

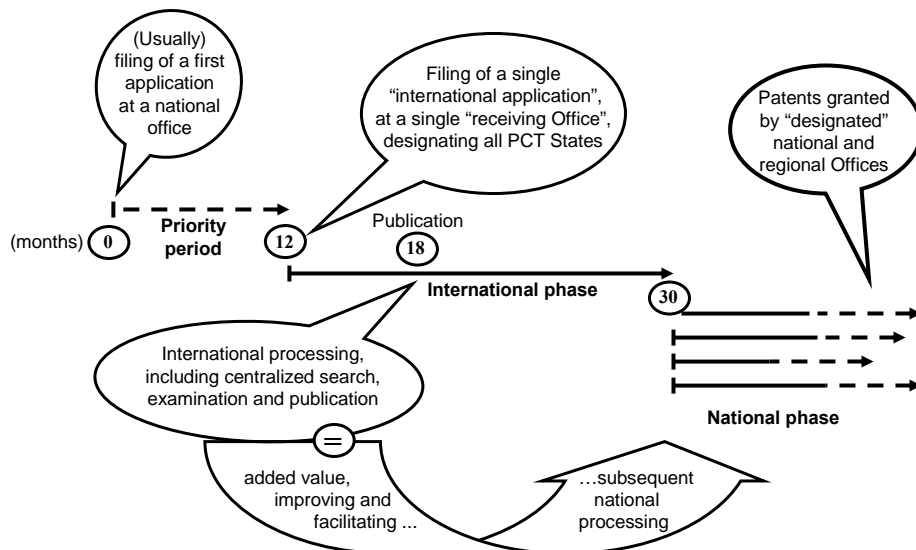
Topic 2(d)

The PCT as a Tool for Participation in the International Patent System

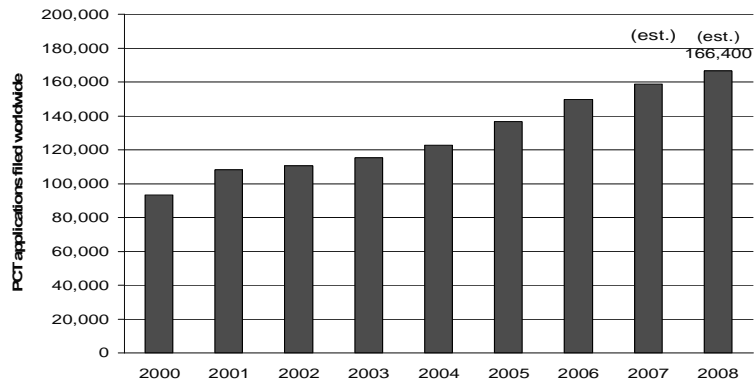
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Senior Director-Advisor (PCT and Patents)
WIPO

WIPO in Cooperation with the Government of Kenya
Regional Forum on the Role of Patents and
the PCT in Research in Developing Countries
March 30 to April 1, 2009, Nairobi

PCT procedure overview



Applicants like the PCT



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Significance of the PCT

- A patent application filing system
 - the only truly international filing system
 - not a patent granting system
 - each “designated Office” makes its own decision on patent grant
- Legal framework and organizational structures
- Impetus for improving the international patent system
 - “bottom-up” harmonization of patent laws
- A model of international cooperation
 - built on cooperation between Patent Offices
- A wealth of scientific and technical information

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Some dates and numbers

- Treaty concluded in 1970
 - 78 signatory countries, 11 IGOs, 11 NGOs
- In 1978 (start of practical operations)
 - 18 member countries and 500 applications
- In 2008
 - 139 member countries and 158,000 applications
- By end 2007, about 1.49 million PCT applications had been filed

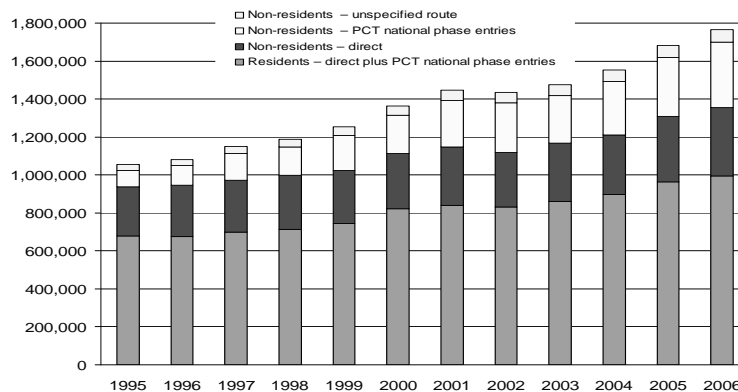
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Patent application filing trends

Direct and PCT routes



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PCT general features

- Rationalized filing and processing
 - for both applicants and Patent Offices
- Single application with legal effect in all PCT countries
 - 141 countries and 4 regional patent systems
- International and national phases
- Decisions to grant patents are exclusively for national and regional Offices in the national phase

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Rationalized filing

- One set of application documents
 - including technical drawings, accepted by all Offices
- One language
- Centralized fees payment
- Centralized submission of other documents
- Electronic filing available
 - attracts fee reduction

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Rationalized processing


- One agent for international phase
- International search and written examination opinion
- Centralized (international) publication
- (Optional) international preliminary examination

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PCT Contracting States (141)



AE United Arab Emirates	CM Cameroon (OA)				MZ Mozambique (AP)	SN Senegal (OA)
AG Antigua and Barbuda	CN China				NA Namibia (AP)	ST Sao Tome and Principe
AL Albania	CO Colombia				NE Niger (OA)	SV El Salvador
AM Armenia (EA)	CR Costa Rica				NG Nigeria	SY Syrian Arab Republic
AO Angola	CU Cuba				NI Nicaragua	SZ Swaziland (AP)
AT Austria (EP)	CY Cyprus (EP)				NL Netherlands	TD Chad (OA)
AU Australia	CZ Czech Republic (EP)				NO Norway (EP)	TG Togo (OA)
AZ Azerbaijan (EA)	DE Germany (EP)				NZ New Zealand	TJ Tajikistan (EA)
BA Bosnia and Herzegovina	DK Denmark (EP)				OM Oman	TM Turkmenistan (EA)
BB Barbados	DM Dominica				PE Peru	TN Tunisia
BE Belgium (EP)	DO Dominican Republic				PG Papua New Guinea	TR Turkey (EP)
BF Burkina Faso (OA)	DZ Algeria	GR Greece (EP)	KE Kenya (AP)	LC Saint Lucia	PH Philippines	TT Trinidad and Tobago
BG Bulgaria (EP)	EC Ecuador	GT Guatemala	KG Kyrgyzstan (EA)	LI Liechtenstein (EP)	PL Poland (EP)	TZ United Republic of Tanzania (AP)
BH Bahrain	EE Estonia (EP)	GW Guinea-Bissau (OA)	KM Comoros	LK Sri Lanka	PT Portugal (EP)	RO Romania (EP)
BJ Benin (OA)	EG Egypt	HN Honduras	KN Saint Kitts and Nevis	LR Liberia	RS Serbia	UA Ukraine
BR Brazil	ES Spain (EP)	HR Croatia (EP)	KP Democratic People's Republic of Korea	LS Lesotho (AP)	RU Russian Federation (EA)	UG Uganda (AP)
BW Botswana (AP)	FI Finland (EP)	HU Hungary (EP)	LA Lao People's Democratic Republic	LT Lithuania (EP)	SC Seychelles	US United States of America
BY Belarus (EA)	FR France (EP)	ID Indonesia	LV Latvia (EP)	LU Luxembourg (EP)	SD Sudan (AP)	UZ Uzbekistan
BZ Belize	GA Gabon (OA)	IE Ireland (EP)	LY Libyan Arab Jamahiriya	ML Mali (OA)	SE Sweden (EP)	VC Saint Vincent and the Grenadines
CA Canada	GB United Kingdom (EP)	IL Israel	MA Morocco	MN Mongolia	SG Singapore	VN Viet Nam
CF Central African Republic (OA)	GD Grenada	IN India	MC Monaco (EP)	MR Mauritania (OA)	SI Slovenia (EP)	ZA South Africa
CG Congo (OA)	GE Georgia	IS Iceland (EP)		MT Malta (EP)	SK Slovakia (EP)	ZM Zambia (AP)
CH Switzerland (EP)	GH Ghana (AP)	IT Italy (EP)		MW Malawi (AP)	SL Sierra Leone (AP)	ZW Zimbabwe (AP)
CI Côte d'Ivoire (OA)	GM Gambia (AP)	JP Japan		MX Mexico	SM San Marino	
CL Chile	GN Guinea (OA)			MY Malaysia		
	GO Equatorial Guinea (OA)					

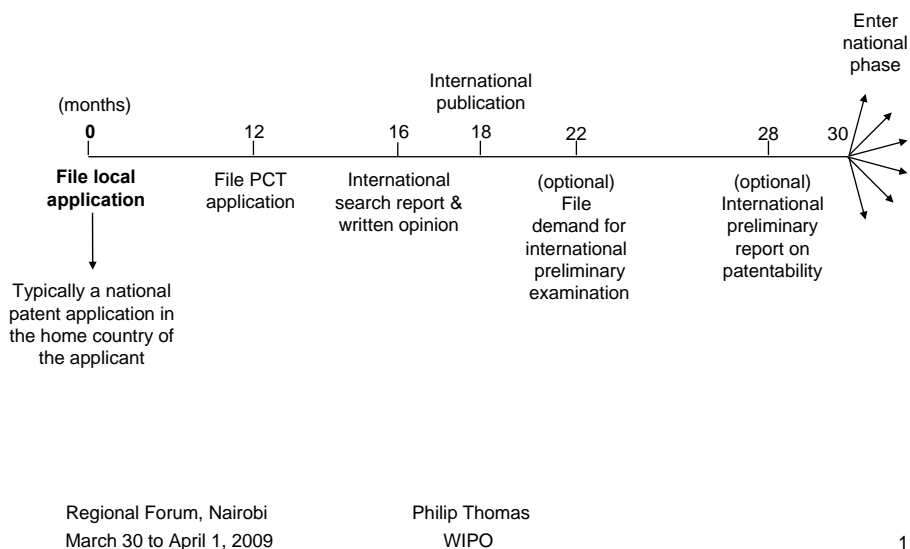
Regional designations:
AP = ARIPO patent, EA = Eurasian patent, EP = European patent, OA = OAPI patent

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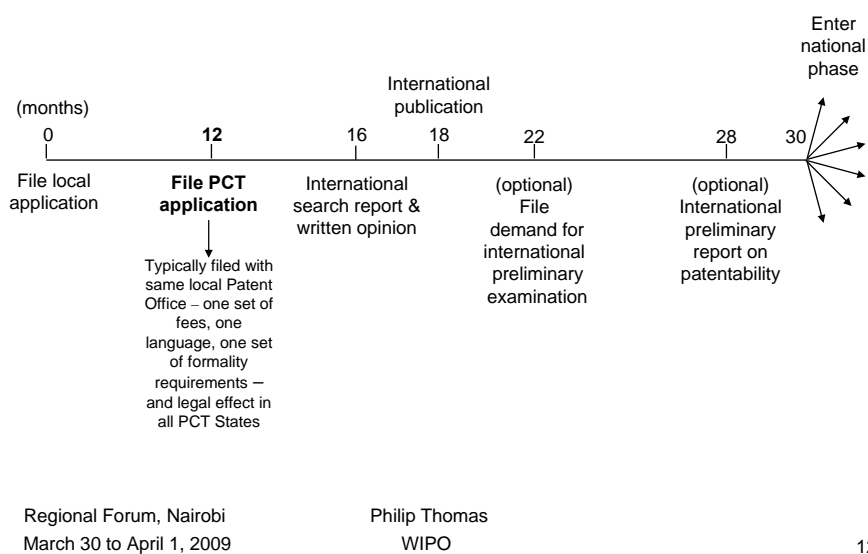
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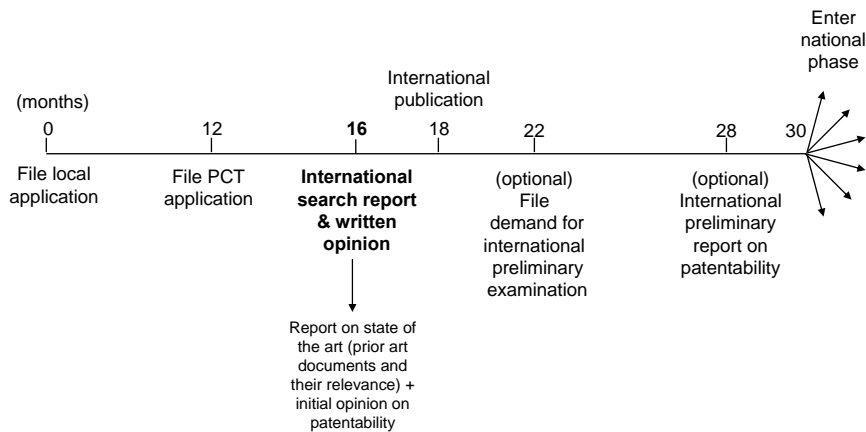
The PCT system – typical use



Typical use (2)



Typical use (3)

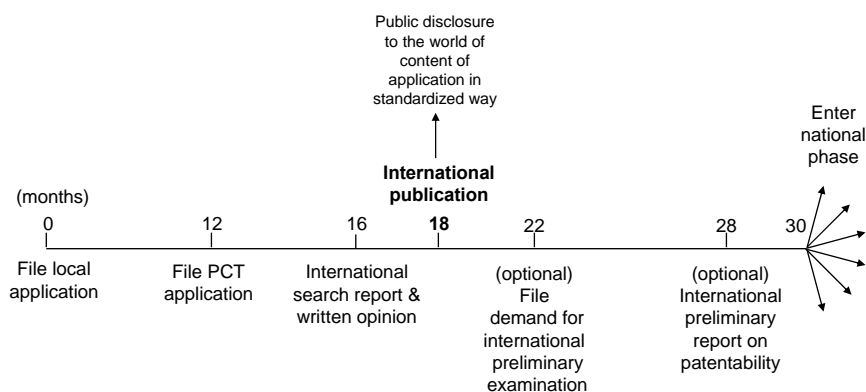


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Typical use (4)

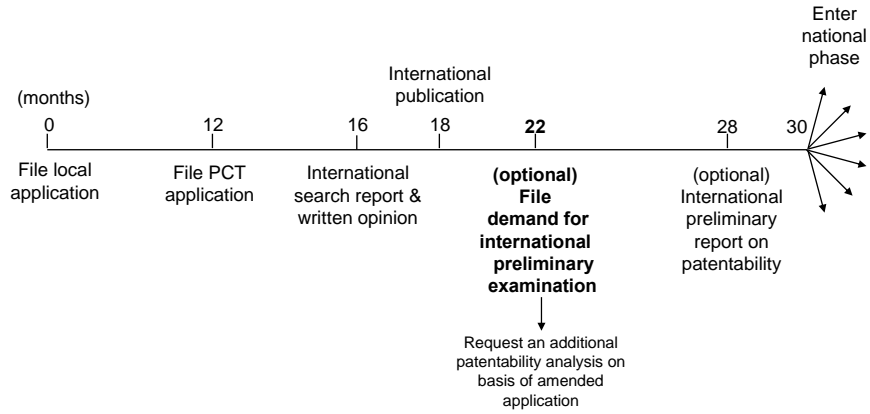


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Typical use (5)

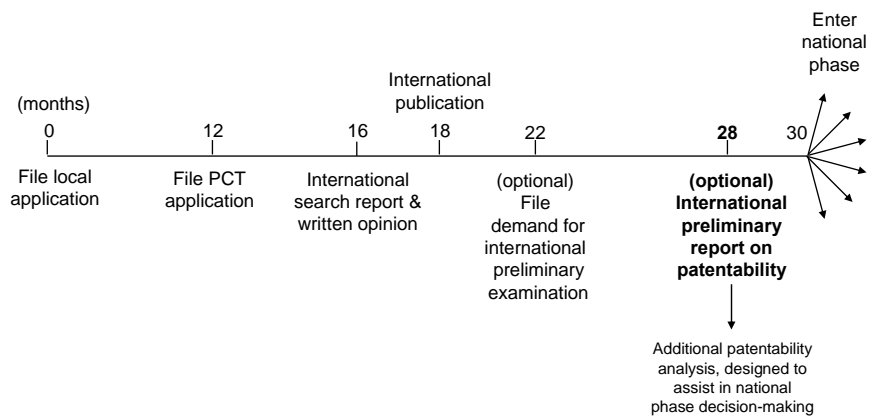


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Typical use (6)

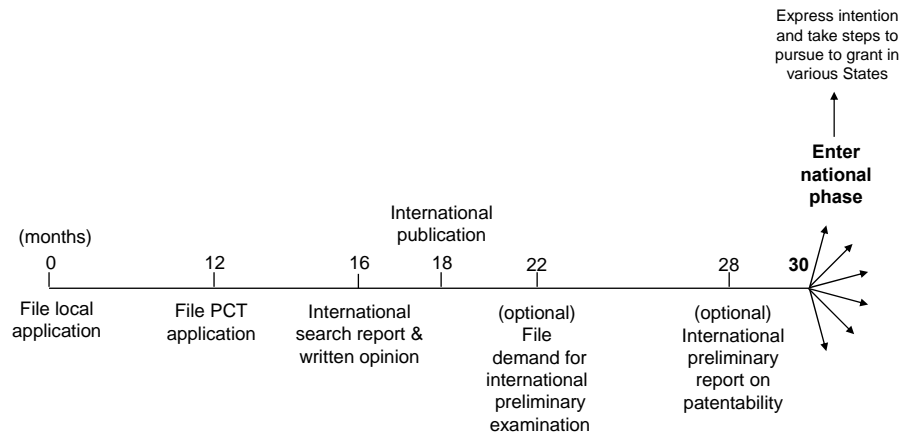


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Typical use (7)



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Financial benefits

- Better decision making
- Delaying and avoiding costs
- Avoiding duplication in examination

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Global patenting is costly

Obtaining and maintaining patents on a single invention in the 50+ major countries of the world costs more than

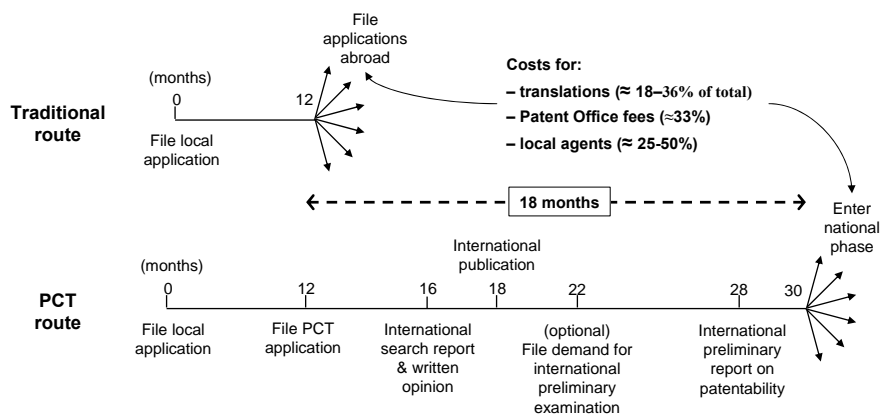
US\$ 750,000

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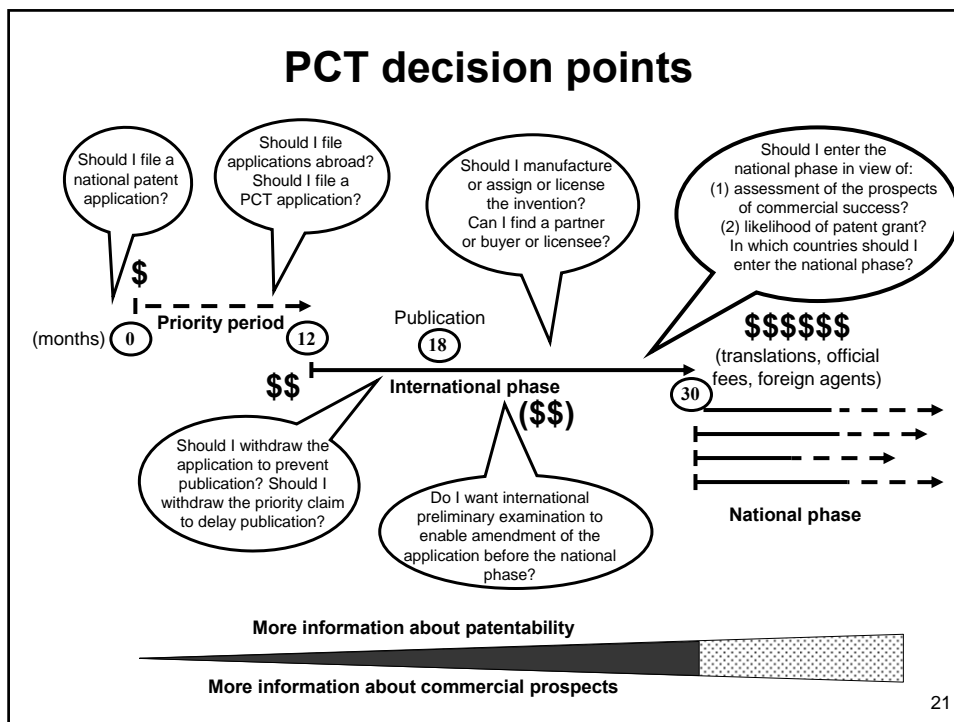
Costs in traditional and PCT filing routes



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- ### Time ~ information ~ decisions
- 18 months more time
 - Patentability information
 - international search report and written opinion
 - (optional) international preliminary report on patentability
 - Prospects of commercial success
 - production costs, market appeal, profitability
 - potential partners, licensees, buyers
 - competitors
 - Result: better decisions
 - better spent money
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Cost savings

- For a single invention
 - PCT not cheaper than direct applications in <15 countries
 - PCT international phase costs are <5% of total patenting costs
- For a portfolio of applications at 30 months
 - abandon 20% of applications by not entering national phase
 - drop 30% of designated countries cf. original plan(real example from the Procter & Gamble Company)
- National phase entry decisions really matter

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Fee reductions

- 90% reduction in the international fee where the international application is filed by an applicant:
 - who is a natural person and is a national of or resides in a State whose per capita income is below USD 3,000; or
 - whether a natural person or not, who is a national of, or resides, in a least developed country
- 75% reduction in the search fee charged by the EPO
 - if the applicant is a natural person and is a national of or resides in a State whose per capita income is below USD 3,000
- Certain fee reductions are also applicable where an application is filed electronically

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WIPO resources – www.wipo.int

- PCT resources
 - www.wipo.int/pct/en/
- PATENTSCOPE®
 - www.wipo.int/patentscope/en/
- WIPO Patent Report 2007
 - www.wipo.int/ipstats/en/statistics/patents/patent_report_2007.html

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Thank you

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