



C. PCT 897
07.2

January 10, 2003

Madam,
Sir,

*Demands for International Preliminary Examination and Requests
in PCT-EASY Format*

1. Following consultation under Rule 89.2(b) of the Regulations under the Patent Cooperation Treaty (PCT) with International Preliminary Examining Authorities (IPEAs), as well as certain non-governmental organizations (see Circular C. PCT 779 dated May 14, 2001), Section 102*bis* of the Administrative Instructions under the PCT has been modified, and new Section 102*ter* has been added, with effect from January 30, 2003, to provide for the filing and processing of demands for international preliminary examination prepared using the PCT-EASY software (“demands in PCT-EASY format”) together with the associated diskettes prepared using that software. Following that same consultation, Section 335 has been modified in order to give receiving Offices added flexibility when transmitting to the International Bureau data contained in PCT-EASY diskettes. The text of modified Sections 102*bis* and 335 and new Section 102*ter* is set out in document PCT/AI/1 Rev.1 Add.7 dated January 10, 2003, enclosed herewith; it will also be published in *PCT Gazette* No. 04/2003 on January 23, 2003.

2. This Circular also invites IPEAs to inform the International Bureau whether they will accept the filing of demands in PCT-EASY format (see paragraph 13, below).

*Filing and Processing of Demands for International Preliminary Examination in
PCT-EASY Format*

3. As explained in Circular C. PCT 779, the PCT-EASY software was introduced in January 1999 (see Circular C. PCT 697 dated December 22, 1998) to assist applicants in preparing the request part of their international applications

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(“request in PCT-EASY format”). On the request of PCT users and given that currently about 40% of all international applications contain requests prepared with the help of the software, the scope of the software has now been enlarged so as to enable the preparation of the demand in addition to the request.

4. It is important to note that, as is the case for the request in PCT-EASY format, *it will be the paper print-out of the demand*, created with the use of the PCT-EASY software, *which will be the legally determinative version*.

5. The provisions governing the preparation, filing and handling of demands in PCT-EASY format will be similar, in many respects, to those for requests in PCT-EASY format, that is, applicants will be required to file the demand in PCT-EASY format in paper form generated using the software, together with a diskette also prepared using that software. The IPEA will have the possibility of uploading the data from the diskette into its computer system for processing purposes, and an IPEA software module is available to enable this. The IPEA will continue to transmit the demand in PCT-EASY format in paper form (or a copy thereof) to the International Bureau.

6. Even though some IPEAs have indicated that they would prefer not to receive and handle PCT-EASY demand diskettes, in light of the fact that other IPEAs have indicated that they would like to rely on the diskettes to upload the relevant data into their computer systems, applicants will generally be required to submit diskettes together with the print-outs. However, even though IPEAs will be entitled to invite applicants to furnish missing or defective PCT-EASY demand diskettes or to refurnish demands by way of Form PCT/IPEA/401, as the case may be, they will not be obliged to do so.

7. Furthermore, IPEAs will not be required to transmit PCT-EASY demand diskettes to the International Bureau, together with the demand in paper form, since that would not considerably simplify the updating of the data held by the International Bureau. IPEAs will therefore not be required to receive from applicants such diskettes merely for the purpose of transmitting them to the International Bureau.

8. Finally, it is confirmed that no reduction of the handling fee payable for the benefit of the International Bureau will be available in respect of the filing of demands in PCT-EASY format.

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Promulgation of PCT-EASY Format for the Demand

9. Pursuant to Section 102(i), it has been determined, with effect from January 30, 2003, that the computer print-out prepared using the PCT-EASY software made available by the International Bureau is permitted for the presentation of the demand, provided that:

(i) the demand is presented as a computer print-out prepared using the PCT-EASY software (“demand in PCT-EASY format”);

(ii) the demand is filed together with a computer diskette, prepared using that software, containing a copy in electronic form of the data contained in the demand (“PCT-EASY demand diskette”); and

(iii) the demand is filed with an IPEA which is prepared to accept the filing of demands in PCT-EASY format together with PCT-EASY demand diskettes.

10. The format of a blank print-out of the demand prepared using the current version of the PCT-EASY software will be published in *PCT Gazette* No. 04/2003 dated January 23, 2003, and is reproduced in Annex I to this Circular.

Processing of Requests in PCT-EASY Format

11. As proposed in Circular C. PCT 779, Section 335, relating to the transmittal by receiving Offices to the International Bureau of PCT-EASY request diskettes, is modified so as to enable receiving Offices to transmit data contained on such diskettes in other means, such as, for example, on-line. This will add flexibility to the transmission of data, in general, between Offices, Authorities and the International Bureau.

Modifications of the Administrative Instructions

12. The text of Sections 102*bis*, 102*ter* and 335 is as proposed in Circular C. PCT 779, noting that the modification of Section 102*bis*(c), which had entered into force in the meantime, that is, on October 17, 2002, is reflected in the attached text. As a result of the above-mentioned consultation, it has been decided not to pursue proposed new Section 617.

IPEAs Prepared to Accept Filing of Demands in PCT-EASY Format

13. Pursuant to new Section 102*ter*(b), the International Bureau invites all IPEAs to inform the International Bureau as soon as possible whether they will accept the filing of demands in PCT-EASY format. The International Bureau will publish any such information in the *PCT Gazette*.

Guidelines for the Receipt and Processing of Demands in PCT-EASY Format

14. Taking into account the various comments made by Authorities, the proposed Guidelines for the receipt and processing of demands in PCT-EASY format by the IPEAs have been revised and are set out in Annex II to this Circular. It is envisaged that those Guidelines will be reflected at a later stage in the *PCT-EASY User Reference Manual* provided with the PCT-EASY software.

Inquiries

15. Inquiries as to the processing of demands in PCT-EASY format should be directed to the PCT-EASY Help Desk (telephone: (+41-22) 338 9523; facsimile machine: (+41-22) 338 8040; e-mail: pcteasy.help@wipo.int); further details may also be obtained from the PCT-EASY home page on the Internet (<http://pcteasy.wipo.int>).

Yours sincerely,



Francis Gurry
Assistant Director General

Enclosures: Document PCT/AI/1 Rev.1 Add.7 (Administrative Instructions Under the Patent Cooperation Treaty: Modifications)
Annex I (Demand in PCT-EASY Format: Blank Print-out)
Annex II (Guidelines for the Receipt and Processing of Demands in PCT-EASY Format)

DEMAND IN PCT-EASY FORMAT: BLANK PRINT-OUT

The format of a blank print-out of the demand for international preliminary examination prepared using the current version of the PCT-EASY software made available by the International Bureau is set out on the following pages.

This format is permitted for the presentation of the demand, provided that:

- (i) the demand is presented as a computer print-out prepared using the PCT-EASY software (“demand in PCT-EASY format”);
- (ii) the demand is filed together with a computer diskette, prepared using that software, containing a copy in electronic form of the data contained in the demand (“PCT-EASY demand diskette”); and
- (iii) the demand is filed with an International Preliminary Examining Authority which is prepared to accept the filing of demands in PCT-EASY format together with PCT-EASY demand diskettes.

The blank print-out is representative of, but is not identical to, print-outs prepared using the PCT-EASY software. The data concerning the application will appear in the blank column(s) and, depending on the applicable details, certain items presently appearing in the two left-hand columns may be omitted or repeated. The software would then renumber some items, and the contents, numbering and pagination in the resulting print-out would differ from the blank print-out reproduced hereafter.

**PCT DEMAND FOR INTERNATIONAL
PRELIMINARY EXAMINATION (CHAPTER II)**

Blank print-out (NOT for use) – printed on

| | | |
|---------------|--|--|
| 0 | For International Preliminary Examining Authority use only | |
| 0-1 | Identification of IPEA | |
| 0-2 | Date of receipt of DEMAND | |
| 0-3 | Form – PCT/IPEA/401 PCT Demand | |
| 0-3-1 | Prepared using | |
| 0-4 | Demand under Article 31 of the Patent Cooperation Treaty: The undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty and hereby elects all eligible States (except where otherwise indicated). | |
| 0-5 | International Preliminary Examining Authority (specified by the applicant) | |
| I | Identification of the International application | |
| I-1 | International application No. | |
| I-2 | International Filing Date | |
| I-3 | (Earliest) Priority Date | |
| I-4 | Applicant's or agent's file reference | |
| I-5 | Title of invention | |
| II-X | Applicant | |
| II-X-1 | Name (LAST, First) | |
| II-X-2 | Address | |
| II-X-3 | State of nationality | |
| II-X-4 | State of residence | |
| II-X-5 | Telephone No. | |
| II-X-6 | Facsimile No. | |
| II-X-7 | e-mail | |
| II-X-8 | Applicant's registration No. with the Office | |

**PCT DEMAND FOR INTERNATIONAL
PRELIMINARY EXAMINATION (CHAPTER II)**

Blank print-out (**NOT** for use) – printed on

| | | |
|--|--|--|
| <p>III-1</p> <p>III-1-1</p> <p>III-1-2</p> <p>III-1-3</p> <p>III-1-4</p> <p>III-1-5</p> <p>III-1-6</p> | <p>Agent or common representative; or address for correspondence The following person has been appointed earlier and represents the applicant(s) also for international preliminary examination:</p> <p>The following person is hereby appointed and any earlier appointment of (an) agent(s)/common representative is hereby revoked:</p> <p>The following person is hereby appointed, specifically for the procedure before the International Preliminary Examining Authority, in addition to the agent(s)/common representative appointed earlier:</p> <p>No agent or common representative is/has been appointed; the following special address should be used as address for correspondence:</p> | |
| <p>III-X</p> <p>III-X-1</p> <p>III-X-2</p> <p>III-X-3</p> <p>III-X-4</p> <p>III-X-5</p> <p>III-X-6</p> | <p>Additional agent(s)</p> <p>Name (LAST, First)</p> <p>Address</p> <p>Telephone No.</p> <p>Facsimile No.</p> <p>e-mail</p> <p>Agent's registration No.</p> | |

**PCT DEMAND FOR INTERNATIONAL
PRELIMINARY EXAMINATION (CHAPTER II)**

Blank print-out (NOT for use) – printed on

| | | |
|---------------|--|--|
| IV | Basis for International Preliminary Examination | |
| IV-1-1 | Statement concerning amendments: The applicant wishes the International Preliminary Examination to start on the basis of: Where no indication has been made, international preliminary examination will start on the basis of the international application as originally filed or, where a copy of amendments to the claims under Article 19 and/or amendments of the international application under Article 34 are received by the International Preliminary Examining Authority before it has begun to draw up a written opinion or the international preliminary examination report, as so amended. | |
| IV-1-2 | Statement concerning amendments: The applicant wishes any amendments to the claims under Article 19 to be considered as reversed | |
| IV-1-3 | Statement concerning amendments: The applicant wishes the start of the international preliminary examination to be postponed until the expiration of 20 months from the priority date unless the International Preliminary Examining Authority receives a copy of any amendments made under Article 19 or a notice from the applicant that he does not wish to make such amendments. (Rule 69.1(d)) | |
| IV-2 | Language for the purposes of international preliminary examination: | |
| V | Election of States | |
| V-1 | The applicant hereby elects all eligible States except the State(s) indicated under item V-2 below. | |
| V-2 | Exclusion(s) from the Election of States | |

**PCT DEMAND FOR INTERNATIONAL
PRELIMINARY EXAMINATION (CHAPTER II)**

Blank print-out (**NOT** for use) – printed on

| VI | Check list The demand is accompanied by the following elements, in the language referred to under item IV-2 for the purposes of international preliminary examination: | sheets | electronic file(s) attached | received Y/N (For IPEA use only) |
|--------------|--|----------------------------|-----------------------------|---|
| VI-1 | Translation of international application | | | |
| VI-2 | Amendments under Article 34: | | | |
| VI-3 | Copy (or, where required, translation) of amendments under Article 19 | | | |
| VI-4 | Copy (or, where required, translation) of statement under Article 19 | | | |
| VI-5 | Letter | | | |
| VI-6 | Other: <type of doc.> | | | |
| | Accompanying items The demand is also accompanied by the following items: | paper document(s) attached | electronic file(s) attached | |
| VI-9 | Fee calculation sheet | | | |
| VI-10 | Original separate power of attorney | | | |
| VI-11 | Original general power of attorney | | | |
| VI-12 | Copy of general power of attorney | | | |
| VI-13 | Statement explaining lack of signature | | | |
| VI-14 | Sequence listing in computer readable form | | | |
| VI-15 | Other | | | |
| VII-X | Signature of applicant, agent or common representative | | | |
| VII-X-1 | Name (LAST, First) | | | |
| VII-X-2 | Name of signatory | | | |
| VII-X-3 | Capacity | | | |

BLANK PRINT-OUT
NOT FOR USE

**PCT DEMAND FOR INTERNATIONAL
PRELIMINARY EXAMINATION (CHAPTER II)**

Blank print-out (NOT for use) – printed on

FOR INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY USE ONLY

| | | |
|-------|--|--|
| 8-1 | Date of actual receipt of DEMAND | |
| 8-2 | Adjusted date of receipt of demand due to CORRECTIONS under Rule 60.1(b) | |
| 8-3 | The date of receipt of the demand is AFTER the expiration of 19 months from the priority date and items 8-4 and 8-5 below do not apply. | |
| 8-3-1 | The applicant has been informed accordingly | |
| 8-4 | The date of receipt of the demand is WITHIN the period of 19 months from the priority date as extended by virtue of Rule 80.5. | |
| 8-5 | Although the date of receipt of the demand is after the expiration of 19 months from the priority date, the delay in arrival is EXCUSED pursuant to Rule 82. | |

FOR INTERNATIONAL BUREAU USE ONLY

| | | |
|-----|------------------------------|--|
| 9-1 | Demand received from IPEA on | |
|-----|------------------------------|--|

BLANK PRINT-OUT
NOT FOR USE

PCT-FEE CALCULATION SHEET (CHAPTER II)Blank print-out (**NOT** for use) – printed on**Annex to the Demand**

| | | |
|---------------------|--|------------|
| 0 0-1 | For International Preliminary Examining Authority use only Date stamp of the IPEA | |
| 0-2 0-2-1 | Form PCT/IPEA/401 (Annex) PCT Fee Calculation Sheet Prepared using | |
| 0-3 | International application No. | |
| 0-4 | Applicant's or agent's file reference | |
| 5 | Applicant | |
| 6 | Calculation of prescribed fees | Fee amount |
| 6-1 | Preliminary examination fee ^P Includes 75% reduction for applicants from certain States | |
| 6-2 | Handling fee ^H Includes 75% reduction for applicants from certain States | |
| 6-3 | TOTAL OF PRESCRIBED FEES (P+H) | |
| 6-4 | Mode of payment | |
| 6-5 | Authorization to charge (or credit) deposit account with the IPEA | |
| 6-6 | Authorization to charge the total fees indicated above. | |
| 6-7 | Authorization to charge any deficiency or credit any overpayment in the total fees indicated above. | |
| 6-8 | Deposit account No. | |
| 6-9 | Date | |
| 6-10 | Name and signature | |

VALIDATION LOG AND REMARKS

| | | |
|-------|---------------------------------|--|
| 7-1-X | Applicant remarks <entity> | |
| 7-2-X | Validation messages <entity> | |

GUIDELINES FOR THE
RECEIPT AND PROCESSING OF DEMANDS IN PCT-EASY FORMAT

1. The following paragraphs set out guidelines for the receipt and processing by International Preliminary Examining Authorities (IPEAs) of demands in PCT-EASY format. In particular, the guidelines address the checking, correction and transmittal of such demands, and the circumstances for addressing lack of compliance with the requirements for using the demand in PCT-EASY format.

Checking of Demands and Transmittal to the International Bureau

2. Where a demand in PCT-EASY format is filed with an IPEA which accepts the filing of such demands, the IPEA shall first check whether the demand did indeed appear to have been prepared using the PCT-EASY software and whether the PCT-EASY demand diskette has been furnished together with it.

3. The PCT-EASY demand diskette should be labeled "PCT-EASY demand", and indicate the international application number, the first applicant's or agent's file reference and the first applicant's name.

4. If the demand in PCT-EASY format complies with those requirements, the IPEA shall proceed to check the demand for compliance with the requirements of the Treaty and the Regulations. In this regard, checking a demand in PCT-EASY format is the same as checking a demand filed using Form PCT/IPEA/401. However, with the help of the software module which has been developed to upload the data from the diskette, the IPEA could, if it wishes to do so, conduct the necessary review of the demand using the data from the diskette. Further information on the IPEA module will be provided at a later stage in the manual distributed with the PCT-EASY software. In addition, since the PCT-EASY software contains many validation checks, demands in PCT-EASY format should contain few, if any, defects of a purely formal nature.

Correction of the Demand in PCT-EASY Format

5. It should be borne in mind that the demand on paper is the legally determinative version. If the IPEA invites the applicant to correct defects in the demand in PCT-EASY format, the general procedures for correction would be the same as those set out in the Regulations and the International Preliminary Examination Guidelines. In this regard, a correction stated in a letter and not accompanied by a replacement print-out of the entire demand prepared using the PCT-EASY software would be acceptable only if it was of such a nature that it could be transferred from the letter to the demand without affecting the clarity and direct reproducibility of the sheet onto which the correction is to be transferred. Otherwise, the applicant should be required to submit a replacement print-out of the entire demand prepared using the PCT-EASY software, in which case the letter accompanying the replacement print-out should draw attention to the differences between the replaced demand in PCT-EASY format and the replacement demand prepared using the PCT-EASY software. However, a replacement diskette should not be submitted in such circumstances.

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Where IPEA Does Not Accept Demands in PCT -EASY Format

6. If the IPEA does not accept the filing of demands in PCT-EASY format but the demand is filed in that format, the demand would not comply with the requirements of PCT Rule 53.1(a) and the IPEA, subject to the following paragraph, should invite the making of a correction by filing a demand which does so comply (that is, by filing a demand presented on Form PCT/IPEA/401). The demand in such cases would be treated like any other demand which does not comply with the physical requirements under PCT Rule 53.

7. The question whether the IPEA would, in fact, accept the filing of demands in PCT-EASY format would be a matter for the IPEA. The IPEA may decide to accept the filing of a demand in PCT-EASY format even if it had not notified the International Bureau in advance that it accepted such filings.

Demand in PCT-EASY Format Is Filed Without PCT-EASY Demand Diskette

8. If the PCT-EASY demand diskette is not filed together with the demand, the IPEA may invite the applicant to furnish the PCT-EASY demand diskette immediately. The IPEA is, however, not obliged to do so and the use of the PCT-EASY format for the demand by submitting only the paper print-out is acceptable.

9. Such cases might be expected to arise, in particular, where a demand in PCT-EASY format is filed by fax, to be followed by the original and the PCT-EASY demand diskette, or where the check list in a demand in PCT-EASY format indicates that a PCT-EASY diskette is attached but no such diskette is in fact attached.

Form PCT/IPEA/401 Filed with PCT-EASY Demand Diskette

10. If the applicant files a demand using Form PCT/IPEA/401 but furnishes a PCT-EASY demand diskette together with that demand, the requirements for presenting the demand in PCT-EASY format are not satisfied. In such a case, the IPEA should process Form PCT/IPEA/401 as if no diskette had been filed.

Demand Not in PCT-EASY Format Filed with or without PCT-EASY Demand Diskette

11. If the IPEA finds that the demand as filed is not in PCT-EASY format (for example because it was prepared using a software other than the PCT-EASY software provided by the International Bureau), the requirements for presenting the demand in PCT-EASY format are not satisfied, but, provided the requirements of the Treaty and Regulations are otherwise complied with, the IPEA need not invite the applicant to furnish a corrected demand in an acceptable format.

PCT-EASY Demand Diskette Filed Alone

12. A PCT-EASY demand diskette filed alone, that is, without a demand in paper form, does not constitute a demand pursuant to Article 31.

PCT-EASY Demand Diskette Defective or Incomplete

13. If an IPEA which has undertaken to process demands in PCT-EASY format finds that a diskette purporting to be a PCT-EASY demand diskette contains no data (for example, the diskette is blank), is incomplete (for example, the name of the applicant is missing), or is unreadable (for example because it is virus infected), the IPEA shall proceed as though the demand in PCT-EASY format had been filed without a PCT-EASY demand diskette (see above).
