

C. PCT 1625

June 15, 2021

Madam,
Sir,

Proposed modification of the Administrative Instructions under the PCT (“the Administrative Instructions”)

This Circular is addressed to your Office in its capacity as a receiving Office, an International Searching Authority, an International Preliminary Examining Authority and/or a designated or elected Office under the Patent Cooperation Treaty (PCT) for the purposes of consultation under PCT Rule 89.2(b). It is also addressed to certain non-governmental organizations representing users of the PCT System.

This Circular contains a proposal to introduce a more detailed definition in the Administrative Instructions of what constitutes a “signature” in relation to paper documents. Although most PCT filings and submissions of documents are carried out in electronic form, there remains a certain percentage of documents which are still submitted to PCT Offices and Authorities in paper form.

The COVID-19 pandemic brought significant changes to work environments. Notably, many companies and organizations made transitions to working-from-home for public health reasons. Under such circumstances, it has become less practical for applicants to circulate paper documents and obtain handwritten signatures on paper documents. Therefore, in order to provide a more flexible solution for the signing of paper documents, the Japan Patent Office (JPO) has suggested the introduction into the PCT system of a broader definition of what constitutes a signature, and one which is similar to provisions which already exist in the Administrative Instructions for the Application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“the Administrative Instructions under the Madrid Protocol”) and the Administrative Instructions for the Application of the Hague Agreement (“the Administrative Instructions under the Hague Agreement”), as well as in the Patent Law Treaty (PLT) Regulations. Such a broader

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definition would be particularly helpful in cases where paper documents are required to be signed by multiple parties.

Currently, neither the Regulations under the PCT (“PCT Rules”) nor the Administrative Instructions define what constitutes a “signature” for paper submissions, other than what is contained in PCT Rule 2.3 which clarifies that where the use of a seal is required instead of a signature under national law, any reference to signature in the PCT Regulations is to be understood as including a seal. Apart from the special case of a seal, it has generally been understood that a signature for paper submissions under the PCT system must be a handwritten ink signature. It should be noted that there is a definition of what constitutes an acceptable signature for electronic submissions provided in Annex F of the Administrative Instructions.

Under the PLT Regulations Rule 9(3)(ii) states that *“instead of a handwritten signature, the use of other forms of signature, such as printed or stamped signature, or the use of a seal or of a bar-coded label”* may be permitted. The purpose of this provision is to allow the Members States of the PLT to permit other forms of signature in addition to handwritten signatures. The list of the signature types in PLT Regulations Rule 9(3)(ii) is not exhaustive, and the definition of each type of signature has not been provided. In the Administrative Instructions under the Madrid Protocol, Section 7 provides *“A signature shall be handwritten, printed, typed or stamped; it may be replaced by the affixing of a seal.”* Similarly, Section 202 of the Administrative Instructions under the Hague Agreement provides that *“A signature shall be hand written, printed or stamped; it may be replaced by the affixing of a seal....”*

In order for users of the PCT system to be able to enjoy similar flexibilities in the definitions of signatures on paper documents to those which exist in the other registration services administered by the World Intellectual Property Organization (WIPO) and in the PLT as set out above, new Section 102*bis* is set out in the Annex to this Circular.

Your Office is invited to provide comments, if any, by July 5, 2021, by email to: pct.legal@wipo.int.

Yours sincerely,



Lisa Jorgenson
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Patents and Technology Sector

Enclosure: Annex - Proposed modification of the Administrative Instructions

PROPOSED MODIFICATION OF THE ADMINISTRATIVE INSTRUCTIONS

Section 102*bis*: Signature on Paper Documents

A signature provided on a paper document shall be handwritten, printed, typed, or stamped.