

PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS
UNDER THE PATENT COOPERATION TREATY

as in force from July 1, 2022

1. This document contains an addendum to the Administrative Instructions under the Patent Cooperation Treaty (PCT), established under PCT Article 58(4) and Rule 89.2(a), and modified under PCT Rule 89.2(b), entering into force on July 1, 2022.
2. This document contains the complete text of Administrative Instructions that were amended following consultation under circular C PCT 1627, dated August 10, 2021.
3. The Administrative Instructions in this document will be consolidated with other amended content resulting from consultation in relation to amendments to PCT Rule 82^{quater} (adopted by the PCT Assembly at its fifty-third session held in Geneva on October 4 to 8, 2021 (see documents PCT/A/53/3 and PCT/A/53/4, paragraph 25)), before the entry into force of all of the new Administrative Instructions on July 1, 2022.

PART 2
INSTRUCTIONS RELATING TO THE INTERNATIONAL APPLICATION

Section 204
Headings of the Parts of the Description

- (a) The headings of the parts of the description shall preferably be as follows:
- (i) for matter referred to in Rule 5.1(a)(i), "Technical Field";
 - (ii) for matter referred to in Rule 5.1(a)(ii), "Background Art";
 - (iii) for matter referred to in Rule 5.1(a)(iii), "Disclosure of Invention" or "Summary of Invention";
 - (iv) for matter referred to in Rule 5.1(a)(iv), "Brief Description of Drawings";
 - (v) for matter referred to in Rule 5.1(a)(v), "Best Mode for Carrying out the Invention," or, where appropriate, "Mode(s) for Carrying out the Invention" or "Description of Embodiments";
 - (vi) for matter referred to in Rule 5.1(a)(vi), "Industrial Applicability".
 - (vii) *[Deleted]*
 - (viii) *[Deleted]*
- (b) The heading "Title of Invention" shall preferably precede the title of the invention.

Section 207
Arrangement of Elements and Numbering of Sheets of the International Application

- (a) In effecting the sequential numbering of the sheets of the international application in accordance with Rule 11.7, the elements of the international application shall be placed in the following order:
- (i) the request;
 - (ii) the description (excluding the sequence listing part of the description referred to in Rule 5.2(a));
 - (iii) the claims;
 - (iv) the abstract;
 - (v) if applicable, the drawings.
 - (vi) *[Deleted]*

Any sequence listing part of the description shall be presented in a separate electronic file in accordance with Annex C.

- (b) The sequential numbering of the sheets shall be effected by using the following separate series of numbering:
- (i) the first series applying to the request only and commencing with the first sheet of the request;
 - (ii) the second series commencing with the first sheet of the description (as referred to in paragraph (a)(ii)) and continuing through the claims until the last sheet of the abstract;
 - (iii) if applicable, a further series applying to the sheets of the drawings only and commencing with the first sheet of the drawings; the number of each sheet of the drawings shall consist of two Arabic numerals separated by a slant, the first being the sheet number and the second being the total number of sheets of drawings (for example, 1/3, 2/3, 3/3).

Section 208
Sequence Listings

Any sequence listing, whether forming part of the international application or not forming part of the international application, shall comply with Annex C. Sequences and references to sequences included in the main part of the description, claims and drawings shall also comply with Annex C.

PART 3
INSTRUCTIONS RELATING TO THE RECEIVING OFFICE

Section 313
Documents Filed with the International Application;
Manner of Marking the Necessary Annotations in the Check List

(a) Any power of attorney, any priority document, any fee calculation sheet and any separate sheet referred to in Section 209(a) containing indications as to deposited biological material, filed with the international application shall accompany the record copy; any other document referred to in Rule 3.3(a)(ii) shall be sent only at the specific request of the International Bureau. If any document which is indicated in the check list as accompanying the international application is not, in fact, filed at the latest by the time the record copy leaves the receiving Office, that Office shall so note on the check list and the said indication shall be considered as if it had not been made.

(b) Where, under Rule 3.3(b), the receiving Office itself completes the check list, that Office shall enter, in the margin, the words "COMPLETED BY RO" or their equivalent in the language of publication of the international application. Where only some of the indications are completed by the receiving Office, the said words and each indication completed by that Office shall be identified by an asterisk.

Section 332
Notification of Languages Accepted by the Receiving Office
under Rules 12.1(a), (c) and (d) and 12.4(a)

(a) Each receiving Office shall notify the International Bureau of the language or languages which, having regard to Rule 12.1(b), it is prepared to accept under Rule 12.1(a) for the filing of international applications.

(a-bis) Each receiving Office shall notify the International Bureau of the language or languages of any language-dependent free text which, having regard to Rules 12.1(a) and (b), it is prepared to accept under Rule 12.1(d) for the filing of the sequence listing part of the description.

(b) Each receiving Office shall notify the International Bureau of any change to the information notified under paragraphs (a), (a-bis), (d) and (e). If the change means that

(i) the receiving Office is no longer prepared to accept the filing of international applications in a language that it had previously notified the International Bureau that it was prepared to accept; or

(ii) the receiving Office is no longer prepared to accept the translation of international applications into a language of publication that it had previously notified the International Bureau that it was prepared to accept; or

(iii) the receiving Office is no longer prepared to accept the filing of requests in a language that it had previously notified the International Bureau that it was prepared to accept; or

(iv) the receiving Office is no longer prepared to accept the filing of the sequence listing part of the description containing language-dependent free text in a language that it had previously notified the International Bureau that it was prepared to accept,

the effective date of such change shall be two months after the date of publication of the notification of the change in the Gazette pursuant to Section 405 or such later date as may be determined by the receiving Office.

(c) Nothing in paragraph (a), (a-bis), (b), (d) or (e) prevents any receiving Office from accepting, in a particular case,

(i) the filing of an international application in a language that it has not notified the International Bureau that it is prepared to accept; or

(ii) the translation of an international application into a language of publication that it has not notified the International Bureau that it is prepared to accept; or

(iii) the filing of a request in a language that it has not notified the International Bureau that it is prepared to accept; or

(iv) the filing of the sequence listing part of the description containing language-dependent free text in a language that it has not notified the International Bureau that it is prepared to accept.

(d) Each receiving Office concerned shall notify the International Bureau of the language or languages which it is prepared to accept under Rule 12.4(a) for the translation of international applications into a language of publication.

(e) Each receiving Office shall notify the International Bureau of the language or languages which it is prepared to accept under Rule 12.1(c) for the filing of requests.

Section 333 **Transmittal of International Application** **to the International Bureau as Receiving Office**

(a) Where a national Office intends to proceed under Rule 19.4(b) having regard to Rule 19.4(a)(i), (ii) or (ii-*bis*), it shall, if it requires payment of the fee referred to in Rule 19.4(b) and that fee has not already been paid, promptly invite the applicant to pay that fee within a time limit of 15 days from the date of the invitation.

(b) Where a national Office intends to proceed under Rule 19.4(b) having regard to Rule 19.4(a)(iii), it shall promptly request the International Bureau as receiving Office to agree to the transmittal of the international application. The International Bureau as receiving Office shall promptly respond to that request. If the International Bureau as receiving Office agrees to the transmittal, the national Office shall promptly invite the applicant:

(i) if the transmittal has not already been authorized by the applicant, to submit to that Office, within a time limit of 15 days from the date of the invitation, an authorization of the transmittal, and,

(ii) if the Office requires payment of the fee referred to in Rule 19.4(b) and that fee has not already been paid, to pay that fee within the time limit referred to in item (i).

(c) The national Office:

(i) need not proceed under Rule 19.4(b) having regard to Rule 19.4(a)(i) to (iii) if the Office requires payment of the fee referred to in Rule 19.4(b) and the applicant does not pay that fee;

(ii) shall not proceed under Rule 19.4(b) having regard to Rule 19.4(a)(iii) if the International Bureau as receiving Office does not agree to, or if the applicant does not authorize, the transmittal of the international application under Rule 19.4(a)(iii).

Section 335 **Procedures Relating to Sequence Listings**

(a) Sections 305*bis*, 308(b), 308*bis* to 310*ter* and 325 shall apply *mutatis mutandis* to any sequence listing furnished as a separate electronic file in the relevant procedures, subject to paragraphs (b) to (d) and any special provisions set out in Annex C.

(b) Where the receiving Office receives a sequence listing on a physical medium, that Office shall physically label the medium with the words "SEQUENCE LISTING" together with other markings equivalent to those required for sheets filed or submitted according to Sections 308(b), 308*bis* to 310*ter* or 325, as the case may be, in accordance with the procedures in Annex C.

(c) The receiving Office shall keep the contents of any file received from the applicant representing a sequence listing unchanged. Any required annotation concerning the international application number or purpose for which the sequence listing was furnished shall be recorded in

the filename or other metadata associated with the file in accordance with the procedures in Annex C.

(d) Where the receiving Office receives a sequence listing under Rule 13*ter* for the purposes of international search and any accompanying statement as set out in Annex C, it shall forward these to the International Searching Authority, together with the search copy or as soon as possible thereafter.

PART 4
INSTRUCTIONS RELATING TO THE INTERNATIONAL BUREAU

Section 405
Publication of Notifications of Languages
Accepted by the Receiving Office under Rules 12.1(a), (c) and (d) and 12.4(a)

The International Bureau shall promptly publish in the Gazette any notification under Section 332(a), (a-*bis*), (b), (d) or (e).

PART 5
INSTRUCTIONS RELATING TO THE INTERNATIONAL SEARCHING AUTHORITY

Section 513
Sequence Listings

(a) *[Deleted]*

(b) Where the international search report and the written opinion of the International Searching Authority are based on a sequence listing not forming part of the international application but furnished for the purposes of the international search, the international search report and the written opinion of the International Searching Authority shall so indicate.

(c) Where a meaningful international search cannot be carried out and a meaningful written opinion, as to whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious) and to be industrially applicable, cannot be established because a sequence listing is not available to the International Searching Authority in the required form, language and manner, that Authority shall so state in the international search report or declaration referred to in Article 17(2)(a), and in the written opinion.

(d) Where a sequence listing for the purposes of the international search is furnished on a physical medium, that Authority shall physically label that medium with the words "SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION" in accordance with the procedures in Annex C.

(e) The International Searching Authority shall:

(i) keep in its files one copy of any sequence listing which does not form part of the international application but was furnished for the purposes of the international search; and

(ii) transmit one copy thereof to the International Bureau together with the copy of the international search report. If that listing is furnished on a physical medium in less than the number of copies required by the International Searching Authority, that Authority shall be responsible for the preparation of the additional copy and shall have the right to fix a fee for performing that task and to collect such fee from the applicant.

(f) Each International Searching Authority shall notify the International Bureau of the means of transmittal of the sequence listing accepted by it in accordance with Annex F. The International Bureau shall promptly publish details of the notification in the Gazette.

PART 6
INSTRUCTIONS RELATING TO THE
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

Section 610
Sequence Listings

(a) Where the written opinion of the International Preliminary Examining Authority or the international preliminary examination report is based on a sequence listing not forming part of the international application but furnished for the purposes of the international preliminary examination, the written opinion and the international preliminary examination report of the International Preliminary Examining Authority shall so indicate.

(b) Where a meaningful written opinion of the International Preliminary Examining Authority cannot be established, or a meaningful international preliminary examination cannot be carried out, as to whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious) and to be industrially applicable, because a sequence listing is not available to the International Preliminary Examining Authority in the required form, language and manner, that Authority shall so state in the written opinion and in the international preliminary examination report.

(c) Where a sequence listing for the purposes of the international preliminary examination is furnished on a physical medium, that Authority shall physically label that medium with the words "SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION" in accordance with the procedures in Annex C.

(d) The International Preliminary Examining Authority shall:

(i) keep in its files one copy of any sequence listing which does not form part of the international application but was furnished for the purposes of the international preliminary examination; and

(ii) transmit one copy thereof to the International Bureau, either immediately or together with the international preliminary examination report. If that listing is furnished on a physical medium in less than the number of copies required by the International Preliminary Examining Authority, that Authority shall be responsible for the preparation of the additional copy and shall have the right to fix a fee for performing that task and to collect such fee from the applicant.

(e) Each International Preliminary Examining Authority shall notify the International Bureau of the means of transmittal of the sequence listing accepted by it in accordance with Annex F. The International Bureau shall promptly publish details of the notification in the Gazette.

(f) Where the national Office or intergovernmental organization that acted as the International Searching Authority also acts as the International Preliminary Examining Authority, any sequence listing not forming part of the international application but furnished to that Office or organization for the purposes of the international search shall be considered to have been furnished to it also for the purposes of the international preliminary examination.

PART 7
INSTRUCTIONS RELATING TO THE FILING AND PROCESSING
IN ELECTRONIC FORM OF INTERNATIONAL APPLICATIONS

Section 707
Calculation of International Filing Fee and Fee Reduction

(a) Where an international application is filed in electronic form, the international filing fee shall, subject to paragraph (a-bis), be calculated on the basis of the number of sheets that the application would contain if presented as a print-out complying with the physical requirements prescribed in Rule 11.¹

(a-bis) Where the international application as filed contains an electronic file appearing to be a sequence listing in a file format compliant with WIPO Standard ST.26, the calculation of the international filing fee shall, in the calculation of the number of sheets, not take into account any material contained in such an electronic file.

(b) Item 4(b), (c) and (d) of the Schedule of Fees annexed to the Regulations shall apply to reduce the fees payable in respect of an international application filed in electronic form with a receiving Office which has notified the International Bureau under Section 710(a) that it is prepared to receive international applications in electronic form or which has decided to receive such an application in accordance with Section 703(d).

ANNEX C²
INSTRUCTIONS RELATING TO THE PRESENTATION OF NUCLEOTIDE
AND AMINO ACID SEQUENCE LISTINGS IN INTERNATIONAL PATENT APPLICATIONS
UNDER THE PCT

INTRODUCTION

1. In accordance with Rule 5.2(a), where the international application contains disclosure of nucleotide and/or amino acid sequences that, pursuant to the Administrative Instructions, are required to be included in a sequence listing, the description shall include a sequence listing part of the description complying with the standard provided for in the Administrative Instructions. In accordance with Section 208, any sequence listing, whether forming part of the international application or not forming part of the international application, shall comply with Annex C (this Annex).
2. This Annex provides the Instructions referred to above in relation to the filing and processing of sequence listings, whether forming part of an international applications or not forming part of an international application.

DEFINITIONS

3. For the purposes of these Instructions:
 - (a) the expressions “sequence listing”, “nucleotide” and “amino acid” have the same meaning as in WIPO Standard ST.26;

¹ *Editor's Note:* Noting that Rule 11 leaves some flexibility as to the margins of the sheets (see Rule 11.6) and the size of the characters (see Rule 11.9(d)), the international filing fee should be calculated on the basis of the number of sheets that the application would contain if presented as a print-out complying with the minimum margin and character size requirements. In practice, however, the receiving Office should not print out the international application but rather rely on the number of pages of the international application as calculated by the electronic filing software and indicated in the request.

² *Editor's Note:* The Instructions set out in this Annex apply to international applications filed on or after 1 July 2022. The previous version of Annex C continues to apply to international applications filed prior to that date.

(b) the expression “sequence listing forming part of the international application” means a sequence listing contained in the international application as filed, including any sequence listing which:

(i) is included in the international application under Rule 20.5(b) or (c) or Rule 20.5*bis*(b) or (c),

(ii) is considered to have been contained in the international application under Rule 20.6(b),

(iii) has been corrected under Rule 26, rectified under Rule 91 or amended under Article 34(2)(b), or

(iv) is included in the international application by way of an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed but not originally included in a sequence listing;

(c) the expression “sequence listing not forming part of the international application” means a sequence listing that does not form part of the international application but is furnished for the purposes of the international search or international preliminary examination.

RELATIONSHIP WITH WIPO STANDARD ST.26

4. The sequence listing part of the description shall comply with WIPO Standard ST.26. Subject to the specific requirements set out in this Annex, that Standard shall apply to any nucleotide or amino acid sequence disclosure in an international application, notably with regard to:

(a) whether such disclosure is to be included in a sequence listing;

(b) the manner in which disclosures are to be presented;

(c) the qualifiers for which “free text” is permitted as a value and the identification of those qualifiers for which such free text is considered language-dependent³; and

(d) the Document Type Definition (DTD) for a sequence listing in XML (eXtensible Markup Language).

5. Following any revision of WIPO Standard ST.26, the Director General shall decide a date from which the revised version of that Standard shall apply to international applications and publish that information in the Gazette, together with any transitional provisions concerning the furnishing on or after that date of sequence listings related to international applications filed prior to that date.

SEQUENCES REQUIRED TO BE PRESENTED IN A SEQUENCE LISTING

6. In accordance with WIPO Standard ST.26, a sequence required to be included in a sequence listing for the purposes of Rule 5.2 is one that is disclosed anywhere in an international application by enumeration of its residues and can be represented as:

(a) an unbranched sequence or a linear region of a branched sequence containing ten or more specifically defined nucleotides, wherein adjacent nucleotides are joined by:

(i) a 3' to 5' (or 5' to 3') phosphodiester linkage; or

(ii) any chemical bond that results in an arrangement of adjacent nucleobases that mimics the arrangement of nucleobases in naturally occurring nucleic acids; or

(b) an unbranched sequence or a linear region of a branched sequence containing four or more specifically defined amino acids, wherein the amino acids form a single peptide backbone, that is, adjacent amino acids are joined by peptide bonds.

³ *Editor's Note:* See paragraphs 87 and 88 of WIPO Standard ST.26 and Section 6, Table 5 and Section 8, Table 6 in Annex I to that Standard.

7. In accordance with WIPO Standard ST.26, a sequence listing must not include, as a sequence assigned its own sequence identification number, any sequences having fewer than ten specifically defined nucleotides or fewer than four specifically defined amino acids.

PRESENTATION OF SEQUENCES IN THE INTERNATIONAL APPLICATION

8. Where sequences are included in a sequence listing, Offices may not require that the sequences also appear in the main part of the description. However, in specific cases, the applicant may have valid reasons for setting out some sequences from the sequence listing in the main part of the description, claims or drawings. Where any sequences are presented within the main part of description, claims or drawings, they may be set out in the manner considered most appropriate to present the information for the relevant purpose. In the description, claims or drawings of the application, the sequences included in the sequence listing shall be referred to by the sequence identifier preceded by "SEQ ID NO:", even if the sequence is also embedded in the description, claims or drawings. Similarly, sequences too short to be included in the sequence listing may be presented in the manner considered most appropriate by the applicant.

LANGUAGE-RELATED REQUIREMENTS

9. WIPO Standard ST.26 prescribes the use of "controlled vocabulary" that must be used when describing the features of a sequence, that is, annotations of regions or sites of interest as set out in Annex I to the Standard.

10. Under the Standard, "qualifiers" are used to supply certain information about features in addition to that conveyed by the feature key and feature location. There are several types of permitted "value formats" to accommodate different types of information conveyed by qualifiers, namely controlled vocabulary, enumerated values (for example, a number or date), "free text" and sequences.

11. The vocabulary set out in Annex I of the Standard that is not language-dependent shall be presented only in conformance with the requirements of WIPO Standard ST.26 and must not be translated. This includes:

(a) the nucleotide symbols set out in Section 1 and the amino acid symbols set out in Section 3;

(b) the abbreviations for modified nucleotides set out in Section 2 and the abbreviations for modified amino acids set out in Section 4 as the only permitted values for the certain qualifiers;

(c) the feature key names set out in Sections 5 and 7, and the qualifier names set out in Sections 6 and 8, notwithstanding that many of the allowed names of feature keys and qualifiers are in English or are English abbreviations (see, for example, feature keys 5.1 "C-region" and 7.18 "MOD_RES" (abbreviation of "modification of a residue"); and qualifiers 6.5 "cell_type" and 8.3 "organism");

(d) all "value formats" set out in Sections 6 and 8 allowed to be used to accommodate different types of information conveyed by qualifiers other than "free text" (that is, controlled vocabulary, enumerated values like a number or date, and sequences), notwithstanding that many of these allowed "value formats" contain elements in English or English abbreviations or are recognizably derived from English or Latin words (see, for example, qualifier 6.15 "direction", with the value format: "left", "right" or "both"); and

(e) "free text" qualifier values other than those identified in the Standard as language-dependent.

12. The language-dependent free text must be provided in a language which the receiving Office accepts for that purpose. WIPO Standard ST.26 allows language-dependent free text to be provided in either one or two languages within the same sequence listing: English (in the `INSDQualifier_value` element) and/or another specified language (in the `NonEnglishQualifier_value` element). The language or languages permitted or required to be used in any particular case are considered in paragraphs 16 to 19.

13. The language of any free text included in the `NonEnglishQualifier_value` element shall be indicated in the `nonEnglishFreeTextLanguageCode` attribute. The same language shall be used for the contents of all `NonEnglishQualifier_value` elements in a sequence listing. Where language-dependent free text is provided for any `INSDQualifier_value` or `NonEnglishQualifier_value` element, it shall be provided in the relevant language for all such elements.

14. The language considered to be the original language of all of the language-dependent free text, being the language, or one of the languages, of the language-dependent free text in the sequence listing furnished at the time of filing, shall preferably be indicated using the `originalFreeTextLanguageCode` attribute of the `ST26SequenceListing` element. The indicated language may be used in the international phase to assist the assessment and, where relevant, rectification of discrepancies found between an `INSDQualifier_value` element and a `NonEnglishQualifier_value` element for a language-dependent free text qualifier included in the sequence listing as filed. For national phase processing, the relevance of the indicated original language in cases where more than one language version of free text was included on the international filing date shall be a matter of national law.

15. WIPO Standard ST.26 requires that the name of the first mentioned applicant be provided in the language of filing. Where the name of the first mentioned applicant is not provided in Latin characters, a transliteration or translation must also be provided in Latin characters, irrespective of the language of the sequence listing otherwise. The title of the invention must be provided in the language of filing and may also be provided in additional languages. In any sequence listing translation submitted to the receiving Office, the International Bureau, the International Searching Authority or the International Preliminary Examining Authority, the applicant may add these items in the language of the translation, but shall not be required to do so.

Languages of the Sequence Listing as Filed

16. Rule 12.1(d) allows receiving Offices to specify the language or languages that may be used for language-dependent free text in a sequence listing forming part of the international application as filed. The Office may allow or require the language-dependent free text to be submitted in a language either the same as or different to that of the main body of the international application. The receiving Office may also permit, but may not require the sequence listing as filed to include language-dependent free text in a second language in accordance with WIPO Standard ST.26. This allows the language-dependent free text to be submitted simultaneously in the language of the main body of the international application as filed and in a different language required for the purposes of the international search or international publication under Rule 12.3 or 12.4. In this case, it is not required to submit the translation of the main body of the international application at the same time as the sequence listing; the translation of the main body may be provided at a later date and the translation as a whole will be considered as received on the date on which the final part of the translation is received.

Translations of the Sequence Listing

17. Where a translation of the language-dependent free text in the sequence listing of the international application or of an earlier application is required as part of a translation under Rule 12.3, 12.4, 12*bis*.2(a)(ii), 20.6(a)(iii), 45*bis*.1(c)(i), 49.5 or 55.2(a), that translation shall be provided in the form of a new sequence listing containing all of the language-dependent free text in the required language, either in addition to or replacing languages in the sequence listing from which the text is being translated. The remainder of the sequence listing shall remain unchanged, save for:

(a) the appropriate attributes of `ST26SequenceListing` describing the content, notably including the `productionDate` and, where relevant, `nonEnglishFreeTextLanguageCode`;

(b) preferably, including the application identification details (IP Office code, international application number and international filing date) if these have been accorded and notified to the applicant, as well as, where applicable, updating any of the other elements of the general

information part that have been modified since the international application was filed, or translating them into the language of the translated language-dependent free text. The receiving Office or International Authority shall not require correction or updating of any elements in the general information part solely because there are differences from the corresponding details in the remainder of the international application or the element details have changed between the international filing date and the date on which the translation is submitted, nor require translation of such elements.

18. The `originalFreeTextLanguageCode` attribute shall continue to indicate the original language, irrespective of whether that language version is included in the translated sequence listing.

Languages of Sequence Listings Not Forming Part of the International Application

19. Where a sequence listing is furnished under Rule 13*ter*.1 or 13*ter*.2 for the purposes of the international search or the international preliminary examination, the language-dependent free text shall be provided in one of the languages accepted by the International Searching Authority or the International Preliminary Examining Authority, normally the same language as that used for the main part of the description. The sequence listing may also include the language-dependent free text in a second language, normally either the language of filing or English.

FILING AN INTERNATIONAL APPLICATION CONTAINING A SEQUENCE LISTING OR FURNISHING A SEQUENCE LISTING AFTER FILING

20. The requirement that a sequence listing be presented as an XML file under WIPO Standard ST.26 means that it can only be filed or furnished in electronic form. An application containing sequences as described in paragraph 6 without such a sequence listing is defective and may be difficult to correct at a later stage. It is strongly recommended that the sequence listing be prepared using WIPO SEQUENCE or equivalent software, which validates the form and aspects of the content of the sequence listing.

21. Where an international application containing a sequence listing is filed in electronic form, whether transmitted by electronic or physical means, the sequence listing should preferably form part of a package filed in accordance with Annex F, with the sequence listing indexed in accordance with the standards set out in that Annex.

22. Notwithstanding paragraph 21, any receiving Office may accept an electronic file appearing to contain a sequence listing submitted separately from the main package on the date of filing and should accept such a separate electronic file in any case where it is not practical for the applicant to include the sequence listing as part of the main package, for example, because the file size is too large to be handled by the software used for preparing or receiving the remainder of the international application. If the receiving Office is not able to process such an application, the application shall be considered to have been received by that Office on behalf of the International Bureau as receiving Office in accordance with Rule 19.4(a)(ii-*bis*).

SEQUENCE LISTING FILED ON SEPARATE PHYSICAL MEDIA

23. Any physical medium containing a sequence listing filed separately from a package as referred to in paragraph 21 or where the remainder of the international application is filed on paper, shall be clearly labeled "Sequence Listing" or its equivalent in the language of publication, to which the Office to which the sequence listing is submitted shall add the international application number. Where the sequence listing is submitted after the international filing date, the Office shall also indicate the nature of the sequence listing in accordance with the appropriate one of Sections 309 to 310*ter*, 325, 511, 513, 607 or 610. Preferably, the physical medium used for the transmittal of the sequence listing shall be of a type accepted by both the receiving Office and the International Searching Authority chosen to carry out the international search.

24. Where the file size of a sequence listing is too large to be included on a single physical medium, it shall be split such that the files can be rejoined to form one single contiguous file

without any missing or repeating contents in accordance with the procedures set out in paragraphs 2(c) and (c-bis) of Appendix IV to Annex F of these Administrative Instructions. In addition to the labeling referred to in paragraph 23, the physical media shall each be numbered, for example “DISK 1/3”, “DISK 2/3”, “DISK 3/3”.

SEQUENCE LISTING IN ELECTRONIC FORM WITH THE REMAINDER OF THE INTERNATIONAL APPLICATION FILED ON PAPER

25. Applicants are strongly discouraged from filing international applications with the main body on paper and the sequence listing separately in electronic form. Nevertheless, in accordance with Section 703 paragraphs (d) and (e), any receiving Office may accept an international application filed in that way and should do so if it is apparent that it would not have been practical for the applicant to file the application with the receiving Office in any other way. If the receiving Office is not able to process such an application, the application shall be considered to have been received by that Office on behalf of the International Bureau as receiving Office in accordance with Rule 19.4(a)(ii-bis).

RECEIVING AND PROCESSING AN INTERNATIONAL APPLICATION CONTAINING A SEQUENCE LISTING

CHECKING BY THE RECEIVING OFFICE

Electronic File Appearing to Be a Sequence Listing

26. The receiving Office shall treat any electronic file appearing to be a sequence listing in WIPO Standard ST.26 XML format as a sequence listing forming part of the international application if it is received on or before the date on which the receiving Office determines that the papers purporting to be an international application fulfill all of the requirements under Article 11(1), whether or not that listing is referred to in the main part of the description or in the request, even if it is not correctly marked as such, except for the case where a second sequence listing is provided as part of a translation for international search under Rule 12.3 or international publication under Rule 12.4. This is independent of the question whether or not the electronic file purporting or appearing to be a sequence listing is in fact compliant with WIPO Standard ST.26 (which is not required to be checked by the receiving Office but only by the International Searching Authority). Where the receiving Office finds that a separate electronic file disclosing sequences appears to be in a format other than in WIPO Standard ST.26 XML format, it shall seek clarification from the applicant on whether the content of the file is intended to form part of the description and invite the applicant to furnish the content in the format accepted for the main part of the description if necessary. For this purpose, the receiving Office may require a statement from the applicant that the content of the document resubmitted in the accepted format is identical to that of the electronic file originally submitted. Alternatively, the receiving Office may convert the file to that format on agreement from the applicant.

Checking for Compliance with WIPO Standard ST.26 and for Other Defects

27. The receiving Office shall not be required to perform automated validations to check whether a sequence listing is compliant with WIPO Standard ST.26 or otherwise to check whether its contents are compliant with the requirements of the Rules and these Administrative Instructions. However, where the Office becomes aware of a defect, for example, because its online filing processes or other Office procedures check the sequence listing file using the validation tool provided for the purpose by the International Bureau, the Office may notify the applicant accordingly.

28. Where the receiving Office identifies a discrepancy between any of the information in the general information part of the sequence listing and the corresponding information in the request or application body, the receiving Office may draw the fact to the applicant's attention. The applicant may correct the discrepancy within the time limit provided for in Rule 26.2 but shall not be required to do so. The international application shall be processed on the basis of the indications made in the request.

Calculation of International Filing Fee

29. In accordance with Section 707(a-bis), where the international application as filed contains an electronic file appearing to be a sequence listing in WIPO Standard ST.26 XML format, the calculation of the international filing fee shall, in the calculation of the number of sheets, not take into account any material contained in such an electronic file. However, where the electronic file is in any other format, or it is obviously not a sequence listing, for example, the main part of the description, claims or drawings mislabeled as a sequence listing, such a file should be taken into account in the calculation of the number of sheets.

Processing of a Sequence Listing Submitted After the International Filing Date

30. Where a sequence listing is received after the international filing date under any of Rules 12.3 (translation for the purposes of international search), 12.4 (translation for the purposes of international publication) or 26.4 (correction of a defect), the receiving Office shall forward a copy of the sequence listing to the International Searching Authority and to the International Bureau together with any replacement sheets also submitted for the relevant purpose, in accordance with Section 305bis or 325, as applicable under Section 335(a).

31. Where a sequence listing is received after the international filing date under Rule 13ter (sequence listing for the purposes of international search, not forming part of the international application), the receiving Office shall forward it to the International Searching Authority.

CHECKING BY THE INTERNATIONAL SEARCHING AUTHORITY OR THE INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

32. The International Searching Authority or the International Preliminary Examining Authority shall check that any sequence listing received as part of the search copy, or of a copy of the international application provided for the purposes of international preliminary examination, is compliant with the requirements of WIPO Standard ST.26 and that the language-dependent free text meets the language requirements of the Authority. Where the sequence listing contains defects, or where the international application contains sequences that should have been included in a sequence listing but were not, the Authority may invite the applicant to submit a sequence listing under Rule 13ter.1 for the purposes of international search or Rule 13ter.2 for the purposes of international preliminary examination.

CORRECTION, RECTIFICATION AND AMENDMENT OF A SEQUENCE LISTING

33. Any correction under Rule 26, rectification under Rule 91 or amendment under Article 34(2)(b) of the description submitted in relation to a sequence listing forming part of the international application as filed and any sequence listing included in the international application by way of an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed shall be made by submitting a complete new sequence listing compliant with WIPO Standard ST.26 including the relevant correction, rectification or amendment. The nature of the correction, rectification or amendment shall be clearly explained in an accompanying letter.

34. In compliance with WIPO Standard ST.26, any sequence listing referred to in paragraph 33 shall, where possible, maintain the original numbering of the sequences in the application as filed, representing any "intentionally skipped sequence" as prescribed by WIPO Standard ST.26, where necessary. Otherwise, the sequences shall be numbered in compliance with that Standard in the order in which they appear in the international application.

35. Where the sequence listing referred to in paragraph 33 as proposed to be corrected, rectified or amended is presented on physical media, the media shall be labeled "Sequence Listing – Correction", "Sequence Listing – Rectification" or "Sequence Listing – Amendment", as the case may be, or the equivalents in the language of publication, together with the international application number.

36. Where the new sequence listing is received by the receiving Office, that Office shall not be required to check the content of the sequence listing. The Office may simply check that it has received an electronic file that appears to be a sequence listing, together with an accompanying letter and then forward these items to the International Searching Authority and International Bureau, together with any accompanying corrected, rectified or amended sheets of the main body of the international application.

INCORPORATION BY REFERENCE; MISSING AND ERRONEOUSLY FILED PARTS

37. A sequence listing missing from the international application as filed may be included into the international application under Rule 20.5, or a sequence listing erroneously filed may be removed and replaced under Rule 20.5*bis*. Where relevant, the appropriate sequence listing may be confirmed as incorporated by reference under Rule 20.6.

38. In accordance with Section 335, the procedures for such arrangements are equivalent to those for other parts of the description. Where the sequence listing is not incorporated by reference and the international filing date is corrected, there is no need to compare the newly provided sequence listing to that from the earlier filed application and the receiving Office need only tag the sequence listing in the appropriate manner and proceed as in Sections 310 and 310*bis*. Where the sequence listing is incorporated by reference, the procedure in Section 309 applies, in which case the receiving Office shall make the appropriate marking in the filename or metadata of the XML file containing the respective sequence listing. The receiving Office is recommended to seek guidance from the International Bureau if assistance is required in the comparison of sequence listings provided for confirmation of incorporation by reference with the sequence listing from an earlier application.

SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION

39. Any sequence listing furnished under Rule 13*ter*.1, 13*ter*.2 and 45*bis*.5(c) to an International Authority for the purposes of international search or preliminary examination shall not form part of the international application, pursuant to Rule 13*ter*.1(e) (where applicable, by virtue of Rules 13*ter*.2 and 45*bis*.5(c)). Any such sequence listing submitted shall be accompanied by a statement to the effect that the sequence listing does not go beyond the disclosure in the international application as filed.

40. Paragraphs 4 to 20 and 24 of this Annex shall apply *mutatis mutandis* to any such sequence listing. Such a sequence listing shall contain all sequences disclosed in the international application as filed that meet the criteria referred to in paragraph 6. In compliance with WIPO Standard ST.26, such a sequence listing shall, where possible, maintain the original numbering of the sequences in the application as filed, representing any “intentionally skipped sequence” as prescribed by WIPO Standard ST.26, where necessary. Otherwise, the sequences shall be numbered in compliance with that Standard in the order in which they appear in the international application.

41. Where such a sequence listing is furnished on physical media, the media shall be labeled “Sequence Listing Not Forming Part of the International Application”, or its equivalent in the language of publication or of international preliminary examination, together with the international application number.

TRANSMISSION OF SEQUENCE LISTINGS BETWEEN OFFICES

42. Where a sequence listing is to be transmitted between any of the receiving Office, the International Bureau, the International Searching Authority, the International Preliminary Examining Authority and a designated or elected Office, it shall be sent with the file contents unchanged from the version received from the applicant. Where the sequence listing is transmitted online, the international application number and type of sequence listing (as filed, corrected, for purpose of international search, etc.) shall be encoded in the filename, referencing XML or equivalent metadata appropriate to the means of online transmission.

43. Where a sequence listing was received on a physical medium, the sequence listing may be transmitted online, in which case, the international application number and type of sequence listing should be encoded in the filename or associated metadata in the same way as if the sequence listing had been received online. If the sequence listing is transmitted on a physical medium, the medium should be physically labelled as indicated in the relevant paragraphs above, without changing any of the content on the medium.

PROCEDURE BEFORE DESIGNATED AND ELECTED OFFICES

44. Rules 13*ter*.3 and 76.5 require that no designated or elected Office shall require the applicant to furnish to it a sequence listing other than a sequence listing complying with the standard provided for in the Administrative Instructions. Where no sequence listing complying with the standard and containing the language-dependent free text in the language required for national processing is available to the designated or elected Office, that Office may require the applicant to furnish a translation under Rule 49.5 in the form of a new sequence listing according to paragraphs 17 and 18, within a time limit which shall be reasonable in the circumstances.

45. The designated or elected Office shall not require a new sequence listing as part of a translation under Rule 49.5 solely because a sequence listing already provided as part of the international application contains language-dependent free text in a second language in addition to that required for national processing or because the sequence listing does not contain national application identifiers in the general information part of the sequence listing.

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