

# WIPO



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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  
GERMAN PATENT AND TRADE MARK OFFICE

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

COMMENTS ON THE  
ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY  
(Document PCT/AI/1 Add.2 Prov., 10 May 2000)

*Section 704 should be amended by paragraph (c) as follows:*

(c) Any receiving Office may request the applicant to register for participation in the electronic filing of international applications. Where the international application is filed without registration of the applicant, the receiving Office shall not be obliged to receive or otherwise process the application. If the receiving Office decides to receive the international application, it shall be considered not to comply with the prescribed physical requirements referred to in Article 14 (1)(a)(v) and the receiving Office shall proceed accordingly.

[COMMENT: By registering the applicant it is possible to prevent unidentifiable applicants from blocking access to the receiving Office by filing applications on a massive scale. The establishment of user accounts allows to identify the originator of filing data, independently of the “enhanced digital signature”.

In the course of the registration of applicants with the receiving Office, which may also be performed electronically, the receiving Office establishes a user account containing the applicant’s access data (user identification and pass word) for participation in the electronic filing of applications. These data may also be used as ad-hoc certificate (PCT/AI/1 Add.3 Prov.). The receiving Office must safely transmit the user identification and pass word to the applicant. The transmission of these data may be conducted electronically, if reliable transmission mechanisms between the applicant and the Office have already been established. The mail service may also be used for a safe transmission. The respective technical details should be specified in Annex F.]

*Section 706(b) should be modified as follows:*

(b) Any receiving Office which accepts international applications filed in electronic form in accordance with Section 703(a) shall check those applications for viruses and other forms of malicious logic. If it finds that an application is infected with a virus or other form of malicious logic, it shall promptly notify the applicant, ~~may require the applicant to resubmit a clean copy of the application, and shall use all means reasonably available to it to read the document (for the purposes of performing an Article 11 check), including but not limited to printing the application. The receiving Office is not obliged to disinfect the infected files, but shall take all appropriate actions consistent with the objective of preserving, where possible, the international filing date~~ may consider the submission as illegible under

paragraph (a). If so, the receiving Office shall promptly notify the applicant accordingly and invite the applicant to resubmit a clean copy of the application.

[COMMENT: The receiving Office should not be obliged to accept infected data and to process, store, archive or transmit these data in any form including printing, since the acceptance of such data always involves the risk of disseminating viruses and damaging data and systems. Optionally, the receiving Office should have the possibility to accept the application provided that – for any reason whatsoever – no risk is involved. At any rate, the utilization of firewalls including virus walls will prevent the entry of infected data into the Office. Within the scope of this technology, processes should be chosen informing the sender automatically on the type of virus infecting their data.]

COMMENTS ON THE  
ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY  
(ANNEX F)  
(Document PCT/AI/1 Add.4 Prov., 9 June 2000)

The document does not make clear whether the PKCS#7 standard is used for signing or encryption.

*5.1 Document Preparation, paragraph 4*

This paragraph should be deleted, because the standard should not relate to “desirable features” and proprietary systems.

*5.3. Signing the Wrapped Application Documents*

There is a contradiction: While item 4 (“Signatures Mechanisms”) offers various options for signatures (basic and enhanced electronic signatures), item 5.3 requires wrapping documents exclusively with the enhanced electronic signature (see paragraph 2: “PKCS#7 is used to produce a Signed Data Type for the signature.”).

*Caption of Table A4*

“Optional: If the encryption algorithm, which is used in the digital certificates added to the digital signature, is different from the algorithm described in the specification, the receiving Office must notify the International Bureau of the algorithm.”

This requirement should be mandatory not optional, as already expressed by the word must in the above quotation.

[End of document]