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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)

PCT COMMITTEE FOR ADMINISTRATIVE AND LEGAL
MATTERS

Fourth Session, First Part*
Geneva, December 10 to 14, 1990

AMENDMENT OF PCT RULE 16.1(a)

Proposed by Sweden

The present document contains a proposal, received from the Swedish Patent and Registration Office, for amendment of PCT Rule 16.1(a) concerning the payment, with the search fee of a claims fee.

* *Editor's Note:* This electronic document has been created from the paper original and may contain errors. Please bring any such errors to the attention of the PCT Legal Division by e-mail at pct.legal@wipo.int



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1990-10-12

Dr Arpad Bogisch
Director General
World Intellectual Property Organization
34, Chemin des Colombettes
1211 Geneva 20
SWITZERLAND

Dear Dr Bogisch,

Re. Fourth session of the PCT Committee for Administrative
and Legal Matters.

The Swedish delegation would like to call attention to the problem with an excessive number of claims in a PCT application under search.

It happens quite often, - especially in the chemical and electronic field - that a PCT application contains more than 30 claims and sometimes even more than 100 claims. According to the EPO EP-applications contain on average 14 claims against 18 in PCT-applications. It is obvious that PCT-applicants take advantage of the fee situation. The work in a PCT-search, to search all the claims and to enter the relevant category markings of the cited documents in the search report for all claims, increases with the number claims. In our opinion it is not fair that the search fee from applications with fewer claims shall subsidize applications with a higher number of claims.

Many national legislations and the EPC prescribe that the search fee consists of a basic fee and a claims fee (a fee for each claim exceeding a preset number).

Our proposal is an addition (underlined) in PCT Rule 16.1 (a) as follows:

"(a) Each International Searching Authority may require that the applicant pay a fee ("search fee and, if applicable, claims fee") for its own benefit for carrying out the international search and for performing all other tasks entrusted to International Searching Authorities by the Treaty and these Regulations."

Moreover, this proposal does not make it mandatory for an ISA to demand a claims fee. This can be seen by the word "may" in the first line.

Yours sincerely

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