



C.PCT 1173

April 21, 2009

Madam,
Sir,

In accordance with Rule 89.2(a) of the Regulations under the Patent Cooperation Treaty (PCT), modifications to the Administrative Instructions under the PCT and the Request Form (PCT/RO/101) are hereby promulgated with effect from July 1, 2009. The modifications to the Administrative Instructions are applicable to international applications filed on or after this date. As from July 1, 2009, only the updated version of the Request Form should be made available to applicants.

This follows consultations under PCT Rule 89.2(b) with your Office in its capacity as receiving Office, International Searching Authority, International Preliminary Examining Authority, or designated/elected Office, and also with certain non-governmental organizations. The modifications are as proposed by Circular C.PCT 1149/C.SCIT 2652, dated June 11, 2008 and Circular C.PCT 1161, dated February 18, 2009, except where further changes have been made as a result of the consultations, as indicated below (editorial and minor drafting changes are not specifically mentioned).

Modifications to the Administrative Instructions under the PCT

Section 207 has been further modified. Paragraph (a)(vi) now refers, as does present Section 207(a)(vi), to “the sequence listing part of the description” rather than, as originally proposed, to “the sequence listing”. Consequently, paragraphs (a)(ii) and (b)(iv) have also been further modified.

Section 513 has been further modified. The wording of paragraph (e)(ii) has been further modified to clarify that it applies where the sequence listing furnished by the applicant in electronic form does not form part of the international application but was furnished only for the purposes of the international search.

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Section 610 has been further modified. The wording of paragraph (b) has been aligned with that of Section 513(c). Paragraph (d) has been further modified so as to clarify that the International Preliminary Examining Authority should keep in its files “one copy” of any sequence listing furnished to it for the purposes of international preliminary examination.

Section 713 has been further modified. The erroneous reference in paragraph (b) to Section “702(c)” has been deleted.

Annex C has been further modified as follows:

– *Paragraph 2(i-ter)* has been further modified so as to better define the term “sequence listing not forming part of the international application”. In addition, it is no longer proposed, as had been in Circular C.PCT 1149/ C.SCIT 2652, to add a new paragraph *4ter*.

– *Paragraph 4* has been further modified. A reference to Rule 13*ter*.1(b) has been added in sub-paragraph (iii). Sub-paragraph (v) has been further modified to clarify that the applicant is required to furnish a statement that “the information recorded in electronic form submitted under Rule 13*ter* is identical to the sequence listing as contained in the international application” not only where the sequence listing is contained in an international application filed on paper but also where the listing is contained in an international application filed in electronic form.

– *Paragraph 4bis* has been further modified. The requirement that the sequence listing has to be furnished “in an electronic document format in accordance with paragraph 39” has been moved from sub-paragraph (iii) to the first sentence. Sub-paragraph (iv) has been reworded to better define the content of the statement to be furnished by the applicant where the applicant has furnished a sequence listing as a correction, rectification or amendment of the description in relation to sequences contained in an international application and furnishes a copy thereof in electronic form for the purposes of international search and/or preliminary examination.

Annex F has been further modified as follows:

– *Section 3.1* has been further modified; a reference to paragraph 42(iv) of Annex C of the Administrative Instructions has been added to the fifth paragraph of the introductory text.

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Modifications of Form PCT/RO/101

As a result of consultation, an additional sub-item (g) was added to the left column of Box No. IX on the last page of the Request Form, for filings in electronic form via EFS-Web with the United States Patent and Trademark Office (USPTO). Furthermore, certain minor clarifications were added to the last page of the form for filings on paper. The Notes to the Request Form were amended accordingly.

The International Bureau has made available mark-ups to assist Offices in preparing translations of the Request Form into languages other than English and French with due regard to the provisions of Section 102 of the Administrative Instructions. Offices are reminded when translating the Request Form, that neither the page “Last sheet – EFS” nor grey-shaded notes on page 7 corresponding to that alternative last sheet would need to be translated since they can only be used in English for filings via EFS-Web with the receiving Office of the United States of America.

Availability of Modified Administrative Instructions and modified PCT Request Form

The consolidated text of the main body and of Annexes C and F of the PCT Administrative Instructions is available on the WIPO website under “PCT Administrative Instructions (as in force from July 1, 2009)” at: www.wipo.int/pct/en/texts/. The modified Request Form (PCT/RO/101) and mark-ups are available from the WIPO website under “Forms in force as from July 1, 2009” at: www.wipo.int/pct/en/forms/.

Further modifications

Consequential modifications of the PCT Receiving Office Guidelines, the PCT International Search and Preliminary Examination Guidelines and certain Forms for use by receiving Offices, the International Searching and International Preliminary Examining Authorities and the International Bureau will require further consultations under PCT Rule 89.2(b). Separate Circulars, inviting comments on proposed modifications of those Guidelines and Forms, will be sent in due course.

Yours sincerely,



Francis Gurry
Director General