

# WIPO



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**PATENT LAW TREATY  
(PLT)**

**ASSEMBLY**

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APPLICABILITY OF CERTAIN AMENDMENTS AND MODIFICATIONS OF THE  
PATENT COOPERATION TREATY (PCT) TO THE PATENT LAW TREATY (PLT)

*Document prepared by the International Bureau*

I. INTRODUCTION

1. A number of provisions under the Patent Law Treaty (PLT) and the Regulations under the PLT incorporate by reference certain requirements provided for under the Patent Cooperation Treaty (PCT). Those PLT provisions are:

- (i) Article 3(1)(a)(i) [Applications];
- (ii) Article 6(1) [Form or Contents of Application];
- (iii) Article 6(2) [Request Form] and Rule 3(2) [Request Form Under Article 6(2)(b)];
- (iv) Article 6(4) [Fees] and Rule 6(3) [Time Limits Under Article 6(7) and (8) Relating to Payment of Application Fee in Accordance with the Patent Cooperation Treaty];

- (v) Rule 8(1)(c) [Communications Filed on Paper];
- (vi) Rule 8(2)(a) [Communications Filed in Electronic Form or by Electronic Means of Transmittal];
- (vii) Rule 8(3)(a) [Copies, Filed in Electronic Form or by Electronic Means of Transmittal, of Communications Filed on Paper];
- (viii) Rule 9(5)(b) [Signature of Communications Filed in Electronic Form Not Resulting in Graphic Representation of Signature];
- (ix) Rule 14(3) [Time Limit Under Article 13(1)(ii)].

2. Pursuant to PLT Article 16 and the PLT Agreed Statements, the PLT Assembly has to decide whether amendments and modifications to the PCT, the PCT Regulations and the Administrative Instructions Under the PCT, which have been made since the adoption of the PLT on June 1, 2000, shall apply for the purposes of the PLT and provide any transitional provisions, if necessary. At its first and second sessions, the PLT Assembly in 2005 and 2006 decided that certain amendments and modifications of the PCT, the Regulations under the PCT and the Administrative Instructions Under the PCT, which were made between June 2, 2000 to June 15, 2006, applied for the purposes of the PLT and its Regulations (documents PLT/A/1/2 and 4 and PLT/A/2/1 and 3).

3. The present document provides information regarding the amendments and modifications made under the PCT, between June 16, 2006 and June 4, 2007, and highlights those amendments and modifications which, in the view of the International Bureau, relate to the above PLT provisions. It further indicates the consequences of those PCT modifications and amendments for the PLT.

## II. MODIFICATIONS TO THE ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

4. Modifications to the Administrative Instructions Under the PCT, including modified Forms, which have been promulgated pursuant to PCT Rule 89.2(a) between June 16, 2006 and June 4, 2007, are contained in the consolidated text of the Administrative Instructions in force from April 1, 2007 (document PCT/AI/6)<sup>1</sup>.

5. Among those modifications, the following modifications are relevant to the PLT provisions referring to certain PCT requirements:

- modification of Form PCT/RO/101 (the “Request”);
- modification of Annex F, Appendix I.

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<sup>1</sup> Available on the WIPO website at: <http://www.wipo.int/pct/en/text>

(a) Modification of the PCT Request Form

6. The modified PCT Request Form includes, in Box No. VI, the option for the applicant to request restoration of the right of priority in the Request. It has also been modified so as to include a "Statement of Incorporation by Reference" pursuant to PCT Rule 4.18 which may be necessary to include an element referred to in PCT Article 11(1)(iii)(d) or (e) and/or a part of the description, claims or drawings without loss of the filing date, where that missing element or part is contained in an earlier application based on which priority is claimed.

7. Consequently, in accordance with PLT Article 6(2)(a), a PLT Contracting Party may require that the additional contents of the PCT Request, namely, the request for restoration of the right of priority and the statement of incorporation by reference, be presented on a request Form prescribed by that Contracting Party. In view of the fact that, in accordance with PLT Article 6(2)(b) and Rule 3(2)(i), a PLT Contracting Party shall accept the presentation of the contents on the Model International Request Form, the Model International Request Form should contain the maximum possible contents that the Contracting Party may require under PLT Article 6(2)(a) in a request Form prescribed by that Contracting Party. Therefore, it is suggested that the Model International Request Form be modified so as to include, in BOX No. VIII, two additional items, namely the request for restoration of the right of priority and the statement of incorporation by reference, and that the reference to the "request for restoration of the right of priority" in BOX No. X(a) be deleted. The proposed modified Model International Request Form as well as the modified Notes to the Model International Request Form are contained in the Annex.

(b) Modification of Annex F, Appendix I

8. Annex F, Appendix I, of the Administrative Instructions Under the PCT contain XML DTDs for the E-PCT standard. In accordance with PLT Rules 8(2)(a) and 9(5)(b), where there are any requirements under the PCT in relation to communications (including applications) filed in electronic form or by electronic means of transmittal which are applicable to a PLT Contracting Party with respect to international applications in a particular language, that PLT Contracting Party shall permit the filing of national/regional applications and communications under the applicable law, in the said language, which comply with those requirements. Therefore, the consequence of the modification to Annex F, Appendix I of the Administrative Instructions Under the PCT is that, where the modified Appendix I of Annex F is applicable to a PLT Contracting Party in the PCT framework, it shall accept the filing of national/regional applications and communications under the applicable law which comply with the applicable requirements in Appendix I of Annex F, provided that other requirements under the applicable law are also met.

### III. APPLICABLE DATE OF AMENDMENTS AND MODIFICATIONS OF THE PCT TO THE PLT

9. Since the modifications to Annex F, Appendix I of the Administrative Instructions Under the PCT and to the PCT Request Form entered into force on April 1, 2007, it is suggested that the modifications to Annex F, Appendix I, apply to the PLT with immediate effect and that the new Model International Request Form take effect immediately.

*10. The Assembly of the PLT is invited:*

*(i) to adopt the modified Model International Request Form as set out in the Annex, and to decide that it shall enter into force with immediate effect; and*

*(ii) to decide that the modifications of the Administrative Instructions Under the PCT indicated in the present document as applicable, apply for the purposes of the PLT and its Regulations, with immediate effect.*

[Annex follows]