

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
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**INTERNATIONAL PATENT COOPERATION UNION  
(PCT UNION)**

**MEETING OF INTERNATIONAL AUTHORITIES  
UNDER THE PCT**

**Fourth Session  
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**PROPOSAL CONCERNING THE PUBLICATION OF SUBSEQUENTLY FURNISHED  
NUCLEOTIDE AND/OR AMINO ACID SEQUENCE LISTINGS**

*Document prepared by the International Bureau*

1. The Annex to this document contains comments and proposals by the European Patent Office concerning the publication of subsequently furnished nucleotide and/or amino acid sequence listings.
2. These comments and proposals, which will serve as a topic for discussion at the fourth session of the Meeting of International Authorities under the PCT, are hereby provided to all International Authorities for information and comment.

[Annex follows]

European Patent Office

17 June 1994

## **PUBLICATION OF SUBSEQUENTLY-FILED SEQUENCE LISTINGS**

1. Subsequently-filed sequence listings (SL) do not form part of the international application (Rule 13*ter*.1(f) PCT).
2. The International Search Report (ISR), however, gives an indication, in Item 3, as to whether an SL has been submitted to the ISA, upon invitation from the ISA, under Rule 13*ter*.1(a) .
3. Under the current practice, such subsequently-filed SLs do not form part of the international publication under Article 21 and Rule 48 PCT.

This practice is, in the view of the EPO, detrimental for the public consulting the WO-documents and having no access to the electronic data carrier filed with the subsequently-filed SL and, in particular, being unable to interrogate the patent sequence database.

In addition, the patent offices are missing an important element of information in their patent documentation.

4. For the Euro-PCT procedure, which accounts for about 40% of all European patent applications filed by the direct European and PCT routes, this situation causes a devaluation of the informative content of those published European patent applications because:

.../...

- (a) the international applications published by WIPO in one of the European languages of proceedings replace the European publication (Art. 158(1) EPC);
  - (b) in the European patent grant procedure, the EPO attempts to publish late-filed SLs together with the application, as an annex thereof, whenever this is possible (publication as an annex to the A1 or A2 publication). If this is not possible, the SL will be published as an annex to the B publication, if any.
5. Therefore, the EPO insists that the question of publishing the subsequently-filed SL as an annex to the ISR be reconsidered.

This would probably require that the ISA annexes any subsequently-filed SL to the copy of the ISR addressed to WIPO; an Administrative Instruction under Rule 43.9 PCT would probably be necessary to that effect .

The question may be discussed as to whether the inclusion of the subsequently-filed SL as an annex to the ISR would automatically empower the International Bureau to include it in the international publication, or whether an amendment of Rule 48 would be necessary.

6. Finally, it is felt that publishing the subsequently-filed SL would facilitate the entry into the national/regional phase with the designated/elected Offices because, at least for those Offices having the same official language as that of the language-

dependant elements of the SL, or not requiring a translation of those elements, the applicant would be relieved of the need to file the SL as this would already have been transmitted by WIPO as part of the Article 20 communication.

[End of Annex and of document]