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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

ASSEMBLY

Eighteenth Session (11th Extraordinary)*
Geneva, July 8 to 12, 1991

PROPOSED AMENDMENT TO PCT RULE 91.1(b)

Proposal by the United Kingdom

This document contains a proposal received from the Patent Office of the United Kingdom.

* *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at pct.legal@wipo.int

The
Patent
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CH-1211 Geneva 20

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Date : 3 July 1991

Dear Mr Bogsch

RE: UK PROPOSAL TO AMEND PCT RULE 91.1(b)

The attention of the United Kingdom Patent Office in its capacity as a Receiving Office and International Preliminary Examining Authority has been drawn to a practical problem in applying PCT Rule 91.1(b).

It is already proposed in document PCT/A/XVIII/2 that the existing provision should be broadened to allow comparison of the international application with a priority document or with any other relevant paper filed no later than the international filing date. However, this would still not allow rectification of a request or demand which does not designate or elect the States intended by the applicant, for example because a superseded form has been used and there is no other paper on the file to indicate the applicant's intention.

In the case of such errors, an agent may file evidence in the form of instructions from the applicant which establish both the existence of the error and what was intended.

However, since such evidence is not already on file it cannot be considered under Rule 91.1(b) in its current or in its proposed form.

In the view of the United Kingdom Patent Office, it would be desirable to take account of such instructions or any other paper relating to the international application submitted in evidence subsequently, provided that the instructions or other paper can be shown to have been in existence at the time of filing the request or making the demand.

The
Patent
Office

I would be grateful if you would circulate the attached proposal to the meeting of the PCT Assembly on 8-12 July 1991, together with this letter.

Yours sincerely



L Lewis
Principal Examiner
Legal Division

Proposed amendment to
PCT Rule 91.1(b)

(ii) (Amend full stop to “, or”)

(iii) In the case of rectification of an error in the request or the demand, from a comparison of that request or demand with any paper relating to the international application existing at the time of making the request or demand, including any such paper filed in evidence in support of the rectification subsequent to the making of the request or demand.

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