

Patent Cooperation Treaty (PCT) Working Group

Seventeenth Session
Geneva, February 19 to 21, 2024

CITATION OF NON-WRITTEN DISCLOSURES

Following comments informally received in advance of the session, this paper sets out a revised set of proposed amendments to the PCT Regulations to those presented in the Annex to document PCT/WG/17/10. The changes from the proposed amendments in that document are highlighted and relate to Rule 64.2, where a deletion is necessary. Proposed amendments and deletions from the present PCT Regulations are indicated, respectively, by underlining and striking through the text concerned.

Rule 33

Relevant Prior Art for the International Search

33.1 *Relevant Prior Art for the International Search*

(a) For the purposes of Article 15(2), relevant prior art shall consist of everything which has been made available to the public anywhere in the world by any means ~~of written disclosure (including drawings and other illustrations) and~~ which is capable of being of assistance in determining that the claimed invention is or is not new and that it does or does not involve an inventive step (i.e., that it is or is not obvious), provided that the making available to the public occurred prior to the international filing date.

(b) *[No change]* When any written disclosure refers to an oral disclosure, use, exhibition, or other means whereby the contents of the written disclosure were made available to the public, and such making available to the public occurred on a date prior to the international filing date, the international search report shall separately mention that fact and the date on which it occurred if the making available to the public of the written disclosure occurred on a date which is the same as, or later than, the international filing date.

(c) *[No change]* Any published application or any patent whose publication date is the same as, or later than, but whose filing date, or, where applicable, claimed priority date, is earlier than the international filing date of the international application searched, and which would constitute relevant prior art for the purposes of Article 15(2) had it been published prior to the international filing date, shall be specially mentioned in the international search report.

33.2 and 33.3 *[No change]*

Rule 64

Relevant Prior Art for the International Preliminary Examination

64.1 *Prior Art*

(a) For the purposes of Article 33(2) and (3), everything made available to the public anywhere in the world by any means ~~of written disclosure (including drawings and other illustrations)~~ shall be considered prior art provided that such making available occurred prior to the relevant date.

(b) [No change]

64.2 *Non-Written Disclosures*

In cases where the making available to the public occurred by means of an oral disclosure, use, exhibition or other non-written means ("non-written disclosure") before the relevant date as defined in Rule 64.1(b) and the date of such non-written disclosure is indicated in a written disclosure which has been made available to the public on a date which is the same as, or later than, the relevant date, ~~the non-written disclosure shall not be considered part of the prior art for the purposes of Article 33(2) and (3). Nevertheless,~~ the international preliminary examination report shall call attention to such non-written disclosure in the manner provided for in Rule 70.9.

64.3 [No change]

[End of paper]