

# Patent Law Treaty (PLT)

*PCT Working Group Side Event*

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# Content

- Overview of the PLT
- Relationship between the PLT and the PCT

# The Patent Law Treaty (PLT) - Background

- The Patent Law Treaty (PLT) adopted on June 1, 2000
- Entered into force on April 28, 2005
- Treaty / Regulations / Agreed Statements
- Explanatory Notes
  
- Eligible parties
  - Paris and/or WIPO Member States
  - ARIPO, EAPO, EPO
  - Other intergovernmental organizations

# The Patent Law Treaty

## ■ 43 Contracting Parties

- Albania, Armenia, Australia, Bahrain, Belarus, Bosnia and Herzegovina, Croatia, Denmark, Democratic People's Republic of Korea, Denmark, Estonia, Finland, France, Hungary, Ireland, Japan, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Montenegro, Netherlands, Nigeria, North Macedonia, Oman, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkmenistan, Ukraine, United Kingdom, United States of America and Uzbekistan

## ■ In the process of implementation

- Azerbaijan, Chile

# The PLT - Objectives

- Formality requirements are necessary for the efficient patenting procedures.
  - Non-compliance with the formality requirements may lead to refusal of patent applications
- Formality requirements vary from one country to another.
- Excessive requirements may unnecessarily delay and complicate the patenting process.

## Objectives

- Harmonization and simplification of formality requirements set by national/regional patent laws
- Streamlining the procedures for obtaining and maintaining patents
  - not covering substantive patent law requirements (Article 2(2))

# The PLT – Principles and Scope

- **Maximum** requirements
  - A Contracting Party (CP) can be more liberal than the PLT requirements, **except** with respect to the **filing date** requirements (Article 2(1)).
- Applicable to:
  - **national (regional) patent applications and patents**
  - PCT applications in the **national (regional) phase**
- Compliance with the Paris Convention (Article 15)
- **Flexibilities** embedded (optional provisions etc.)
  - Information on the national implementation of the PLT at: [www.wipo.int/plt-forum](http://www.wipo.int/plt-forum)

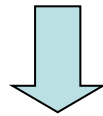
# Benefits

## Applicants and representatives

- Predictable, **simpler** procedures for national/regional applications
- **Reduced risk** of errors, and opportunity to correct errors without loss of rights
- Enhanced **legal certainty** and reduced costs

## Offices

- **Efficient** operation, reduction of operating costs
- No financial obligations on a CP



Reduction of costs / Avoid loss of rights

# Six Features

1. Filing date requirements
2. Standardized set of formality requirements  
→ in line with the PCT requirements
3. Standardized Forms
4. Simplified procedure before the Office
5. Mechanisms to avoid unintentional loss of rights
6. Basic principles for electronic filing



# 1. Filing date requirements (1)

*To provide standardized requirements for obtaining filing date requirements and procedures to avoid a loss of the filing date*

- **Three elements** (Article 5(1)(a))
  - indication that a patent is requested
  - indication that identifies the applicant and/or that allows the applicant to be contacted
  - a part which on the face of it appears to be a description
- **No filing fee** or **claims** requirement
- A description may be **in any language** or **replaced** with a **reference to a previously filed application** (Art. 5(2)(b) and 5(7))
- **Paper filing** assured (Art. 5(1)(a))
- **Notification** of defects & correction (Art. 5(3))
- **Absolute** requirements

## 2. Standardized applications

- **Convergence of formality requirements** for international applications (←PCT) and national/regional applications (←PLT).
- Incorporation-by-reference of the **PCT requirements**, wherever appropriate, e.g.:
  - “form or contents” of an application (Art. 6(1))
  - contents of the request (Art. 6(2)(a))

# 3. Standardized Forms (1)

- Model International Forms **shall be accepted** by all Contracting Parties (Art. 8(3)).
- A CP may provide its own Forms.
- Model International Forms contain maximum indications which may be required by CPs to contain in a respective Form.

## 3. Standardized Forms (2)

- Request form
- Power of attorney (Rule 7(2))
- Request for recordation of change in name or address (Rule 15)
- Request for recordation of change in applicant or owner (Rule 16)
- Uncertified certificate of transfer of ownership (Rule 16)
- Request for recordation (cancellation of recordation) of a licensing agreement (Rule 17)
- Request for recordation (cancellation of recordation) of a security interest (Rule 17)
- Request for correction of a mistake (Rule 18)

<https://www.wipo.int/wipolex/en/text/289773>

# 4. Simplified procedures before the Office

*To reduce costs for applicants and Offices*

- Representation
  - **Mandatory representation** may be required, **except** (i) filing an application and a copy of earlier applications for the purpose of the filing date; (ii) mere payment of a fee; (iii) receiving receipts regarding (i) and (ii). (Art. 7(2)(a))
  - Maintenance fee may be **paid by any person**. (Art.7(2)(b))
- Restriction on requiring **evidence**- only where the Office has a reasonable doubt as to the veracity of the indications or the accuracy of the translation (Art. 6(6) etc.)
- No attestation, notarization, authentication etc. of **signature** (except reasonable doubt of authenticity)
- Restriction on requirements to submit a **copy of earlier application** and translation thereof (Rule 4)
- **Single** communication covering multiple applications/patents (Rule 7(2)(b) etc.). (ex. General power of attorney)

# 5. Avoiding loss of rights

*To avoid unintentional loss of substantive rights as a result of failure to comply with formality requirements*

- Notification and opportunity to **correct** (Art. 6(7) etc.)
- **Relief in respect of time limits** fixed by the Office (Art. 11)
  - Extension of time limits
  - Continued processing
- **Reinstatement of rights** (Art.12)
- Correction and addition of priority claim (Art. 13(1))
- **Restoration of priority right** (Art. 13(2) and (3))
- Restriction on the **revocation and invalidation of patents** (Art. 10)

# 6. Paper and electronic communications

*To facilitate the implementation of electronic filing, while securing the interests of all parties involved*

## Principles

- No CP shall be obliged to accept communications other than on paper (Art. 8(1)(b)) .
- No CP shall be obliged to exclude communications on paper (Art. 8(1)(c)).
- A CP may introduce 100% electronic filing (Rule 8(1)(a)).
  - But it shall accept paper for the purpose of:
    - the filing date (Art. 5(1));
    - complying with a time limit (Art. 8(1)(d)).

# Relationship between the PLT and the PCT



# The PCT and the PLT

- References to the PCT requirements in the PLT
  - Form or contents of application (PLT Art. 6(1))
  - Request Form (PLT Art. 6(2) and Rule 3(2))
  - Acceptable form and means of communications
    - Communications filed on paper (PLT Rule 8(1)(c))
    - Communications filed in electronic form or by electronic means of transmittal (PLT Rule 8(2)(a))
    - Copies, filed in electronic form or by electronic means of transmittal, of communications filed on paper (PLT Rule 8(3)(a))
    - Signature of communications filed in electronic form not resulting in graphic representation of signature (PLT Rule 9(5)(b))
  - Time limit under PLT Article 13(1)(ii) (PLT Rule 14(3))
  - Fees and time limits relating to payment of application fee in accordance with the PCT (PLT Art.6(4)) and PLT Rule 6(3))

# Form or Contents of Applications

- No Contracting Party shall require compliance with any requirement relating to the form or contents of an application **different from** or **additional to**:
  - (i) the requirements relating to the form or contents which are provided for in respect of **an international application under the PCT**;
  - (ii) the requirements relating to form or contents which **may be required during the PCT national phase**;
  - (iii) further requirements in PLT Rule 3(1).  
[PLT Art. 6(1)]
  
- The expression “form or contents of an application” is to be construed in the same way as in PCT Article 27(1).

# Contents of a request

- A CP may require that, on a request Form prescribed by that CP:
  - (i) the contents of an application which **correspond to the contents of the request of an international application under the PCT**;
  - (ii) further contents that may be required during the **PCT national phase** or prescribed in PLT Rule 3(1);  
be presented. [PLT Art.6(2)(a)]
- E.g., A CP may require that the request contain various declarations as provided under PCT Rule 4.17.

# Request Form

- A CP shall accept three types of request Forms based on the PCT request Form:
  - (i) Model International Request Form which corresponds to the PCT request Form (with modifications under PLT Rule 20(2)) [PLT Rule 3(2)(i)]
  - (ii) PCT request Form itself accompanied by an indication that the applicant wishes the application to be treated as a national or regional application [PLT Rule 3(2)(ii)];
  - (iii) PCT request Form which contains an indication referred to in (ii) [PLT Rule (2)(iii)].

# Form and means of transmittal of communications (1)

Acceptance of communications in certain form or by certain means of transmittal in the PCT procedures

→ Acceptance of such communications in the national procedures

■ Where a Contracting Party permits the filing of communications on paper, the Office shall permit the filing of communications on paper in accordance with the corresponding requirements under the PCT. [PLT Rule 8(1)(c)]

■ In particular, the physical requirements in PCT Rule 11.

# Form and means of transmittal of communications (2)

- If a CP permits the filing of communications in a particular language **in electronic form or by electronic means of transmittal** under the PCT in accordance with the applicable PCT requirements, the Office **shall permit the electronic filing of communications** in that language in respect of national or regional applications filed in accordance with **those PCT requirements**. [PLT Rule 8(2)(a)]
  - PCT Rules 89*bis* and 92.4.
  - A CP may allow electronic filing of communications in accordance with its own requirements.
- Similar provision with respect to **electronic signature**, if a CP accepts e-signature under the PCT. [PLT Rule 9(5)(b)]

# Correction or addition of priority claim: time limit

■ The request for the correction or addition of a priority claim shall be filed within the time limit not less than the corresponding **time limit applicable under the PCT**.

[PLT Rule 14(3)]

■ PCT Rule 26*bis*.1(a)

# Application fees

- A CP may apply the provisions of the **PCT** relating to **payment of application fee**. [PLT Art. 6(4) and PLT Rule 6(3)]
  - Payment of the application fee may be subjected to the same time limits, and the same sanctions for non-payment, as those applicable under the PCT, namely, PCT Article 14(3) and Rules 15.4 and 16*bis*.



# Adapting to changes

- Any revision, amendment or modification of the PCT, which is consistent with the PLT Articles, shall apply to the PLT, **if the PLT Assembly so decides.** [PLT Art.16]

PLT Assembly documents containing information on amendments and modifications made under the PCT which relate to the PLT provisions:

- Document PLT/A/11/1
  - PLT Assembly Eleventh (5th Ordinary) Session, September 23 to October 2, 2013
- Document PLT/A/8/1
  - Eighth (5th Extraordinary) Session), September 20 to September 29, 2010
- Document PLT/A/7/1
  - Seventh (3rd Ordinary) Session, September 22 to October 1, 2009
- Document PLT/A/5/1
  - Fifth (3rd Extraordinary) Session, September 22 to September 30, 2008
- Document PLT/A/3/1
  - Third (2nd Ordinary) Session, September 24 to October 3, 2007
- Document PLT/A/2/1
  - Second (1st Extraordinary) Session, September 25 to October 3, 2006
- Document PLT/A/1/2
  - First (1st Ordinary) Session, September 26 to October 5, 2005

Thank you for your attention