

C. PCT 1371

January 31, 2013

Madam,
Sir,

Proposed modifications of the PCT International Search and Preliminary Examination Guidelines

1. This Circular is addressed to your Office in its capacity as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty (PCT) for the purposes of consultation on proposed modifications of the PCT International Search and Preliminary Examination Guidelines (“the Guidelines”) as set out in document PCT/GL/ISPE/3 Prov. An electronic version of document PCT/GL/ISPE/3 Prov. is available on WIPO’s website at http://www.wipo.int/pct/en/circulars/2013/1371_ax.doc as an Annex to the electronic version of this Circular.
2. The current version of the Guidelines appears in document PCT/GL/ISPE/2 dated October 3, 2011, as in force from November 1, 2011, as subsequently modified by document PCT/GL/ISPE/2 Add. dated June 22, 2012, which entered into force on July 1, 2012. Both documents are available on WIPO’s website at <http://www.wipo.int/pct/en/texts/gdlines.html>.
3. The Guidelines as in force prior to November 1, 2011, were as set out in document PCT/GL/ISPE/1 dated March 11, 2004, which entered into force on March 25, 2004. That document incorporated the results of extensive work that had been undertaken by the Meeting of International Authorities under the PCT (“MIA”). It amalgamated the previously separate sets of Guidelines relating to international search and to international preliminary examination, respectively, and included a large number of modifications reflecting changes that had been introduced into the PCT system as well as the practices of the various Authorities.
4. The modifications more recently included by way of documents PCT/GL/ISPE/2 and 2 Add. related to the *common quality framework* (replacing the text of Chapter 21 by a new text) and the making of *third party observations* (with the addition of three new paragraphs). Apart from those modifications, there is a backlog of other matters requiring modification of the Guidelines including, perhaps most notably, the introduction of the *supplementary international search* system in 2009.

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5. Most of the topics addressed by proposed modifications or annotations in document PCT/GL/ISPE/3 Prov. have already been the subject of some discussion and/or consultation. Proposals on substantive matters generally derive from reports of and documents considered by MIA, and/or PCT Circulars issued by the International Bureau, but regard has also been had to amendments of the PCT Regulations adopted by the PCT Assembly since March 2004 and to the reports of the PCT Working Group, which first met in 2008.
6. The main areas affected by the proposed modifications relate to adjustments needed to the *enhanced search and examination system*, the recently introduced *supplementary international search system*, and the provisions for *rectification of obvious mistakes*.
7. Explanatory notes have been included as footnotes in document PCT/GL/ISPE/3 Prov. to indicate briefly, where appropriate, the nature and/or source of the particular proposals. More detailed explanation can generally be found in the source documents concerned. Certain matters that have been raised but not discussed by Authorities in a substantive way (for example, as noted in the reports of MIA sessions) are also the subject of annotations in the footnotes. Some of those matters may, as a result of the present consultation, mature into modifications to be incorporated in the body of the text of the Guidelines. In other instances, comments are made in footnotes to flag the fact that further work appears to be needed in order to progress consideration of a matter.
8. All of the footnotes are intended to facilitate consultation rather than contribute to the substance of the Guidelines themselves, and will be removed in the course of the preparation of the final version of the modifications to be promulgated in the form of document PCT/GL/ISPE/3.
9. A considerable number of drafting, formatting and editorial changes also appear in document PCT/GL/ISPE/3 Prov., including changes made in some instances to text that has already been the subject of consultation. In general, no specific explanation is given for such changes where the reasons for their inclusion are self-evident.
10. A continuous numbering system for paragraphs in the document is used, in instances where new paragraphs are proposed to be inserted, rather than adding suffixes to existing paragraph numbers. It would be desirable to use a more consistent and workable system for the numbering of paragraphs in the appendixes that are included in certain chapters. Such a system may be implemented when document PCT/GL/ISPE/3 is being finalized.
11. Your Office is invited to provide comments on the proposed modifications of the Guidelines as set out in document PCT/GL/ISPE/3 Prov. to the International Bureau, by May 31, 2013, preferably by e-mail sent to my colleague Mr. Claus Matthes, Director, PCT Business Development Division (claus.matthes@wipo.int, fax: (+41-22) 338 7150; tel: (+41-22) 338 9809).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Matthias R. Pooley" with a stylized flourish at the end.

James Pooley
Deputy Director General