Rep.
Latvia
Lesotho
Liberia
Libyan Arab Jamahiriya
Liechtenstein
Lithuania
Luxembourg
Madagascar
Malawi
Malaysia
Mali
Malta
Mauritania
Mexico
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Namibia
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Papua New Guinea
Philippines

Poland
Portugal
Republic of Korea
Republic of Moldova
Romania
Russian Federation
Saint Lucia
Saint Vincent and the Grenadines
San Marino
Senegal
Seychelles
Sierra Leone
Singapore
Slovakia
Slovenia
South Africa
Spain
Sri Lanka
Sudan
Swaziland

Albania
Algeria
Antigua and Barbuda
Armenia
Australia
Austria
Azerbaijan
Bahrain
Barbados
Belarus
Belgium
Belize
Benin
Bosnia and Herzegovina
Botswana
Brazil
Bulgaria
Burkina Faso
Cameroon
Canada
Central African Republic
Chad
China
Colombia
Comoros
Congo

St. Kitts and Nevis
Sweden
Switzerland
Syrian Arab Republic
Tajikistan
The former Yugoslav Republic of Macedonia
Togo
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Arab Emirates
United Kingdom
United Republic of Tanzania
United States of America
Uzbekistan
Viet Nam
Yugoslavia
Zambia
Zimbabwe

= PCT
What is the PCT?

Growth in PCT member States over last 10 years

1996
Turkey
Israel
Cuba
Saint Lucia
Bosnia and Herzegovina

1997
Yugoslavia
Ghana
Zimbabwe
Sierra Leone
Indonesia
Gambia
Guinea-Bissau

1998
Cyprus
Croatia
Grenada
India

1999
United Arab Emirates
South Africa
Costa Rica
Dominica
United Republic of Tanzania
Morocco

2000
Algeria
Antigua and Barbuda
Mozambique
Belize

2001
Colombia
Ecuador
Equatorial Guinea
Philippines
Oman
Zambia
Tunisia

2002
Saint Vincent and the Grenadines
Syrian Arab Republic
Egypt
Botswana

2003
Papua New Guinea
San Marino
Libya

2004
Comoros
Nigeria
Arab Jamahiriya
St. Kitts and Nevis

2005
Honduras
El Salvador
Lao People’s Democratic Republic
Guatemala

2006
Malta
Bahrain
Dominican Republic

2007
World Intellectual Property Organization
What is the PCT?

Growth in PCT Filings

6.4% increase in 2006
145,300 (est.) total filings in 2006
What is the PCT?

International applications received by country of origin in 2006
<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
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<td>17,414</td>
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<td>24,841</td>
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<td>8.3%</td>
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<td>17,414</td>
<td>20,263</td>
<td>24,841</td>
<td>26,906</td>
<td>Germany</td>
<td>14,326</td>
<td>14,662</td>
<td>15,218</td>
<td>16,000</td>
<td>16,929</td>
<td>5.8%</td>
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<td>14,662</td>
<td>15,218</td>
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<td>16,929</td>
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<td>2,520</td>
<td>2,949</td>
<td>3,558</td>
<td>4,688</td>
<td>5,935</td>
<td>26.6%</td>
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<tr>
<td>Republic of Korea</td>
<td>2,520</td>
<td>2,949</td>
<td>3,558</td>
<td>4,688</td>
<td>5,935</td>
<td>France</td>
<td>5,089</td>
<td>5,171</td>
<td>5,185</td>
<td>5,741</td>
<td>5,902</td>
<td>2.8%</td>
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<td>5,089</td>
<td>5,171</td>
<td>5,185</td>
<td>5,741</td>
<td>5,902</td>
<td>United Kingdom</td>
<td>5,376</td>
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<td>5,026</td>
<td>5,085</td>
<td>5,045</td>
<td>-0.8%</td>
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<tr>
<td>United Kingdom</td>
<td>5,376</td>
<td>5,206</td>
<td>5,026</td>
<td>5,085</td>
<td>5,045</td>
<td>Netherlands</td>
<td>3,977</td>
<td>4,479</td>
<td>4,285</td>
<td>4,516</td>
<td>4,393</td>
<td>-2.7%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>3,977</td>
<td>4,479</td>
<td>4,285</td>
<td>4,516</td>
<td>4,393</td>
<td>China</td>
<td>1,018</td>
<td>1,295</td>
<td>1,706</td>
<td>2,493</td>
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<tr>
<td>China</td>
<td>1,018</td>
<td>1,295</td>
<td>1,706</td>
<td>2,493</td>
<td>3,910</td>
<td>Switzerland</td>
<td>2,755</td>
<td>2,861</td>
<td>2,899</td>
<td>3,277</td>
<td>3,403</td>
<td>3.8%</td>
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<tr>
<td>Switzerland</td>
<td>2,755</td>
<td>2,861</td>
<td>2,899</td>
<td>3,277</td>
<td>3,403</td>
<td>Sweden</td>
<td>2,990</td>
<td>2,612</td>
<td>2,850</td>
<td>2,873</td>
<td>3,123</td>
<td>8.7%</td>
</tr>
<tr>
<td>Sweden</td>
<td>2,990</td>
<td>2,612</td>
<td>2,850</td>
<td>2,873</td>
<td>3,123</td>
<td>Italy</td>
<td>1,982</td>
<td>2,163</td>
<td>2,189</td>
<td>2,345</td>
<td>2,723</td>
<td>16.1%</td>
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<tr>
<td>Italy</td>
<td>1,982</td>
<td>2,163</td>
<td>2,189</td>
<td>2,345</td>
<td>2,723</td>
<td>Canada</td>
<td>2,260</td>
<td>2,270</td>
<td>2,105</td>
<td>2,320</td>
<td>2,532</td>
<td>9.1%</td>
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<tr>
<td>Canada</td>
<td>2,260</td>
<td>2,270</td>
<td>2,105</td>
<td>2,320</td>
<td>2,532</td>
<td>Australia</td>
<td>1,759</td>
<td>1,680</td>
<td>1,837</td>
<td>1,998</td>
<td>2,139</td>
<td>7.0%</td>
</tr>
<tr>
<td>Australia</td>
<td>1,759</td>
<td>1,680</td>
<td>1,837</td>
<td>1,998</td>
<td>2,139</td>
<td>Finland</td>
<td>1,762</td>
<td>1,557</td>
<td>1,672</td>
<td>1,890</td>
<td>1,915</td>
<td>1.3%</td>
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<tr>
<td>Finland</td>
<td>1,762</td>
<td>1,557</td>
<td>1,672</td>
<td>1,890</td>
<td>1,915</td>
<td>Israel</td>
<td>1,174</td>
<td>1,130</td>
<td>1,227</td>
<td>1,458</td>
<td>1,725</td>
<td>18.3%</td>
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<tr>
<td>Israel</td>
<td>1,174</td>
<td>1,130</td>
<td>1,227</td>
<td>1,458</td>
<td>1,725</td>
<td>All Others</td>
<td>8,045</td>
<td>8,722</td>
<td>9,254</td>
<td>10,278</td>
<td>9,165</td>
<td>-10.8%</td>
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<tr>
<td>All Others</td>
<td>8,045</td>
<td>8,722</td>
<td>9,254</td>
<td>10,278</td>
<td>9,165</td>
<td>Total</td>
<td>110,392</td>
<td>115,199</td>
<td>122,624</td>
<td>136,500</td>
<td>145,300</td>
<td>6.4%</td>
</tr>
</tbody>
</table>

Source: WIPO Statistics Database

Highest increases from China, Rep. of Korea, Israel & Italy
PCT Income as % of total WIPO Income

- '02-'03: 74%
- '04-'05: 78%
- '06-'07: 75%
- '08-'09 (Est.): 75%
- '10-'11 (Est.): 75%
What is the PCT?

The PCT System
--typical use, in more detail

Typically a national patent application in the home country of the applicant

Enter national phase

File local application

File PCT application

International search report & written opinion

(conditional)

File demand for International preliminary examination

(conditional)

International preliminary report on patentability

Typically a national patent application in the home country of the applicant.
What is the PCT?

The PCT System
--typical use, in more detail

File PCT application

Typically filed in same national patent office— one set of fees, one language, one set of formality requirements— and legal effect in all PCT States
The PCT System
--typical use, in more detail

What is the PCT?
The PCT System
--typical use, in more detail

What is the PCT?

- File local application
- File PCT application
- International search report & written opinion
- (optional) File demand for International preliminary examination
- (optional) International preliminary report on patentability

Disclosing to world content of application in standardized way

0 12 16 18 22 28 30
Enter national phase

(months)
The PCT System
--typical use, in more detail

What is the PCT?
The PCT System
--typical use, in more detail

What is the PCT?
What is the PCT?

The PCT System
--typical use, in more detail

Express intention and take steps to pursue to grant in various states

Enter national phase

0

12

16

18

22

28

30

File local application

File PCT application

International search report & written opinion

(optional)

International preliminary report

(optional)

Demand for International preliminary examination

(optional)

International preliminary report on patentability

Enter national phase

(months)

International publication

Enter national phase

22

28

30

What is the PCT?
(2) Why use the PCT?
What are its advantages?
Why use the PCT?

Because, as the cornerstone of the international patent system, it provides a worldwide system for simplified filing and processing of patent applications, which--

1. brings the world within reach
2. postpones the major costs associated with internationalizing a patent application
3. provides a strong basis for patenting decisions
4. is used by the world’s major corporations, universities and research institutions when they seek international patent protection
5. allows you to apply securely and easily online, and to save money by doing so
1. Brings the world within reach

How?

PCT application = Legal effect of a regular national patent application in all PCT States
2. Postpones the major costs associated with internationalizing a patent application.

Why use the PCT?
What are those large initial costs?

1) Translations of the patent applications (which are highly technical documents) into various national languages

2) Official fees for payment to national/regional patent offices (for example, filing fees, claims fees, etc.)

3) Fees for the services of local patent agents/attorneys in the designated states
Why use the PCT?

When are these costs incurred?
Why use the PCT?

Traditional patent system
vs.
PCT system

Fees for:
--translations
--Office fees
--local agents

File local application

Traditional

File applications abroad

File PCT application

International search report & written opinion

PCT

Enter national phase

(international publication)

File demand for International preliminary examination

(optional)

(international preliminary report on patentability)

Why use the PCT?
According to IP Global Estimator, the total cost of hypothetical application (RO/US, ISA/EP, 46 pages/12 claims w/3 independent, national phase in US, CA, AU, MX, JP, EPO, and EP validation in FR, DE, IT, NL, SE & GB, + maintenance fees--from filing until expiration of 10 national phase patents at 20 years from the filing date) would be USD $201,322.

Thus, the PCT filing fees, including the international search by the EPO, (total: USD $3,354) represented 1.7% of what the PCT applicant could expect to pay throughout the full life of this patent family!

If the payment of annual maintenance fees is eliminated from the above calculation, the total amount that the applicant would expect to pay to see his/her patents granted is reduced to USD $85,183. PCT filing fees would then represent 3.9% of this amount.
3. Provides a strong basis for patenting decisions
Together with the time gained (as previously explained) and the postponement of the significant costs, it is the information about the potential patentability of the invention that is received during the PCT process which is the most valuable for the PCT applicant.
What does this potential patentability information consist of?
Why use the PCT?

In Chapter I of the Treaty (before the international publication), it is the content of the

International Search Report (ISR)

and the

Written Opinion of the International Searching Authority

In Chapter II of the Treaty (after international publication), it is the content of the

International Preliminary Report on Patentability (Chapter II)
(IPRP (Ch. II))
### Why use the PCT?

#### C. DOCUMENTS CONSIDERED TO BE RELEVANT

<table>
<thead>
<tr>
<th>Category</th>
<th>Citation of document, with indication, where appropriate, of the relevant passages</th>
<th>Relevant to claim No.</th>
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</thead>
<tbody>
<tr>
<td>X</td>
<td>JP 50-14535 B (NCR CORPORATION) 28 May 1975 (28.05.75), column 4, lines 3 to 27</td>
<td>7-9, 11</td>
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<tr>
<td>X</td>
<td>GB 392415 A (JONES) 18 May 1933 (18.05.33)</td>
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<tr>
<td>Y</td>
<td>Fig. 1</td>
<td>4, 10</td>
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<tr>
<td>A</td>
<td>page 3, lines 5-7</td>
<td>11-12</td>
</tr>
<tr>
<td>A</td>
<td>Fig. 5, support 36</td>
<td></td>
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<tr>
<td>X</td>
<td>GB 2174500 A (STC) 5 November 1986 (05.11.86)</td>
<td>1-3</td>
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<tr>
<td>Y</td>
<td>page 1, lines 5-15, 22-34, 46-80; Fig. 1</td>
<td>4</td>
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<tr>
<td>A</td>
<td>US 4322752 A (BIXTY) 30 March 1982 (30.03.82)</td>
<td>1</td>
</tr>
</tbody>
</table>

**Symbols indicating which aspect of patentability the document cited is relevant to (for example, novelty, inventive step, etc.):**
- X: Patentability
- Y: Getting to market
- A: Patentability

**The claim numbers in your application to which the document is relevant:**
- 7-9, 11
- 1-3
- 4, 10
- 11-12
- 1-3
- 4
- 1
- 1-5
**WITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY**

<table>
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<tr>
<th>Box No. V</th>
<th>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</th>
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<tbody>
<tr>
<td>1. Statement</td>
<td></td>
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<tr>
<td>Novelty (N)</td>
<td>Claims: Claim(s) 3-15 YES</td>
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<td>Claims</td>
<td>Claim(s) 16 NO</td>
</tr>
<tr>
<td>Inventive step (IS)</td>
<td>Claims: Claim(s) 8, 10-12 YES</td>
</tr>
<tr>
<td>Claims</td>
<td>Claim(s) 3-7, 9, 14-16 NO</td>
</tr>
<tr>
<td>Industrial applicability (IA)</td>
<td>Claims: Claim(s) 3-16 YES</td>
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<tr>
<td>Claims</td>
<td></td>
</tr>
</tbody>
</table>

2. Citations and explanations:

**INDEPENDENT CLAIM 3**

Document US-A-5 332 238, which is considered to represent the most relevant state of the art, discloses (cf. relevant passages indicated in the ISR) a device from which the subject-matter of INDEPENDENT CLAIM 3 is derived.
<table>
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<tr>
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<td>Claims</td>
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<td>Claim(s) 3</td>
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<td>Inventive step (IS)</td>
<td>Claims</td>
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<td>Claims</td>
<td>Claim(s) 3, 4</td>
</tr>
<tr>
<td>Industrial applicability (IA)</td>
<td>Claims</td>
</tr>
<tr>
<td>Claims</td>
<td></td>
</tr>
</tbody>
</table>

2. Citations and explanations (Rule 70.7)
A surgical knife for use in making incisions is disclosed in US-A-9 999 999 (hereinafter referred to as document 1) comprising the following features:
A, B, C - see column 1, lines 20-55 and Figures 2,3.
D, E - see column 3, lines 70-110 and Figure 4.
The subject-matter of Claim 3 does not therefore meet the requirements of Article 33 (2) of the PCT.
What does the applicant do with the information from the ISR, ISO and IPRP Ch. II?

He/she uses it as a basis for their patenting decisions—decisions about:

1) whether to enter the national phase
2) where to enter the national phase

Example--

Based on the information received during both Chapters I and II, the Procter & Gamble company found that it:

--abandoned 20% of PCT filings at national phase (did not enter national phase at all anywhere);
--when it did enter national phase, it did so in only 70% of the States it had originally intended to patent in
4. Is used by the world’s major corporations, universities and research institutions when they seek international patent protection.
### Top Applicants

<table>
<thead>
<tr>
<th>2006 Ranking</th>
<th>Position Changed</th>
<th>Applicant's Name</th>
<th>Country of Origin</th>
<th>PCT Applications Published in 2006</th>
<th>Change Compared with 2005</th>
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<td>0</td>
<td>KONINKLIJKE PHILIPS ELECTRONICS N.V.</td>
<td>NL</td>
<td>2,495</td>
<td>3</td>
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<td>2</td>
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<td>MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.</td>
<td>JP</td>
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<td>3</td>
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<td>SIEMENS AKTIENGESELLSCHAFT</td>
<td>DE</td>
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<td>4</td>
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<td>NOKIA CORPORATION</td>
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<td>0</td>
<td>ROBERT BOSCH GMBH</td>
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<td>6</td>
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<td>3M INNOVATIVE PROPERTIES COMPANY</td>
<td>US</td>
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<td>TOYOTA JIDOSHA KABUSHIKI KAISHA</td>
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<td>704</td>
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<td>9</td>
<td>-3</td>
<td>INTEL CORPORATION</td>
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No change to top 5 applicants--increased usage by Matsushita, Toyota, Huawei and several others
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<th>Shell (NL)</th>
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1) April 1, 2007 Amendments to the PCT Regulations
2) Recent PCT Meetings and Issues
3) Things we’re working on
Effective April 2007:

- restoration of the right of priority
- applications filed with parts missing
- rectification of obvious mistakes
- addition of patent documents of the Republic of Korea (KR) to the PCT minimum documentation
Recent PCT Meetings and Issues

• Working Group on PCT Reform--April 23-27, 2007
  – International publication in multiple languages
  – Supplementary international searches
  – Use of earlier national search results by Office other than ISA
  – Swiss proposal re disclosure requirements
  – Proposed amendments on withdrawals
Recent PCT Developments

Things we’re working on

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