

C. PCT 1618

February 26, 2021

Madam,
Sir,

This Circular is addressed to your Office in its capacity as an elected Office under the Patent Cooperation Treaty (PCT) in relation to amended Rule 94.1(c) and in its capacity as an International Preliminary Examining Authority (IPEA) in relation to amended Rule 71.1(b) of the Regulations under the PCT as in force from July 1, 2020. In addition, with reference to the Circular C. PCT 1599, dated April 30, 2020, the International Bureau of the World Intellectual Property Organization (WIPO) takes this opportunity to remind your Office, as a receiving Office (RO), an International Searching Authority (ISA), an IPEA and/or an Authority specified for supplementary search, to notify the International Bureau of WIPO of any provisions for the excuse of a delay in meeting time limits under Rule 82^{quater}.2, in accordance with Section 111(c) of the Administrative Instructions under the PCT (“Administrative Instructions”).

I. Request to furnish documents on behalf of elected Offices (Rule 94.1(c))

It is recalled that under Rule 94.1(c), which entered into force on January 1, 2004, the International Bureau (IB), at the request of a number of elected Offices, has been furnishing the international preliminary examination report (and its annexes) to any person under the Rule by making it publicly available on PATENTSCOPE after 30 months from the priority date on behalf of those elected Offices. Information concerning which elected Offices have requested the IB to furnish copies of international preliminary examination reports on their behalf is published on the following webpage: www.wipo.int/pct/en/texts/access_iper.html

As of July 1, 2020, Rule 94.1(c) was amended to apply, in addition to the international preliminary examination report, also to the other documents referred to in Rule 71.1(b), which also entered into force on July 1, 2020, namely those documents which the IPEA transmits to the IB from the file of the international preliminary examination. Consequently, the IB also furnishes these documents to any person and makes them available on PATENTSCOPE on behalf of elected Offices if it is so requested.

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For this purpose, your Office, in its capacity as an elected Office under the PCT, is invited to notify the IB if it wishes to request the IB to furnish copies of the international preliminary examination report and other documents from the file of the international preliminary examination on its behalf in accordance with Rule 94.1(c). Under the previous Rule 94.1(c), as mentioned above, a number of elected Offices have requested the IB to furnish copies of international preliminary examination reports on their behalf. However, these notifications may not cover the additional documents referred to in Rule 71.1(b), as mentioned in amended Rule 94.1(c). Therefore, the elected Offices are invited to renew their requests accordingly. To enable the IB to make those documents available on PATENTSCOPE, the IB will have to receive such a request from at least one elected Office.

The IB would appreciate receiving any such notifications at your earliest convenience, by email to: pct.legal@wipo.int, so that the relevant information can be published in the *PCT Gazette* as provided by Rule 94.1(c).

II. Reminder for IPEAs to transmit documents to the IB under Rule 71.1(b)

Following the amendments of Rule 71.1 which entered into force on July 1, 2020, IPEAs are to transmit copies of other documents (in addition to the international preliminary examination report) from the file of the international preliminary examination to the IB in accordance with the Administrative Instructions. Section 602*bis*(a) lists the documents which shall or may be transmitted to the IB under that Rule. To allow IPEAs more time to technically prepare themselves for the transmittal of documents to the IB, Section 602*bis*(c) provides flexibility for IPEAs in implementation of the Rule.

Rule 71.1 applies to any document received at or established by the relevant IPEA on or after the date of entry into force. The IB is thus far systematically receiving documents from a small number of IPEAs. Your Office, if it acts as an IPEA, is thus reminded to transmit the relevant documents to the IB under Rule 71.1(b) as soon as it is technically ready to do so, and to transmit those documents by using the specification code, etc. agreed with the IB.

III. Notification under Section 111(c); excuse of a delay in meeting time limits due to the unavailability of electronic means of communication under Rule 82quater.2

It is also recalled that the PCT Assembly unanimously adopted Rule 82*quater*.2, providing a legal basis for an Office to provide for the excuse of a delay in meeting any time limits fixed in the Regulations due to the unavailability of electronic means of communication at the Office. This new rule entered into force on July 1, 2020. As a result of the adoption of Rule 82*quater*.2, Section 111 of the Administrative Instructions was modified also from July 1, 2020. Under Section 111(c), any Office which provides for the excuse of a delay in meeting time limits under Rule 82*quater*.2 shall notify the IB accordingly. Your Office is thus invited to notify the IB of any such provisions that exist if you have not already notified, and/or whenever any new provisions are adopted. The notification should clearly specify under which conditions delays in meeting time limits may be excused.

The IB would appreciate receiving any such notifications at your earliest convenience, by email to: pct.legal@wipo.int, so that the relevant information can be published in the *PCT Gazette* as provided by Section 111(c).

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Note that Rule 82*quater*.2 requires the Offices concerned to notify the IB of the specific periods of unavailability. In this respect, in addition to publishing this information in the *PCT Gazette* under Section 111(e), the IB publishes on the PCT website, at: www.wipo.int/pct/en/texts/unavailability.html (Unavailability of Electronic Means of Communication at Offices), any information notified by the Offices about specific periods of unavailability.

Yours sincerely,

A handwritten signature in black ink that reads "Lisa K. Jorgenson". The signature is written in a cursive style with a large initial 'L' and 'J'.

Lisa Jorgenson
Deputy Director General
Patents and Technology Sector