



C. PCT 884
– 07.2

November 25, 2002

Madam,
Sir,

Modifications of the Administrative Instructions under the PCT

Standard for the electronic filing and processing of international applications: Change procedure for future modifications

1. This Circular concerns modifications of the Administrative Instructions under the Patent Cooperation Treaty (PCT) to be promulgated with effect from December 12, 2002.
2. Modifications of the Administrative Instructions designed to enable the implementation of electronic filing and processing of international applications under the PCT were made with effect from January 7, 2002. Those modifications added new Part 7 and new Annex F to the Administrative Instructions containing, respectively, the necessary legal framework and technical standard (see document PCT/AI/1 Rev.1 Add.2 and *PCT Gazette* Special Issue No. S-04/2001 dated December 27, 2001).
3. Annex F is now modified to introduce new section 2.5 setting out a special procedure for the proposal, consideration and implementation of future modifications of the technical requirements for the electronic filing and processing of international applications. The text of new section 2.5 is set out in *./.* document PCT/AI/1 Rev.1 Add.5, enclosed herewith; it will also be published in Section IV of *PCT Gazette* No. 50/2002 on December 12, 2002.
4. The modifications are based on the proposed text of section 2.5 as annexed to Circular C. PCT 827, dated April 4, 2002. A number of changes have been made to that text taking into account comments received in response to that Circular. Apart from minor corrections and clarifications the changes deal with the following matters:

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(i) section 2.5.1 has been revised to make it clear that the change procedure set out in section 2.5 is restricted to modifications of the standard that concern technical matters, and to clarify the Director General’s responsibility for promulgating modifications;

(ii) sections 2.5.2 and 2.5.3 have been revised to clarify the composition and functioning of the Consultative Group and the right to make proposals for change; in particular, it is made clear that participation is on the same basis as in meetings of the PCT Committee for Administrative and Legal Matters;

(iii) section 2.5.3 has been revised to clarify the way in which proposals for change are submitted and handled and certain requirements for proposals for change;

(iv) section 2.5.4, paragraph 7, has been revised to make it clear that modifications resulting from standard proposals for change may, in exceptional cases, have effect earlier than January 1 in a particular cycle;

(v) section 2.5.5, paragraph 3, has been revised to clarify the time by which recommendations are to be made by the Consultative Group in the case of proposals for change that are accorded expedited consideration.

Sincerely yours,



Francis Gurry
Assistant Director General

WIPO



PCT/AI/1 Rev.1 Add.5
ORIGINAL: English
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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY: MODIFICATIONS

with effect from December 12, 2002

1. This document contains the text of modifications, with effect from December 12, 2002, as detailed below, of the Administrative Instructions Under the Patent Cooperation Treaty (PCT) as in force from October 17, 2002 (see documents PCT/AI/1 Rev.1 dated August 23, 2001, PCT/AI/1 Rev.1 Add.1 dated October 26, 2001, PCT/AI/1 Rev.1 Add.2 dated December 20, 2001, PCT/AI/1 Rev.1 Add.3 dated September 2, 2002, and PCT/AI/1 Rev.1 Add.4 dated October 14, 2002). The modifications, which are promulgated after consultation with the interested Offices and Authorities pursuant to Rule 89.2(a) of the Regulations under the PCT, involve the addition of new section 2.5 to Annex F of the Administrative Instructions.
2. The text of the present modifications will be published in *PCT Gazette* No. 50/2002 on December 12, 2002.

MODIFICATIONS OF THE ADMINISTRATIVE INSTRUCTIONS
(with effect from December 12, 2002)

ANNEX F
STANDARD FOR THE ELECTRONIC FILING AND
PROCESSING OF INTERNATIONAL APPLICATIONS

2. THE E-PCT STANDARD: OVERVIEW AND VISION

2.1 to 2.4 [No change]

2.5 *Change procedure* [New]

2.5.1 *Scope*

It is necessary to modify the standard from time to time in the light of practical experience and of new technical developments, and bearing in mind that the standard will be used for the operation of existing systems and the development of new systems by a variety of developers, including some patent Offices. The change procedure outlined in this section constitutes the usual means by which the Director General undertakes consultation pursuant to PCT Rule 89.2(b) concerning proposals to modify technical requirements contained in Annex F (including its Appendices) and, where appropriate, in Part 7 and other parts of the Administrative Instructions (“proposals for change”), before deciding whether to promulgate such modifications.

Proposed modifications related to the standard but going beyond technical requirements (for example, proposed modifications which would affect the legal principles supporting electronic filing and processing) are not dealt with under the change procedure set out in this section but are the subject of ordinary consultation by the International Bureau as for other proposed modifications of the Administrative Instructions. A proposal being dealt with under the change procedure set out in this section will be withdrawn by the International Bureau from the procedure if it appears in retrospect to go beyond the technical requirements of the standard.

2.5.2 *Web site; information list; Consultative Group*

The International Bureau maintains a Web site for the processing of proposals for change. The Web site provides for interested persons to register their e-mail addresses on the e-filing information list of persons who wish to be informed when proposals for change (or other materials relating to PCT electronic filing) are made available on the site.

The national Office of any State, and any PCT Authority, any intergovernmental organization (including any regional Office) and any non-governmental organization, that is invited to participate in meetings of the PCT Committee for Administrative and Legal Matters may register, via the Web site, to participate in the work of a Consultative Group which considers proposals for change. Participants should preferably register at an early stage in the annual change management cycle outlined in section 2.5.4, below. All persons registered to represent participants in the Consultative Group are also automatically included on the e-filing information list.

National Offices and PCT Authorities which register to participate in the Consultative Group do so as members, and other participants as observers. The International Bureau, as secretariat, coordinates the activities of the Group. Consideration of matters by the Group is informal and takes place via the Web site and e-mail and, where necessary, via other means of telecommunication; meetings of the Group in person are not envisaged.

The main function of the Consultative Group is to discuss, and make recommendations on, how proposals for change should be handled and, in particular, whether changes should be promulgated and with what effective date, as outlined further below. It is expected that the Group would operate on the basis of consensus.

2.5.3 Proposals for change

Proposals for change may be submitted to the International Bureau by any Office or Authority entitled to register as a member of the Consultative Group, and may be initiated by the International Bureau. An Office or Authority or the International Bureau may, if it wishes, submit a proposal for change that has been suggested to it by a third party. Proposals for change may be submitted, preferably via the Web site, at any time during the year.

A proposal for change may be modified or withdrawn by the Office or Authority that submitted it. Each proposal for change is published by the International Bureau on the Web site as a "Proposal for Change" (PFC) file to which comments, modifications, etc., are annexed. Exchanges of views on a proposal for change, if not annexed to the PFC file concerned, are stored in an archive accessible via the Web site.

Each proposal for change must set forth the requested modifications of the text and/or figures concerned, a list of items that may be impacted, the reason, including processing or policy issues involved, and the proposed date of implementation, including, if appropriate, a request for expedited handling, and should also, if possible, include a draft implementation (for example, a new XML DTD).

Consideration of proposals for change would ordinarily proceed under the (standard) annual change management cycle in accordance with section 2.5.4. If needed, generally on request by the proposer, the International Bureau may determine, after consultation with the Consultative Group, that consideration of a proposal for change should be expedited in accordance with section 2.5.5. It is to be understood that consideration of any proposal for change resulting from a change to a PCT Contracting State's national law relating to the standards contained in this Annex would be expedited.

2.5.4 Annual change management cycle

1. Each proposal for change received by the International Bureau is published on the Web site, forthwith after its receipt, in a PFC file together with an indication that comments on the proposal may be sent to the International Bureau. That publication is promptly notified by e-mail to the e-filing information list.
2. Any comments received from interested parties following the publication and notification of a proposal for change referred to in section 2.5.3 are promptly published on the Web site in the PFC file and notified by e-mail to the e-filing information list.
3. Further consideration of the proposal does not take place until the following February, unless expedited consideration is accorded to the proposal under section 2.5.5.

4. On or promptly after February 15, the International Bureau publishes on the Web site a list of all pending standard proposals for change and references to the relevant PFC files, with an indication that comments may be sent to the International Bureau by March 31, and sends a notification by e-mail to the e-filing information list. The International Bureau also sends a written circular to all PCT Offices and Authorities, interested intergovernmental organizations and certain non-governmental organizations representing users, referring to the Web site, inviting comments by March 31 and advising that paper copies of the proposals for change are available from the International Bureau.
5. Any further comments received by the International Bureau are published, forthwith after their receipt, in the PFC file on the Web site and notified by e-mail to the e-filing information list.
6. Promptly after March 31, the International Bureau invites the Consultative Group to consider the pending proposals for change and comments, and the Consultative Group makes recommendations to the International Bureau by May 15. The recommendations are published forthwith in the PFC file on the Web site and notified by e-mail to the e-filing information list.
7. Taking into account the comments received and the recommendations of the Consultative Group, and after any necessary revision, the International Bureau publishes on the Web site, by June 30, modifications intended to come into force on January 1 of the following year or, exceptionally, before that date, and sends a notification by e-mail to the e-filing information list.
8. The usual procedures for promulgation of modifications of the Administrative Instructions apply (written circular and publication in the *PCT Gazette*).
9. If applicable, new or revised requirements of Offices are notified to the International Bureau, as provided for in Section 710 of the Administrative Instructions, for publication in the *PCT Gazette*.

2.5.5 Expedited consideration of change proposals

1. At any time, after consulting the Consultative Group, the International Bureau may decide that a proposal for change should be accorded expedited consideration, even if the proposal for change has so far been treated as standard.
2. Each proposal for change which is accorded expedited consideration is published on the Web site for comment and notified by e-mail to the e-filing information list, as outlined in section 2.5.4, paragraphs 1 and 2, except that comments are invited within six weeks. At the same time as that publication, the International Bureau sends the written circular referred to in section 2.5.4, paragraph 4, inviting comments within six weeks. Any comments received are published, forthwith after their receipt, in the PFC file on the Web site and notified by e-mail to the e-filing information list.
3. At the end of the period for comments, the International Bureau invites the Consultative Group to consider the proposal for change and comments, and the Consultative Group makes recommendations within six weeks of that invitation, including a recommendation, if applicable, as to the appropriate date of entry into force of the proposed modifications. The

recommendations are published forthwith in the PFC file on the Web site and notified by e-mail to the e-filing information list.

4. Taking into account the comments received and the recommendations of the Consultative Group, and after any necessary revision, the International Bureau publishes the modifications, and their date of entry into force, on the Web site, and sends a notification by e-mail to the e-filing information list.

5. The modifications are promulgated, and any new requirements of Offices are notified and published, as outlined in section 2.5.4, paragraphs 8 and 9.

2.5.6 Version handling

The adoption and implementation of modifications must take into account any requirement for different versions of certain aspects of the standard (notably, DTDs and the interoperability protocol) to operate simultaneously for a period. In such cases, version numbers, and the status of versions in terms of their period of applicability, must be clearly identified in the modifications and, if appropriate, in the relevant parts of Annex F and its Appendices and other relevant parts of the Administrative Instructions which are being modified.

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