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PCT/AI/1 Add.10

ORIGINAL: English

DATE: June 30, 2000

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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS
UNDER THE PATENT COOPERATION TREATY:

PROPOSED MODIFICATIONS RELATING TO THE
ELECTRONIC FILING, PROCESSING, STORAGE AND
RECORDS MANAGEMENT OF INTERNATIONAL APPLICATIONS

COMMENTS BY THE
JAPANESE PATENT OFFICE

*for consideration at a
PCT informal consultation meeting on electronic filing,
Geneva, July 11 to 14, 2000*

COMMENTS AND SUGGESTIONS
FROM THE JAPANESE PATENT OFFICE
ON THE PROPOSED ADMINISTRATIVE INSTRUCTIONS

1. Section 703 (c)(ii)

Suggestion: The language “relating to electronic receipt” in the Section 703(c)(ii), which is used only in this part, appears rather vague. Even though the word “including” tries to illustrate by an example the meaning of the language, it is difficult to understand what the language implies exactly. The JPO, therefore, suggests that the heading of the subsection should be modified as follows:

“(ii) the conditions, rules and procedures relating to accepting the filing of international applications in electronic form, such as hours of operation, choices for acknowledgment processes,

2. Section 703 (d)

Suggestion: Since this subsection coincides with Rule 50.1(b) and 77.1(b) in intention, those three provisions should be similarly provided for. The JPO would also like to draw your attention to the Section 405 of the Administrative Instructions. Please refer those provisions:

Rule 50.1(b) and 77.1(b): “Any notification received by the International Bureau under paragraph (a) shall be promptly published by the International Bureau in the Gazette.”

Administrative Instructions, Section 405: “The International Bureau shall promptly publish in the Gazette any notification under Section 332(a) or (b).”

3. Section 706 (a)

Proposal: The JPO proposes the deletion of the bracketed language “or appears to be distorted in meaning.” Checking for something that appears to be distorted in meaning can not be done by mere formality examination. The PCT principally regulates only formality issues. If the electronic filing always requires a certain visual inspection into all applications filed electronically, it would lose the major benefit out of being automated. The JPO believes that the visual inspection should be introduced more or less under the jurisdiction of the receiving Office, whenever the system picks out the illegibility in the documents automatically. It is not appropriate to obligate the receiving Office to visual inspection for all electronically filed applications.

4. Section 706 (b)

Comment only: The JPO is of opinion that the receiving Office has its own jurisdiction to interpret the words “reasonably available” in Section 706(b) that reads “all means reasonably available to it (the Office) to read the (infected) document.” Because it all depends on the technical availability and facility of the receiving Office.

Suggestion: The JPO, therefore, believes that the language “including but not limited to printing the application” is not appropriate to be included in the provision. The language imposes the receiving Office to conduct, at least, printing the application, if it is reasonably

available. Technically speaking, however, it is the very last idea to print the infected application. It is almost impossible under the present technology to print the infected application avoiding any malicious influences onto the system.

5. Section 708 (a)

Suggestion: The IB's comment for this subsection explains more than the subsection implies. If the subsection is also applicable to the International Bureau, it should be included expressly in subsection (a), and (b) if necessary. It is ambiguous if the "intergovernmental organization" includes the International Bureau or not, without the IB's comment to come with.

Clarification: While the expression "store record" is used in some places in this Part of the Administrative Instructions, the expression "keep records" is only used in this subsection. The JPO would like to clarify what the expression "keep records in relation to international applications in electronic form" means.

6. Section 708 (b)

Comment only: The JPO would like to know the reason why this provision had been introduced by the delegation of the U.S. and how this provision should be envisaged in real situations. The JPO would like to hold to make some comments until the intention of the provision is clearly explained.

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