



C.PCT 1193/C.SCIT 2671

October 14, 2009

Madam,
Sir,

1. This Circular is addressed to your Office in its capacity:

(i) as a receiving Office, International Searching Authority, International Preliminary Examining Authority and/or designated or elected Office under the Patent Cooperation Treaty (PCT) with regard to proposed modifications to Annex C to the Administrative Instructions under the PCT; and/or

(ii) as a member of the Standards and Documentation Working Group of WIPO's Standing Committee on Information Technologies (SCIT) with regard to WIPO Standard ST.25 "Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications" (see paragraph 10, below).

2. This Circular is also being sent to certain interested intergovernmental organizations as well as certain non-governmental organizations representing users of the PCT system.

3. This Circular concerns proposed modifications of Annex C to the Administrative Instructions ("Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in International Patent Applications Under The PCT").

4. Comments on those proposed modifications are invited by November 20, 2009 (see paragraph 9, below).

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5. For the present text of the Administrative Instructions and the Annexes thereto, see documents PCT/AI/9 (dated June 26, 2009) and PCT/AI/ANF/4 Rev. (dated June 26, 2009) (available from the WIPO Web site at www.wipo.int/pct/en/texts/index.htm).

Proposed Modifications of Annex C to the PCT Administrative Instructions

6. It is recalled that, following extensive consultations, certain modifications to the PCT Administrative Instructions relating to the filing and processing of sequence listings and to the “Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in International Patent Applications” under the Annex C to the PCT Administrative Instructions were promulgated with effect from July 1, 2009 (see Circular C.PCT 1173, dated April 21, 2009).

7. Following entry into force of those modifications, it has been brought to the attention of the International Bureau that there may be the need to further clarify provisions in Annex C dealing with corrections (under PCT Rule 26), rectifications (under PCT Rule 91) and amendments (under PCT Article 34(2)) submitted in relation to sequence listings or sequences contained in the international application as filed. Upon further consideration, in order to make the required clarifications, it is proposed to modify paragraphs 2(i-bis) and (i-ter), 3bis, 4bis and 38 of Annex C, and to add a new paragraph 3ter to Annex C.

8. The purpose of the present Circular is to enter into consultations under Rule 89.2(b) on those proposed modifications to Annex C, as set out in Annex I to this Circular. Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. A “clean” text of the proposed modified provisions (without underlining or striking through) appears in Annex II. Further explanations are set out in Annex I under Comments relating to the provisions concerned; editorial and minor drafting changes are not specifically mentioned.

Consultations Pursuant to Rule 89.2(b)

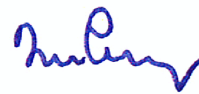
9. The International Bureau would appreciate receiving any comments on the proposed modifications of Annex C to the Administrative Instructions contained in Annex I to this Circular by November 20, 2009. Comments on those proposed modifications should be sent to Mr. Claus Matthes, Director, PCT Business Development Division (e-mail: claus.matthes@wipo.int; fax: 41-22-338 7150).

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WIPO Standard ST.25

10. Noting that WIPO Standard ST.25 recommends that “Offices apply the provisions set out in the “Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in International Applications Under the Patent Cooperation Treaty (PCT)” as set out in Annex C to the Administrative Instructions under the PCT *mutatis mutandis* to all patent applications other than the PCT international applications ...”, comments on the proposed modifications of Annex C to the Administrative Instructions (see Annex I to this Circular) are also invited by November 20, 2009, from Members of the Standards and Documentation Working Group of WIPO’s Standing Committee on Information Technologies (SCIT).

Yours sincerely,



Francis Gurry
Director General

Enclosures: Annex I: Proposed modifications of Annex C to the Administrative Instructions under the PCT—*marked-up text*

Annex II: Proposed modifications of Annex C to the Administrative Instructions under the PCT—*clean text*

ANNEX I

PROPOSED MODIFICATIONS OF THE
ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT¹
(MARKED-UP TEXT)

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¹ For the present text of the Administrative Instructions and the Annexes thereto, see documents PCT/AI/9 (dated June 26, 2009) and PCT/AI/ANF/4 Rev. (dated June 26, 2009) (available from WIPO's Web site at <http://www.wipo.int/pct/en/texts/index.htm>). Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. A "clean" text of the proposed modified provisions (without underlining or striking through) appears in Annex II.

ANNEX C
STANDARD FOR THE PRESENTATION OF
NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS
IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT

INTRODUCTION

1. [No change]

DEFINITIONS

2. For the purposes of this Standard:

- (i) [No change]

(i-bis) the expression “sequence listing forming part of the international application” means a sequence listing contained in the international application as filed (as referred to in paragraph 3); or a sequence listing contained in the international application as filed corrected under Rule 26, rectified under Rule 91 or amended under Article 34(2), or a sequence listing included in the international application by way of ~~a correction under Rule 26,~~ a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed (as referred to in paragraphs 3bis and 3ter ~~paragraph 3bis~~);

[COMMENT: It is proposed to modify paragraph 2(i-bis), noting that it would appear not possible to include a sequence listing in the international application by way of a correction under Rule 26 where no such listing but only sequences were contained in the international application as filed. The proposed inclusion of a reference to “paragraphs 3bis and 3ter is consequential on the proposed modification of those paragraphs.]

[Annex C, paragraph 2, continued]

(i-ter) [no change] the expression “sequence listing not forming part of the international application” means a sequence listing which does not form part of the international application but is furnished for the purposes of the international search or international preliminary examination (as referred to in paragraphs 4 and 4bis);

(ii) to (viii) [No change]

SEQUENCE LISTING FORMING PART OF THE INTERNATIONAL APPLICATION

3. [No change]

3bis. Any correction under Rule 26, rectification under Rule 91 or amendment under Article 34(2) of the description submitted in relation to a sequence listing contained in the international application filed on paper and any sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application filed on paper shall be submitted in accordance with Rule 26.4, Rule 91 or Rule 66.8, respectively.

[COMMENT: It is proposed to modify the contents of present paragraph 3bis so as to make a clear distinction between the case that the international application is filed on paper (paragraph 3bis as proposed to be modified) and the case that the international application is filed in electronic form (proposed new paragraph 3ter, below).]

~~3ter~~ ~~3bis~~. 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 sequences contained in the ~~an~~ international application filed in electronic form and any sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application filed in electronic form shall be submitted in the form of a sequence listing in electronic form comprising the entire listing with the relevant correction, rectification or amendment. Any such sequence listing:

[COMMENT: See the comment on paragraph 3bis as proposed to be modified, above. It is proposed to move the contents of present paragraph 3bis to new paragraph 3ter, with modifications consequential on the proposed modification of paragraph 2(i-bis) (see above).]

(i) to (iii) [No change]

SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION

4. [No change]

4bis. 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 ~~sequences~~ contained in the international application as filed and any sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed shall be accompanied, for the purposes of the international search or international preliminary examination, by a sequence listing in electronic form in an electronic document format in accordance with paragraph 39, comprising the entire listing including any such correction, rectification or amendment, whenever this is required by the competent authority, unless such listing in electronic form is already available to that authority in a form and manner acceptable to it. Any such sequence listing in electronic form:

[COMMENT: The proposed modifications of paragraph *4bis* are consequential on the proposed modification of paragraph 2(i-*bis*) (see above).]

(i) to (iii) [No change]

[Annex C, paragraph 4bis, continued]

- (iv) shall be identical to the corrected, rectified or amended sequence listing ~~submitted under paragraph 3bis as a correction under Rule 26, rectification under Rule 91 or amendment under Article 34(2)(b) of the description~~ and be accompanied by a statement that “the information recorded in electronic form furnished under Rule 13ter is identical to the corrected sequence listing” ~~furnished as a correction under Rule 26~~ (or to the “rectified sequence listing” or the “amended sequence listing” ~~a rectification under Rule 91 or an amendment under Article 34(2)(b), as the case may be) of the description in relation to sequences contained in the international application as filed~~”.

[COMMENT: The proposed modifications of paragraph 4bis(iv) are consequential on the proposed modification of paragraph 2(i-bis) (see above).]

Where such sequence listing in electronic form and, where applicable, such statement is not available to the competent authority, any such correction, rectification or amendment need only be taken into account by that authority for the purposes of the international search or preliminary examination to the extent that a meaningful search or preliminary examination can be carried out without such sequence listing in electronic form.

5 to 7 [No change]

NUCLEOTIDE SEQUENCES

8 to 15 [No change]

AMINO ACID SEQUENCES

16 to 22 [No change]

OTHER AVAILABLE INFORMATION IN THE SEQUENCE LISTING

23 to 35 [No change]

REPETITION OF FREE TEXT IN MAIN PART OF DESCRIPTION

36. [No change]

SEQUENCE LISTING IN ELECTRONIC FORM

36 and 37 [No change]

38. Any sequence listing in electronic form referred to in [paragraph 3ter](#) ~~paragraph 3bis~~ shall be in an electronic document format that has been specified by the receiving Office (in the case of a correction) or by the competent authority (in the case of a rectification or an amendment) for the purposes of filing of international applications in electronic form, provided that any such listing shall preferably be in the electronic document format specified in paragraph 40. Any such listing shall be filed by a means of transmittal which has been specified by the receiving Office or the competent authority, as applicable, for the purposes of this paragraph; if possible, it shall preferably be filed by a means of transmittal which has been specified by both the receiving Office and the competent authority.²

[COMMENT: The proposed modifications of paragraph 38 are consequential on the proposed modification of paragraph 3bis (see above).]

39 to 41 [No change]

PROCEDURE BEFORE DESIGNATED AND ELECTED OFFICES

42. [No change]

² *Editor's Note:* Where a replacement sequence listing in electronic form including any correction, rectification or amendment is not available to the competent authority in a form and manner acceptable to it (that is, in particular, where it is not available to it in the electronic document format specified in paragraph 40), any such correction, rectification or amendment need only be taken into account by that authority for the purposes of the international search or preliminary examination to the extent that a meaningful search or preliminary examination can be carried out without the replacement sequence listing (see paragraph 4bis, above). See also Editor's Note 38, which equally applies to any replacement sequence listing in electronic form referred to in [paragraph 3ter](#) ~~paragraph 3bis~~.

APPENDICES

[No change]

[Annex II follows]

ANNEX II

PROPOSED MODIFICATIONS OF THE
ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT³
(CLEAN TEXT)

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³ For the present text of the Administrative Instructions and the Annexes thereto, see documents PCT/AI/9 (dated June 26, 2009) and PCT/AI/ANF/4 (dated June 26, 2009) (available from WIPO's Web site at <http://www.wipo.int/pct/en/texts/index.htm>). A "marked-up" text of the proposed modified provisions (with underlining or striking through) appears in Annex I.

ANNEX C

**STANDARD FOR THE PRESENTATION OF
NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS
IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT**

INTRODUCTION

1. [No change]

DEFINITIONS

2. For the purposes of this Standard:

- (i) [No change]

(i-*bis*) the expression “sequence listing forming part of the international application” means a sequence listing contained in the international application as filed; or a sequence listing contained in the international application as filed corrected under Rule 26, rectified under Rule 91 or amended under Article 34(2); or a sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed;

[Annex C, paragraph 2, continued]

(i-ter) the expression “sequence listing not forming part of the international application” means a sequence listing which does not form part of the international application but is furnished for the purposes of the international search or international preliminary examination;

(ii) to (viii) [No change]

SEQUENCE LISTING FORMING PART OF THE INTERNATIONAL APPLICATION

3. [No change]

3bis. Any correction under Rule 26, rectification under Rule 91 or amendment under Article 34(2) of the description submitted in relation to a sequence listing contained in the international application filed on paper and any sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application filed on paper shall be submitted in accordance with Rule 26.4, Rule 91 or Rule 66.8, respectively.

3ter. 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 contained in the international application filed in electronic form and any sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application filed in electronic form shall be submitted in the form of a sequence listing in electronic form comprising the entire listing with the relevant correction, rectification or amendment. Any such sequence listing:

(i) to (iii) [No change]

SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION

4. [No change]

4bis. 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 contained in the international application as filed and any sequence listing included in the international application by way of a rectification under Rule 91 or an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed shall be accompanied, for the purposes of the international search or international preliminary examination, by a sequence listing in electronic form in an electronic document format in accordance with paragraph 39, comprising the entire listing including any such correction, rectification or amendment, whenever this is required by the competent authority, unless such listing in electronic form is already available to that authority in a form and manner acceptable to it. Any such sequence listing in electronic form:

(i) to (iii) [No change]

(iv) shall be identical to the corrected, rectified or amended sequence listing and be accompanied by a statement that “the information recorded in electronic form furnished under Rule 13~~ter~~ is identical to the corrected sequence listing” (or to the “rectified sequence listing” or the “amended sequence listing”, as the case may be).

Where such sequence listing in electronic form and, where applicable, such statement is not available to the competent authority, any such correction, rectification or amendment need only be taken into account by that authority for the purposes of the international search or preliminary examination to the extent that a meaningful search or preliminary examination can be carried out without such sequence listing in electronic form.

5 to 7 [No change]

NUCLEOTIDE SEQUENCES

8 to 15 [No change]

AMINO ACID SEQUENCES

16 to 22 [No change]

OTHER AVAILABLE INFORMATION IN THE SEQUENCE LISTING

23 to 35 [No change]

REPETITION OF FREE TEXT IN MAIN PART OF DESCRIPTION

36. [No change]

SEQUENCE LISTING IN ELECTRONIC FORM

36 and 37 [No change]

38. Any sequence listing in electronic form referred to in paragraph 3^{ter} shall be in an electronic document format that has been specified by the receiving Office (in the case of a correction) or by the competent authority (in the case of a rectification or an amendment) for the purposes of filing of international applications in electronic form, provided that any such listing shall preferably be in the electronic document format specified in paragraph 40. Any such listing shall be filed by a means of transmittal which has been specified by the receiving Office or the competent authority, as applicable, for the purposes of this paragraph; if possible, it shall preferably be filed by a means of transmittal which has been specified by both the receiving Office and the competent authority.⁴

39 to 41 [No change]

PROCEDURE BEFORE DESIGNATED AND ELECTED OFFICES

42. [No change]

APPENDICES

[No change]

[End of Annex II and of Circular]

⁴ *Editor's Note:* Where a replacement sequence listing in electronic form including any correction, rectification or amendment is not available to the competent authority in a form and manner acceptable to it (that is, in particular, where it is not available to it in the electronic document format specified in paragraph 40), any such correction, rectification or amendment need only be taken into account by that authority for the purposes of the international search or preliminary examination to the extent that a meaningful search or preliminary examination can be carried out without the replacement sequence listing (see paragraph 4^{bis}, above). See also Editor's Note 38, which equally applies to any replacement sequence listing in electronic form referred to in paragraph *ter*.