



C.PCT 857
00/21.1

July 22, 2002

Madam,
Sir,

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

Background

2. It is recalled that under Sections 801 to 806 of the Administrative Instructions under the PCT which entered into force on January 11, 2001 (*PCT Gazette* No. 02/2001, of January 11, 2001, pages 818 *et al.* and *PCT Newsletter* No. 01/2001 of January 2001, pages 1, 4-5; see also Circular C. PCT 762 of December 21, 2000), it became possible for PCT applicants to file, under Section 801, *for the purposes of all steps of the international phase*, international applications the nucleotide and/or amino acid sequence listing part of which is either only on an electronic medium in computer readable form or both on an electronic medium and on paper in written form. It has also become possible for the International Bureau, under Section 805, not only to publish such international applications, in whole or in part, in electronic form as determined by the Director General, but also to communicate to designated Offices and furnish to third parties copies of such international applications, in such form.

Sequence listing-related tables

3. The scope of Part 8 of the Administrative Instructions is expressly limited to international applications containing large sequence listings. In Circular C. PCT 762 (December 21, 2000, para. 20), the International Bureau stated its intention “to further consult with the Offices and Authorities concerned and other

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interested parties on additional modifications of the Administrative Instructions to deal with other matters, such as . . . the possibility to file on an electronic medium other parts of international applications containing sequence listings (for example, tables explaining sequence listings).” And while a more complete circular dealing with additional issues in relation to the filing and processing of sequence listings in accordance with the provisions of Part 8 is currently under preparation, the International Bureau is undertaking this consultation with your Office/organization in an urgent manner because of having recently been informed that a PCT application is being prepared for filing in mid-September 2002 which will contain approximately 35 gigabytes of data in the form of sequence listing-related tables (equivalent to approximately 2 million paper pages or enough to fill 50 CDs).

4. As indicated in Circular C. PCT 752 (September 22, 2000, para. 5), it is envisaged that the long-term solutions to the problem of filing and processing very large applications will be addressed jointly by the PCT electronic filing project (PCT-SAFE) and the PCT internal automation project (IMPACT).

5. However, in the near term, it would be preferable for all parties concerned to avoid having to handle applications on paper of the size indicated in paragraph 3. It is therefore proposed to extend Part 8 to tables as set out in the Annex. Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. Certain provisions that are not proposed to be amended may be included for ease of reference.

6. Annex C of the Administrative Instructions (which contains the technical standard for sequence listings filed in connection with PCT applications) deals only with the presentation of sequence listings themselves. Annex C effectively contains the same text as WIPO Standard ST.25 (Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications); it does not cover sequence listing-related tables. As a result, new technical requirements are necessary in order to ensure that the tables are received in a format which will be convenient in terms of processing by the receiving Office and the International Bureau, especially in relation to publication in electronic form of such tables in accordance with Section 805. Section 802 needs to be modified to include such new technical requirements.

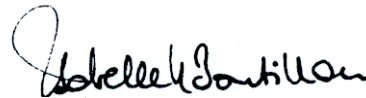
7. Section 803 also needs modification to make clear how the provisions relating to fees should be applied in respect of sequence listing-related tables submitted in electronic form under the proposed new system in addition to sequence listings as submitted under the present system.

8. Some minor consequential changes will most likely also be required to the front page of the PCT pamphlet and to the definition of certain entries in the PCT Gazette in order to reflect that international applications will, in future, be

published with sequence listing-related tables in electronic form in addition to sequence listings themselves in electronic form.

9. As indicated above, because of the urgent nature of this consultation, the International Bureau would appreciate receiving observations and/or comments on the proposed modifications, if any, by August 19, 2002. It is currently the intention of the International Bureau that these modifications be promulgated with effect from September 6, 2002.

Sincerely yours,



 Francis Gurry
Assistant Director General

Enclosure: Annex--Proposed Modifications of the Administrative Instructions under the PCT

PROPOSED MODIFICATIONS OF THE ADMINISTRATIVE
INSTRUCTIONS UNDER THE PCT

PART 8
INSTRUCTIONS RELATING TO
INTERNATIONAL APPLICATIONS CONTAINING
LARGE NUCLEOTIDE AND/OR AMINO ACID SEQUENCE LISTINGS AND/OR
TABLES RELATING THERETO

Section 801
Filing of International
Applications Containing Sequence Listings and/or Tables

(a) Pursuant to Rules 89*bis* and 89*ter*, where an international application contains disclosure of one or more nucleotide and/or amino acid sequence listings (“sequence listings”), the receiving Office may, if it is prepared to do so, accept that the sequence listing part of the description, as referred to in Rule 5.2(a) and/or any table related to the sequence listing(s) (“sequence listings and/or tables”), be filed, at the option of the applicant:

- (i) only on an electronic medium in the computer readable form referred to in ~~Annex C~~ Section 802; or
- (ii) both on an electronic medium in that computer readable form and on paper in the written form referred to in ~~Annex C~~ Section 802;

provided that the other elements of the international application are filed as otherwise provided for under the Regulations and these Instructions.

(b) Any receiving Office which is prepared to accept the filing in computer readable form of the sequence listings and/or tables ~~sequence listing part of international applications~~ under paragraph (a) shall notify the International Bureau accordingly. The notification shall specify the electronic media on which the receiving Office will accept such filings. The International Bureau shall promptly publish any such information in the Gazette.

(c) A receiving Office which has not made a notification under paragraph (b) may nevertheless decide in a particular case to accept an international application the sequence listings and/or tables ~~sequence listing part~~ of which ~~is~~ are filed with it under paragraph (a).

(d) Where the sequence listings and/or tables ~~sequence listing part~~ are filed in computer readable form under paragraph (a) but not on an electronic medium specified by the receiving Office under paragraph (b), that Office shall, under Article 14(1)(a)(v), invite the applicant to furnish to it a replacement sequence listings and/or tables ~~sequence listing part~~ on an electronic medium specified under paragraph (b).

(e) Where an international application containing sequence listings and/or tables ~~a sequence listing part~~ in computer readable form is filed under paragraph (a) with a receiving Office which is not prepared, under paragraph (b) or (c), to accept such filings, Section 333(b) and (c) shall apply.

Section 802
Format and Identification Requirements Relating to
International Applications Containing Sequence Listings and/or Tables

(a) Paragraphs 40 to 45 of Annex C shall apply *mutatis mutandis* to the sequence listing part of an international application filed in computer readable form.

(b) Tables filed in computer readable form under Section 801(a) shall comply with the following technical requirements:

(i) UTF-8-encoded Unicode 3.0 character format;

(ii) the spatial relationships (e.g., columns and rows) of the table elements shall be maintained;

(iii) file compression is acceptable, so long as the compressed file is in a self-extracting format that will decompress on a Personal Computer Operating system that is acceptable to the competent Authority and to the International Bureau.

(c) In addition, ~~†~~The label provided for in paragraph 44 of Annex C shall in respect of the sequence listings and/or tables also include, as the case may be, the following indications:

(i) that the sequence listings and/or tables ~~sequence listing part is are~~ filed under Section 801(a);

(ii) where the sequence listings and/or tables ~~sequence listing part~~ in computer readable form ~~is are~~ contained on more than one electronic carrier, the numbering of each such carrier (for example, “DISK 1/3,” “DISK 2/3,” “DISK 3/3”);

(iii) where more than one copy of the sequence listings and/or tables ~~sequence listing part~~ in computer readable form has been filed, the numbering of each copy (for example, “COPY 1,” “COPY 2,” “COPY 3”).

~~(bd)~~ Where any correction under Rule 26.3, any rectification of an obvious error under Rule 91, or any amendment under Article 34 is submitted in respect of the sequence listings and/or tables ~~sequence listing part of an international application~~ filed, under Section 801(a)(i) or (ii), in computer readable form, ~~a~~ replacement sequence listings and/or tables ~~sequence listing part~~ in computer readable form containing the entirety of the sequence listings and/or tables ~~sequence listing part~~ with the relevant correction, rectification or amendment shall be furnished and the label referred to in paragraph (a) shall be marked accordingly (for example, “SUBMITTED FOR CORRECTION,” “SUBMITTED FOR RECTIFICATION,” “SUBMITTED FOR

AMENDMENT”). Where the sequence listings and/or tables ~~sequence listing part was~~ were filed both in computer readable form and in written form under Section 801(a)(ii), replacement sheets containing the correction, rectification or amendment in question shall also be submitted in written form.

Section 803
Calculation of Basic Fee for
International Applications Containing Sequence Listings and/or Tables

Where sequence listings and/or tables ~~the sequence listing part of an international application is~~ are filed in electronic form under Section 801(a), the basic fee payable in respect of that application shall comprise the following two components:

(i) a basic component calculated as provided in the Schedule of Fees in respect of all pages filed on paper (that is, all pages of the request, description (excluding sequence listings and/or tables ~~the sequence listing part~~ if also filed on paper), claims, abstract and drawings), and

(ii) an additional component, in respect of sequence listings and/or tables ~~the sequence listing part~~, equal to 400 times the fee per sheet as referred to in item 1(b) of the Schedule of Fees, regardless of the actual length of the sequence listings ~~part~~ and/or tables filed in computer readable form and regardless of the fact that sequence listings and/or tables ~~the sequence listing part~~ may have been filed both in written form and in computer readable form.

Section 804
Preparation, Identification and Transmittal of Copies
of International Applications Containing Sequence Listings and/or Tables

(a) Where sequence listings and/or tables ~~the sequence listing part of an international application is~~ are filed only in computer readable form under Section 801(a)(i), the record copy for the purposes of Article 12 shall consist of those elements of the international application filed on paper together with the sequence listings and/or tables ~~the sequence listing part~~ filed in computer readable form.

(b) Where sequence listings and/or tables ~~the sequence listing part of an international application is~~ are filed both in computer readable form and in written form under Section 801(a)(ii), the record copy for the purposes of Article 12 shall consist of all the elements of the international application filed on paper, including the sequence listings and/or tables ~~sequence listing part~~ in written form.

(c) Where sequence listings and/or tables ~~the sequence listing part of an international application is~~ are filed in computer readable form under Section 801(a)(i) or (ii) in less than the number of copies required for the purposes of this Section, the receiving Office shall either:

(i) promptly prepare any additional copies required, in which case it shall have the right to fix a fee for performing that task and to collect such fee from the applicant; or

(ii) invite the applicant to promptly furnish the additional number of copies required, accompanied by a statement that the sequence listings and/or tables ~~sequence listing part~~ in computer readable form contained in those copies ~~is~~ are identical to the sequence listings and/or tables ~~sequence listing part~~ in computer readable form as filed;

provided that, where those sequence listings and/or tables ~~that sequence listing part was~~ were also filed in written form under Section 801(a)(ii), the receiving Office shall not, notwithstanding Rule 11.1(b), require the applicant to file additional copies of the sequence listings and/or tables ~~sequence listing part~~ in written form.

(d) Where the sequence listings and/or tables ~~sequence listing part of an international application is~~ are filed under Section 801(a)(i), the receiving Office shall, in addition to proceeding under Section 305 with respect to the parts of the international application filed on paper:

(i) mark the words “RECORD COPY—SEQUENCE LISTINGS AND/OR TABLES ~~PART~~” on the original electronic medium containing the sequence listings and/or tables ~~sequence listing part~~ in computer readable form and transmit that part of the record copy to the International Bureau together with the paper part of the record copy;

(ii) mark the words “SEARCH COPY—SEQUENCE LISTING ~~PARTS~~ AND/OR TABLES” on one additional copy of the electronic medium containing the sequence listings and/or tables ~~sequence listing part~~ in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13^{ter}.1, together with the paper part of the search copy;

(iii) mark the words “HOME COPY—SEQUENCE LISTINGS AND/OR TABLES ~~PART~~” on the other such copy of the electronic medium containing the sequence listings and/or tables ~~sequence listing part~~ in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.

(e) Where the sequence listings and/or tables ~~sequence listing part of an international application is~~ are filed under Section 801(a)(ii), the receiving Office shall,

in addition to proceeding under Section 305 with respect to the parts of the international application filed on paper:

(i) mark the words “RECORD COPY—SEQUENCE LISTINGS AND/OR TABLES—PART” in the upper left-hand corner of the first page of the first sequence listing ~~part~~ and of the first page of the first table in written form and transmit that part of the record copy to the International Bureau together with the paper part of the record copy; it shall also mark the words “COPY FOR INTERNATIONAL BUREAU—SEQUENCE LISTINGS AND/OR TABLES—PART” on one copy of the electronic medium containing the sequence listings and/or tables ~~part~~ in computer readable form and transmit that copy with the record copy;

(ii) mark the words “SEARCH COPY—SEQUENCE LISTINGS AND/OR TABLES—PART” on one additional copy of the electronic medium containing the sequence listings and/or tables ~~part~~ in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13^{ter}.1, together with the paper part of the search copy;

(iii) mark the words “HOME COPY—SEQUENCE LISTINGS AND/OR TABLES—PART” on the other such copy of the electronic medium containing the sequence listings and/or tables ~~part~~ in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.

(f) The receiving Office may, when marking the copies referred to in paragraphs (d) and (e), use, instead of the words referred to in those paragraphs, the equivalent of those words in the language of publication of the international application.

Section 805
Publication and Communication of International
Applications Containing Sequence Listings and/or Tables; Copies; Priority
Documents

(a) Notwithstanding Section 406, an international application containing ~~a~~ sequence listings and/or tables ~~sequence-listing part~~ may be published under Article 21, in whole or in part, in electronic form as determined by the Director General.

(b) Paragraph (a) shall apply *mutatis mutandis* in relation to:

(i) the communication of an international application under Article 20;

(ii) the furnishing of copies of an international application under Rules 87 and 94.1;

(iii) the furnishing under Rule 17.1, as a priority document, of a copy of an international application containing sequence listings and/or tables ~~a sequence-listing part~~ filed under Section 801(a);

(iv) the furnishing under Rules 17.2 and 66.7 of copies of a priority document.

Section 806
Sequence Listings and/or Tables for Designated Office

Where sequence listings and/or tables ~~the sequence-listing part of an international application was~~ were filed only in computer readable form under Section 801(a)(i), any designated Office which does not accept the filing of sequence listings and/or tables ~~sequence listings~~ in computer readable form may require that the applicant furnish to it, for the purposes of the national phase, a copy on paper of such sequence listings ~~part on paper~~ in written form complying with Annex C and a copy on paper of such tables in written form ~~and~~, accompanied by a statement that the sequence listings and/or tables

~~sequence listing part~~ in written form ~~is~~are identical to the sequence listings and/or tables ~~sequence listing part~~ in computer readable form.

[End of Annex and of Circular]