

# WIPO



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**INTERNATIONAL PATENT COOPERATION UNION**  
**(PCT UNION)**

**ASSEMBLY**

**Fifth Session (3<sup>rd</sup> Extraordinary)\***  
**Geneva, June 9 to 16, 1980**

CERTAIN QUESTIONS CONCERNING THE USE OF THE PCT

(ADDENDUM 2)

*Memorandum prepared by the International Bureau*

1. Paragraphs 2 to 11 of this document describe ten frequently encountered mistakes made by applicants under the PCT.

#### MISTAKES IN FILLING IN THE REQUEST FORM

2. Failure, when there are several applicants including the inventor (s) as applicant(s) for the United States of America, to include in box II of the request form the name and other particulars of the applicant(s) for the United States of America (the name(s) being indicated only in Box IX of the request form). As a result, prescribed particulars concerning the applicant (address, residence and nationality; see Rule 4.5) which are required to be indicated are omitted because Box IX of the request form is designed only to indicate the different

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applicants for the different designated States (where that is the case). The United States Patent and Trademark Office, requires the applicant for the United States of America to be indicated in Box II of the request form.

3. Failure, when there are several applicants and the names of applicants must be continued in the supplemental box of the request form, to give particulars of the country of residence and nationality of the applicant(s) (Rule 4.5) in the supplemental box of the request form. Since these particulars must frequently be considered in the application of Rule 18.4(a) (to determine whether the designation of one or more Contracting States is valid), these particulars (as well as the name and address) must be included for each and every applicant.

4. Failure to indicate names of natural persons in the manner prescribed in Rule 4.4(a) (which requires that a person's family name must be indicated before his given name(s)).

5. Including the indication "OAPI" rather than the name of a Contracting State of the PCT in Box V of the request form, where a patent granted by the African Intellectual Property Organization (OAPI) is desired. The name of at least one of the OAPI States which is also a Contracting State of the PCT should be given (see Article 4(1) (ii), last alternative, and Rule 4.9); the indication "OAPI" is not necessary since only a patent granted by OAPI is available for such States.

6. Failure to include in the priority claim made in Box VI of the request form an indication of the country in which the earlier application was filed (or if a regional application, at least one country for which it was filed). Such failure may result in the loss of the priority right, see, in this regard, Rules 4.10(a) (i) and 4.10(b).

7. Indication in Box VII of the request; form of data which is superfluous. Box VII is for use only when a particular kind of treatment (e.g., a patent of addition rather than a patent or a continuation in part of an earlier application) is desired in a State which has already been designated in Box V (see Rules 4.13 and 4.14). For example, applicants frequently include in Box VII particulars relating to a continuation in part in the United States of America (sometimes indicating the priority application) when the United States of America is not a designated State.

8. Failure to indicate in Box IX of the request form, when there are several applicants (one or more of whom are not the inventor(s)) and the inventor(s) is (are) applicant(s) for the United States of America, the applicant(s) for the other designated States. The designated Offices for the other States must, as result, interpret what the application means, as regards who is to be the applicant(s) for those States.

9. Failure of a person signing the request form in a representative capacity (e.g., specifically as representative of a legal entity) to sign the request also in a personal capacity (when the person signing is also an applicant in his own right). As to signature and signature in a representative capacity, see Rules 4.15 and 2.1, respectively.

#### MISTAKES IN AMENDING CLAIMS

10. Failure to inscribe the word “(amended)” after the number of any amended claim (where a claim which has been amended bears the same number as in the claims as filed) or “(new)” after the number of the claim (where a new claim has been added) or “(cancelled)” after the number of a previous claim which has been cancelled (Section 20S of the Administrative Instructions).

#### MISTAKES IN OBSERVING CERTAIN TIME LIMITS

11. Failure to observe the time limits for (1) filing the priority document (Rule 17.1(a)) and (ii) filing amendments to the claims (Rule 46.1) frequently through sending the document to an authority other than the International Bureau (Rule 17.1 (a) and Article 19 (1)), thereby delaying the date of receipt by the International Bureau (see, however, the proposals made in documents PCT/A/V/4, pages 36 and 37 and PCT/A/V/S, pages 10 and 11).

#### SUGGESTION

12. It is suggested that receiving Offices pay particular attention to these mistakes and, whenever possible, call them to the attention of prospective applicants under the PCT. The International Bureau will do likewise.

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