

WIPO



SCP/2/3

ORIGINAL: English

DATE: February 15, 1999

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

STANDING COMMITTEE ON THE LAW OF PATENTS

Second Session
Geneva, April 12 to 23, 1999

DRAFT PATENT LAW TREATY AND DRAFT REGULATIONS

prepared by the International Bureau

INTRODUCTION

1. The present document contains a revised version of the draft Patent Law Treaty (“PLT”) and accompanying Regulations. It takes into account the views expressed in the Standing Committee on the Law of Patents at its first session, first part (June 15 to 19, 1998) and second part (November 16 to 20, 1998).

2. As agreed at the first session, second part, former Articles 9 to 11 are moved to the Regulations and combined with former Rules 9 to 11. After further consideration, the International Bureau proposes that former Article 12 be similarly moved to the Regulations and combined with former Rule 12. Further, based on its studies, and taking into account comments that Article 7 should be limited to representation and requests for rationalization of *mutatis mutandis* provisions, the International Bureau proposes that provisions relating to communications, addresses and notifications be combined in new Articles 7 and 8, together with modification of Rule 8 and the introduction of new Rules 9 to 11.

3. Differences between the former text of the draft Treaty and Regulations (Articles 1 to 10 and 13 to 16 and Rules 1 to 9 and 13 to 17 in document SCP/1/3 and Articles 1*bis*, 7, 9 and 10 and Rule 9 in document SCP/1/8) and the revised text contained in the present document have been highlighted as follows:

(i) words which did not appear in document SCP/1/3 or 8 but appear in the present text are underlined, and

(ii) words which appeared in document SCP/1/3 or 8 but which are omitted from the present document are shown as struck through.

Underlines and strike-throughs in the text of Articles and Rules which were contained in document SCP/1/3 or 8 and which had not been discussed at the first session of the SCP, are maintained in this document. Text from document SCP/1/3 or 8 which is merely moved to a different location without change in substance is not highlighted.

4. For reference, provisions which have been adopted by the SCP are indicated within a frame. As agreed at the first session, first part, these provisions are closed for further discussion, except at the express request of a Member of the Standing Committee or to approve consequential modifications suggested by the International Bureau when redrafting other provisions. Where a modification has been made in the adopted text as a consequence of redrafting other provisions, the changes in the text are highlighted within the frame. Adopted text which has been moved to a different location remains indicated within a frame. Proposals by the International Bureau for modification of adopted text are included, in italics and in square brackets, outside the frame.

5. Editorial notes in italics and in square brackets are included in the text to clarify the source of certain provisions.

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DRAFT TREATY

Article 1

Abbreviated Expressions

For the purposes of this Treaty, unless expressly stated otherwise:

(i) “Office” means the authority of a Contracting Party entrusted with the granting of patents or with other matters covered by this Treaty;

(ii) “application” means an application for the grant of a patent, as referred to in Article 2;

(iii) “patent” means a patent as referred to in Article 2;

(iv) references to a “person” shall be construed as references to both a natural person and a legal entity;

(v) “communication” means any application, or any request, declaration or information relating to an application or patent, whether relating to a procedure under this Treaty or not, which is submitted or transmitted to the Office by means permitted by the Office;

[Article 1, continued]

(vi) “records of the Office” means the collection of information maintained by the Office, relating to and including the applications filed with, and the patents granted by, that Office or another authority with effect for the Contracting Party concerned, irrespective of the medium in which such information is maintained;

(vii) “recordal” means recordal in the records of the Office;

(viii) “applicant” means the person whom the records of the Office show as the person who is applying for the patent, or another person who, pursuant to the applicable law, is submitting or prosecuting the application;

(ix) “owner” means the person whom the records of the Office show as the owner of the patent;

(x) “representative” means any person, firm or partnership that can be a representative under the applicable law;

~~(xi) “address for service” means~~

[Alternative A]

~~an address for service as referred to in Article 2(3) of the Paris Convention;~~

[Article 1, continued]

~~{Alternative B}~~

~~an address where, if a communication from the Office is delivered to that address, the intended recipient is deemed to have received that communication;~~

~~{Alternative C}~~

~~the address to which the Office shall send communications in respect of any procedure before the Office;~~

(xi) “signature” means any means of self-identification;

(xii) “a language accepted by the Office” means any one language accepted by the Office for the relevant procedure before the Office;

(xiii) “translation” means a translation into a language accepted by the Office;

(xiv) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or patent;

(xv) except where the context indicates otherwise, words in the singular include the plural, and *vice versa*, and masculine personal pronouns include the feminine;

[Article 1, continued]

(xvi) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed on March 20, 1883, as revised and amended;

(xvii) “Patent Cooperation Treaty” means the Patent Cooperation Treaty (“PCT”) signed on June 19, 1970, as amended and modified;

(xviii) “Contracting Party” means ... [definitions of terms used in the administrative and final provisions of the Treaty are presented in document SCP/2/5].

Article 2

Applications and Patents to Which the Treaty Applies

(1) [Applications] (a) The provisions of this Treaty and the Regulations shall apply to national and regional applications for patents for invention which are filed with or for the Office of a Contracting Party, and which are types of applications that can be filed as international applications under the Patent Cooperation Treaty.

[Proposal by the International Bureau:

In accordance with the decision reported in document SCP/1/7, paragraph 108, that Article 2 would be amended to include divisional applications if no amendment to include them within the PCT is adopted, the International Bureau recommends that subparagraph (a) be modified as follows:

“(a) The provisions of this Treaty and the Regulations shall apply to:

(i) national and regional applications for patents for invention which are filed with or for the Office of a Contracting Party, and which are types of applications that can be filed as international applications under the Patent Cooperation Treaty;

(ii) divisional applications for patents for invention as referred to in Article 4G(1) or (2) of the Paris Convention.”]

(b) Subject to the provisions of the Patent Cooperation Treaty, the provisions of this Treaty and the Regulations shall apply to international applications for patents for invention under the Patent Cooperation Treaty:

(i) in respect of the time limits applicable in the Office of any Contracting Party under Articles 22 and 39(1) of the Patent Cooperation Treaty;

[Article 2(1)(b), continued]

(ii) from the date on which the requirements of Article 22 or 39(1) of that Treaty have been complied with.

(2) [*Patents*] The provisions of this Treaty and the Regulations shall apply to patents for invention which have been granted with effect for a Contracting Party.

Article 3

National Security

Nothing in this Treaty and the Regulations shall limit the freedom of any Contracting Party to ~~apply measures~~ take any action deemed necessary for the preservation of its national security.

Article 4

Filing Date

(1) [*Elements of Application*] (a) Subject to paragraphs (2) to (7~~8~~), a Contracting Party shall provide that the filing date of an application shall be the date on which its Office has received all of the following elements, filed, at the option of the applicant, on paper or by means permitted by the Office:

(i) an express or implicit indication to the effect that the elements are intended to be an application;

(ii) indications allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Office;

(iii) a part which on the face of it appears to be a description.

(b) A Contracting Party may, for the purposes of the filing date, accept a drawing as the element referred to in subparagraph (a)(iii).

(2) [*Language*] (a) The indications referred to in paragraph (1)(a)(i) and (ii) may be required to be in a language accepted by the Office.

(b) The part referred to in paragraph (1)(a)(iii) may, for the purposes of the filing date, be in any language.

[Article 4, continued]

(3) [*Notification*] ~~(a)~~—Where the application does not comply with one or more of the requirements of paragraphs (1) and (2), the Office shall [promptly][as soon as practicable] notify the applicant of any requirement not complied with.

~~(b)~~ [Moved to Article 4(5)(a)]

(4) [*Subsequent Compliance with Requirements*] (a) Where one or more of the requirements referred to in paragraphs (1) and (2) are not complied with in the application as initially filed, the filing date shall, subject to subparagraph (b) and paragraphs (5) ~~and (6)~~, be the date on which all of the requirements referred to in paragraphs (1) and (2) are complied with.

(b) A Contracting Party may provide that, where one or more of the requirements referred to in subparagraph (a) are not complied with within the time limit prescribed in the Regulations, the application shall be regarded as not having been filed.

(5) [~~*Submission of Missing Part of Description or Drawings*~~] (a) Where, for the purposes of establishing the filing date, the Office determines that a part of the description is missing from the application or that the application refers to a drawings which, in fact, are not included in is missing from the application, the Office shall, promptly after the determination has been made, notify the applicant accordingly.

[Article 4(5), continued]

(ab) Subject to subparagraphs (bc) and to (cc) and paragraph (6), where a missing part of the description or a missing drawings referred to in the application, but in fact not included, are is furnished to filed with the Office within the time limit prescribed in the Regulations, that part of the description or drawing shall be included in the application, and the filing date shall be the date on which the Office has received that part of the description or those that drawings, or the date on which all of the requirements referred to in paragraphs (1) and (2) are complied with, whichever is later. ~~Otherwise~~ Where the missing drawing is not furnished to filed with the Office within that time limit, any reference to the said drawings shall be considered non-existent for the purposes of establishing the filing date.

(bc) Notwithstanding subparagraph (b) and subject to subparagraph (d), A a Contracting Party [may] [shall] provide that, where the Office determines, within a time limit prescribed by the Contracting Party, if any, that the all missing parts of the description and all missing drawings furnished filed under subparagraph (ab) do not contain new matter, the filing date shall be the date on which all of the requirements referred to in paragraphs (1) and (2) are complied with.

(d) Where a the missing part of the description or missing drawing is furnished filed after the filing date under subparagraph (b) to rectify its unintentional omission from the an application on the filing date, and the application which claims the priority of an earlier application, the Office shall, upon the request of the applicant and subject to the requirements prescribed in the Regulations, consider the contents of that earlier application as having been

[Article 4(5)(d), continued]

contained in the application claiming priority in determining, for the purposes of ~~the filing date~~ subparagraph (c), whether that part of the description or that drawing contains new matter.

(~~ee~~) Where all or part of the missing part of the description, and any missing drawings, filed furnished under subparagraph (~~ab~~) are withdrawn within a time limit fixed by the Contracting Party, and a determination under subparagraph (c) has been made that any remaining part of the missing description and missing drawings furnished filed under subparagraph (b) does not contain new matter, the filing date shall be the date on which the requirements referred to in paragraphs (1) and (2) are complied with, ~~and any reference to the said drawings shall be considered non-existent.~~

(~~6~~) [Moved to Article 4(5)(d)]

(~~67~~) [*Replacing Description and Drawings by Reference to a Previously Filed Application*] (a) Subject to the requirements prescribed in the Regulations, a reference, in a language accepted by the Office, to a previously filed application shall, for the purposes of the filing date of the application, replace the description and any drawings.

(b) Where the requirements referred to in subparagraph (a) are not complied with, the application may be considered as not having been filed.

[Article 4, continued]

~~(78) [Divisional Applications; Continuation and Continuation-in-Part Applications]~~

Nothing in this Article shall limit:

~~(i) the right of an applicant under Article 4G(1) or (2) of the Paris Convention to preserve, as the date of a divisional application referred to in that Article, the date of the initial application referred to in that Article and the benefit of the right of priority, if any;~~

~~(ii) the freedom of any Contracting Party to apply any requirements necessary to accord the benefit of the filing date of an application for a continuation or a continuation-in-part of an earlier application.~~

Article 5

Application

(1) [*Form or Contents of Application*] No Contracting Party shall, except where otherwise provided for by this Treaty, require compliance with any requirement relating to the form or contents of an application different from or additional to those which are provided for in respect of international applications under the Patent Cooperation Treaty, it being understood that a Contracting Party shall be free to provide for requirements which, from the viewpoint of applicants, are more favorable than the requirements applicable under the Patent Cooperation Treaty.

(2) [*Request Form or Format*] (a) A Contracting Party may require that the contents of an application which correspond to the mandatory contents of the request of an international application under the Patent Cooperation Treaty be presented on a request Form or in a format prescribed by that Contracting Party.

(b) Notwithstanding subparagraph (a), a Contracting Party shall accept the presentation of the contents referred to in that subparagraph on a request Form, filed on paper, if that request Form corresponds to the Patent Cooperation Treaty request Form with the modifications provided for in the Regulations, subject to Article 7(1).

~~(3) [*Form, Format and Means of Filing of Applications*] Except for the establishment of a filing date under Article 4(1)(a), the Regulations shall set out the requirements which a Contracting Party shall be permitted to apply as regards the form, format and means of filing of applications.~~

However:

(i) ~~no Contracting Party shall be obliged to accept the filing of applications in a form, or by means, other than filing on paper;~~

(ii) ~~no Contracting Party shall be obliged to exclude the filing of applications on paper;~~

(iii) ~~the adoption of any provision in the Regulations allowing a Contracting Party which accepts the filing of applications in a form, or by means, other than filing on paper to exclude the filing of applications on paper shall require unanimous consent. Paragraph (2)(b) shall no longer be applicable to a Contracting Party which excludes the filing of applications on paper.~~

[EDITORIAL NOTE: Moved to draft Article 7(1) concerning communications.]

~~[(4) *[Registration Numbers]* Notwithstanding paragraph (1), a Contracting Party may require that the request Form or format referred to in paragraph (2) contain, where the applicant is registered with the Office, the number or other indication under which he is so registered and, where the applicant has a representative who is registered with the Office, the number or other indication under which the representative is so registered.]~~

[Article 5, continued]

[EDITORIAL NOTE: Moved to draft Article 7(3) concerning communications.]

(~~35~~) [*Language*] A Contracting Party may require that the application be in a language accepted by its Office.

(~~46~~) [*Fees*] A Contracting Party may require that fees be paid in respect of the application.

(~~57~~) [*Priority Document*] (a) Subject to subparagraph (c), where the priority of an earlier application is claimed, a Contracting Party may require that a copy of the earlier application be furnished to the Office within the time limit prescribed in the Regulations.

(b) A Contracting Party may require that the copy referred to in subparagraph (a) and the date of filing of the earlier application be certified as correct by the Office with which the earlier application was filed.

(c) No Contracting Party shall require the furnishing of a copy or a certified copy of the earlier application, or a certification of the filing date, as referred to in subparagraphs (a) and (b), where the earlier application is available to that Office as provided for in the Regulations.

(d) Where the earlier application is not in a language accepted by the Office and the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable, the Contracting Party may require that a translation of the earlier application be furnished by the applicant, upon invitation by the Office, within the time limit prescribed in the Regulations.

~~(68)~~ [*Evidence*] A Contracting Party may require that evidence be furnished to its Office in the course of the processing of the application where that Office may reasonably doubt the veracity of any matter contained in the request Form or format referred to in paragraph (2), or in a declaration of priority, or the accuracy of any translation of a priority document required under paragraph ~~(75)~~(d).

~~(79)~~ [*Notification*] Where one or more of the requirements applied under paragraphs (1) to ~~(46)~~ are not complied with, or where evidence is required under paragraph ~~(68)~~, the Office shall notify the applicant, giving an opportunity to comply with any such requirement, and to make observations, within the relevant time limit prescribed in the Regulations.

~~(840)~~ [*Non-Compliance with Requirements*] (a) Where one or more of the requirements applied under paragraphs (1) to ~~(46)~~ and ~~(68)~~ are not complied with within the time limit prescribed in the Regulations, the Contracting Party may, subject to subparagraphs (b) ~~and (e)~~ and Article 4, apply such sanction as is provided for in its law.

[Article 5(8), continued]

(b) Where any requirement applied under paragraph (1), ~~(57)~~ or ~~(68)~~ in respect of a priority claim is not complied with within the time limit prescribed in the Regulations, the priority claim may be considered non-existent. Subject to Article 4~~(67)~~(b), no other sanctions may be applied.

~~[(e) No Contracting Party may provide for the refusal of an application for failure to comply with any requirement to furnish a registration number or other indication under paragraph (4).]~~

[EDITORIAL NOTE: Moved to draft Article 7(6)(b).]

Article 67

Representation; ~~Address for Service~~

(1) [*Representatives*] (a) A Contracting Party may require that a representative appointed for the purposes of any procedure before the Office:

(i) have the right, under the applicable law, to practice before the Office in respect of applications and patents;

(ii) provide an address for service on the territory of the Contracting Party.

[Proposal by the International Bureau:

The International Bureau recommends, for consistency with proposed draft Rule 10(2), that item (ii) be replaced by the following words:

“(ii) provide an address on one or more territories prescribed by the Contracting Party.”]

(b) Subject to subparagraph (c), an Act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, owner or other interested person who ~~is represented~~ appointed by that representative.

[Article 6(1), continued]

(c) Any Contracting Party may provide that, in the case of an oath or declaration or the revocation of a power of attorney, the signature of a representative shall not have the effect of the signature of the applicant, owner or other interested person who appointed that representative.

[Proposal by the International Bureau:

The International Bureau recommends that, as an alternative to subparagraph (c), a reservation to the same effect be included in the final provisions.]

(2) *[Mandatory Representation]* A Contracting Party may require that an applicant, owner or other interested person ~~be represented by~~ appoint a representative for the purposes of any procedure before the Office after the filing date, other than:

(i) the payment of maintenance fees;

~~(ii)~~ (ii) the payment of a fees;]

~~(iii)~~ (iii) the filing of an application;]

~~[Alternative A]~~

~~(iii)~~ (iv) the filing of a translation;]

~~(iii bis)~~ (v) the furnishing of drawings according to Article 4(5)(a);]

[Article 6(2), continued]

~~[End of Alternative A]~~

[Alternative B]

~~[(iii)](vi)~~ any other procedure as prescribed in the Regulations;]

~~[End of Alternative B]~~

~~(iv)](vii)~~ the issue of a receipt or notification by the Office in respect of any procedure referred to in items (i) to ~~[(iii bis)](iii)]~~ [(vi)].

[Proposal by the International Bureau:

In response to comments submitted to the SCP Electronic Forum, the International Bureau has restored items (ii), (iii), (iv) and (v) in the Treaty in square brackets, and further recommends that items (iii) and (v) be subsumed into a new item (iii) which would read: “any procedure referred to in Article 4;”.]

~~(3) [Address Where No Representative Is Appointed] (a) Where no representative is appointed, a Contracting Party may require, for the purposes of any procedure before the Office other than a procedure referred to in paragraph (2)(i) to (iv), that an applicant, owner or other interested person:~~

~~(i) indicate, as his address, the address of a domicile or real and effective industrial or commercial establishment, if any, which he has on the territory of the Contracting Party; or, at his option,~~

[Article 6, continued]

~~(ii) provide an address for service on the territory of the Contracting Party.~~

~~(b) Where an applicant, owner or other interested person has a domicile or real and effective industrial or commercial establishment on the territory of the Contracting Party and has provided the address of that domicile or establishment, that address shall be considered to be the address for service for the purposes of subparagraph (a) unless that applicant, owner or other interested person expressly indicates another address as the address for service on the territory of the Contracting Party.~~

[EDITORIAL NOTE: Provisions replaced by new Article 7(4) and Rule 10.]

~~(34) [Power of Attorney] (a) A Contracting Party shall accept that the appointment of the representative be furnished to the Office in:~~

~~(i) a separate communication (hereinafter referred to as a “power of attorney”) signed by the applicant, owner or other interested person and indicating the name of the person making the appointment and the name and address of the representative; or, at his option,~~

~~(ii) the request Form or format referred to in Article 5(2), signed by the applicant.~~

(b) A single power of attorney shall be sufficient even where it relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that all applications and patents concerned are identified in the power of attorney. A single power of attorney shall also be sufficient even where it relates, subject to any exception indicated by the appointing person, to all existing and future applications or patents of that person. The Office may require that, where that single power of attorney is filed on paper, a separate copy thereof be furnished for each application and patent to which it relates.

~~(45)~~ [*Power of Attorney Form or Format*] (a) A Contracting Party may require that, where a power of attorney is in a separate communication as referred to in paragraph ~~(34)~~(a)(i), it be presented on a power of attorney Form or in a format prescribed by that Contracting Party.

(b) Notwithstanding subparagraph (a), a Contracting Party shall accept the presentation of a power of attorney, filed on paper, if it is presented on a ~~f~~Form or in a format which corresponds to the power of attorney Form or format provided for in the Regulations.

~~(6)~~ [*Form, Format and Means of Filing of Powers of Attorney*] ~~Article 5(3)~~ shall apply, *mutatis mutandis*, to powers of attorney.

[*EDITORIAL NOTE: Incorporated into draft Article 7(1).*]

[Article 6, continued]

(57) [*Translation of Power of Attorney*] A Contracting Party may require that, if the power of attorney is not in a language accepted by the Office, it be accompanied by a translation.

~~(8) [*References in Communications*] A Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain:~~

~~(i) the name and address of the representative;~~

~~(ii) a reference to the power of attorney, or other communication in which the appointment of that representative is or was effected, on the basis of which the said representative acts;~~

~~(iii) where the representative is registered with the Office, the number or other indication under which that representative is so registered.~~

[EDITORIAL NOTE: Moved to draft Article 7(3)(b).]

(69) [*Evidence*] A Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraph (34).

~~(710)~~ [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to ~~(69)~~ be complied with in respect of the matters dealt with in those paragraphs.

~~(811)~~ [*Notification; Non-Compliance with Requirements*] Article 5~~(9)~~
~~and (10)(a) [and (e)] shall apply, mutatis mutandis, w~~Where one or more of the requirements applied under paragraphs (1) to ~~(58)~~ are not complied with, or where evidence is required under paragraph ~~(69)~~, the Office shall notify the applicant, owner or other interested person, giving an opportunity to comply with any such requirement, and to make observations, within the relevant time limit prescribed in the Regulations.

~~(9)~~ [*Non-Compliance with Requirements*] Where one or more of the requirements applied under paragraphs (1) to (6) are not complied with within the time limit prescribed in the Regulations, the Contracting Party may apply such sanction as is provided for in its law.

Article 7

Communications; Addresses

(1) [*Form, Format and Means of Filing of ~~Applications~~ Communications*] (a) Except for the establishment of filing date under Article 4(1), and subject to subparagraphs (b) and (c) ~~Article 4(1)(a)~~, the Regulations shall set out the requirements which a Contracting Party shall be permitted to apply as regards the form, format and means of filing of ~~applications~~ communications.

However:

(i**b**) ~~n~~No Contracting Party shall be obliged to accept the filing of ~~applications~~ communications in a form, or by means, other than ~~filing~~ on paper;.

(i**c**) ~~n~~No Contracting Party shall be obliged to exclude the filing of ~~applications~~ communications on paper;.

[EDITORIAL NOTE: Modeled after former Article 5(3)(i) and (ii). Provision regarding the requirement for unanimity under former Article 5(3)(iii) to be included in Final Provisions.]

(2) [*Signature of Communications*] (a) Where a Contracting Party requires a signature for the purposes of any communication, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature which is communicated to its Office, except as provided in the Regulations.

(c) Subject to subparagraph (2b), a Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the authenticity of any signature.

[EDITORIAL NOTE: This provision replaces former Article 8(1) to (3).]

(3) *[References to Applicants, Owners and Representatives in Communications]*

(a) ~~Notwithstanding paragraph (1),~~ A Contracting Party may require that the request Form or format referred to in ~~paragraph (2)~~ Article 5(2) contain, where the applicant or owner is registered with the Office, the number or other indication under which he is so registered ~~and, where the applicant has a representative who is registered with the Office, the number or other indication under which the representative is so registered.~~

[EDITORIAL NOTE: Modeled after former Article 5(4).]

[Proposal by the International Bureau:

The International Bureau recommends that paragraph (3), in which consequential changes are indicated, be further modified to cover any communication and that the square brackets be removed, with the consequence that the square bracket also be removed from paragraph (6)(b)(i). The modified text would read as follows:

[Article 7(3), continued]

“(3)(a) A Contracting Party may require that any communication contain, where the applicant or owner is registered with the Office, the number or other indication under which he is so registered.”]

(b) A Contracting Party may require that any communication ~~made to the Office~~ by a representative for the purposes of a procedure before the Office contain:

- (i) the name and address of the representative;
- (ii) a reference to the power of attorney, or other communication in which the appointment of that representative is or was effected, on the basis of which the said representative acts;
- (iii) where the representative is registered with the Office, the number or other indication under which that representative is so registered.

[EDITORIAL NOTE: This provision replaces former Article 7(8).]

(4) [~~Address for Communication~~ Correspondence and Address for Legal Service] A Contracting Party may, subject to any provisions prescribed in the Regulations, require that an applicant, owner or other interested person indicate:

- (i) ~~the address the Office should use for the purposes of~~ an address for correspondence;

[Article 7(4), continued]

(ii) an address for legal service];

(iii) any other address provided for in the Regulations].

[EDITORIAL NOTE: This provision replaces former Articles 1bis(3) and 7(3)(a). The Regulations under this paragraphs are contained in Rule 10.]

(5) [Notification] Where one or more of the requirements applied under paragraphs (1), (2)(a) and (b), (3) and (4) are not complied with in respect of communications, or where evidence is required under paragraph (2)(c), the Office shall notify the applicant, owner or other interested person, giving an opportunity to comply with any such requirement, and to make observations, within the relevant time limit prescribed in the Regulations.

[EDITORIAL NOTE: Modeled after draft Article 5(7).]

(6) [Non-Compliance with Requirements] (a) Where one or more of the requirements applied under paragraphs (1) to (4) are not complied with within the time limit prescribed in the Regulations, the Contracting Party may, subject to subparagraph (b) and Article 4, apply such sanction as is provided for in its law.

(b) No Contracting Party may provide for the refusal of an application for:

(i) [failure to comply with any requirement to furnish a registration number or other indication under paragraph (3)(a) or (b)(iii), or

[Article 7(6)(b), continued]

(ii) failure to indicate an address for correspondence or address for legal service under paragraph (4), if an address which complies with the requirements applied by the Contracting Party under paragraph (4) has been otherwise furnished to the Office.

[EDITORIAL NOTE: Modeled after draft Article 5(8).]

[Proposal by the International Bureau:

See Proposal by the International Bureau concerning paragraph (3).]

Article 8

Notifications

(1) [Sufficient Notification] Any notification under this Treaty or the Regulations which is sent by the Office to an address for correspondence or address for legal service indicated under Article 7(4), and which complies with the provisions with respect to that notification, shall constitute a sufficient notification for the purposes of this Treaty and the Regulations.

(2) [If Indications Allowing Contact Were Not Submitted] Nothing in this Treaty and in the Regulations shall oblige a Contracting Party to send a notification to an applicant, owner or other interested person, if indications allowing that applicant, owner or other interested person to be contacted have not been ~~submitted~~ provided to the Office.

[EDITORIAL NOTE: This provision corresponds to former Article Ibis(1).]

(3) [Failure to Notify] Subject to Article 9(1), ~~W~~where an Office does not notify an applicant, owner or other interested person of a failure to comply with any requirement under this Treaty or the Regulations, that absence of notification does not relieve that applicant, owner or other interested person of the obligation to comply with that requirement.

[EDITORIAL NOTE: This provision corresponds to former Article Ibis(2).]

Article 8

Signature

~~(1) — [Signature of Communications] Where a Contracting Party requires a signature for the purposes of any communication, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.~~

[EDITORIAL NOTE: Moved to draft Article 7(2)(a).]

~~(2) — [Prohibition of Requirement of Certification] No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature which is communicated to its Office, except as provided in the Regulations.~~

[EDITORIAL NOTE: Moved to draft Article 7(2)(b).]

~~(3) — [Evidence] Subject to paragraph (2) a Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the authenticity of any signature.~~

[EDITORIAL NOTE: Moved to draft Article 7(2)(c).]

~~(4) — [Notification; Non-Compliance With Requirements] Article 5(9) and (10) (a) shall apply, *mutatis mutandis*, where one or more of the requirements applied under the Regulations referred to in paragraph (1) are not complied with, or where evidence is required under paragraph (3).~~

~~[Article 8(4), continued]~~

[EDITORIAL NOTE: Incorporated into draft Article 7(5) and (6).]

Article 9 6

Validity of Patent; Revocation

(1) [*Validity of Patent Not Affected by Non-Compliance with Certain Formal Requirements*] Once a patent has been granted, it may not be revoked or invalidated, either totally or in part, by the Office, or by a court, a board of appeal or any other competent authority of a Contracting Party on the ground of non-compliance with one or more of the formal requirements with respect to an application referred to in Articles 5(1) ~~to (3), [(4)],~~ (2), (4~~6~~) and (5~~7~~) and 7(1) and (3), except where the non-compliance with the formal requirement occurred as a result of a fraudulent intention.

[EDITORIAL NOTE: Consequential change from the transfer of former Article 5(3) and (4) to Article 7(1) and (3).]

[Proposal by the International Bureau:

The International Bureau recommends that reference to formal requirements under Article 7(2) and (4) be included in paragraph (1) as follows:

“(1) [Validity of Patent Not Affected by Non-Compliance with Certain Formal Requirements] Once a patent has been granted, it may not be revoked or invalidated, either totally or in part, by the Office, or by a court, a board of appeal or any other competent authority of a Contracting Party on the ground of non-compliance with one or more of the formal requirements with respect to an application referred to in Articles 5(1), (2), (4) and (5) and 7(1) to (4), except where the non-compliance with the formal requirement occurred as a result of a fraudulent intention.”]

[Article 9, continued]

(2) [*Opportunity to Make Observations, Amendments or Corrections in Case of Intended Revocation or Invalidation*] A patent may not be revoked or invalidated, either totally or in part, by the Office, a court, a board of appeal or any other competent authority of a Contracting Party, without the owner being given at least one opportunity to make observations on the intended revocation or invalidation, and to make amendments and corrections where permitted under the applicable law, within a reasonable time limit.

Former Article 9

Request for Recordal of Change in Name or Address

[Moved to draft Rule 16.]

Former Article 10

Request for Recordal of Change in Applicant or Owner

[Moved to draft Rule 17.]

Former Article 11

Request for Recordal of a Licensing Agreement or Security Interest

[Moved to draft Rule 18.]

Former Article 12

Request for Correction of Mistake

[Moved to draft Rule 19.]

Article ~~10~~ 13

Extension of a Time Limit Fixed by the Office

(1) [*Request*] Where an applicant or owner requests an extension of a time limit fixed by the Office for an action in a procedure before the Office, in a communication received by the Office prior to the expiration of that time limit, such time limit shall be extended, subject to paragraph (2), by a period prescribed in the Regulations.

(2) [*Exceptions*] ~~(a)~~ [Moved to Rule 12(2)(b).]

~~(b)~~ No Contracting Party shall be required to grant an extension under paragraph (1) with respect to the exceptions prescribed in the Regulations

~~(i)~~ a second, or any subsequent, extension of a time limit in respect of which an extension has already been granted under that paragraph;

~~(ii)~~ an extension of a time limit for filing a request for an extension of a time limit.

~~(3)~~ [*Requests Filed on Paper or in Electronic Form or by Other Means*] Article 5(3) shall apply, *mutatis mutandis*, to requests under paragraph (1).

[*EDITORIAL NOTE: Incorporated into draft Article 7(1).*]

~~(3)~~ [*Language*] Article 5(3) shall apply, *mutatis mutandis*, to requests under paragraph (1).

[Article 10, continued]

(~~45~~) [*Fees*] Article 5(~~46~~) shall apply, *mutatis mutandis*, to requests under paragraph (1).

(~~56~~) [*Opportunity to Make Observations in Case of Intended Refusal*] A request under paragraph (1) may not be refused, totally or in part, without the requesting party being given at least one opportunity to make observations on the intended refusal within a reasonable time limit.

Article 11 ~~14~~

~~Further Processing or Revival of Application~~
Continued Processing and/or Re-instatement of Application [or Patent] Rights
Without a Finding of Due Care by the Office

(1) [~~Request for Further Processing or Revival of Application~~] ~~(a)~~—Where an application has been, or is to be, refused or considered withdrawn or abandoned following failure applicant [or owner] has failed to comply with a time limit [~~fixed by the Office~~] for an action in a procedure before the Office, the Office shall, ~~subject to subparagraph (b), at the option of the Contracting Party,~~

(i) ~~consider~~ proceed with the further processing of the application as if that time limit to have had been complied with, ~~or and,~~

(ii) ~~if necessary, re-instate~~ revive the said rights of the applicant [or owner] with respect to the application [or patent] concerned, if:

~~upon~~ (i) a request to that effect is made in a communication to the Office signed by ~~that~~ the applicant [or owner]; ~~if the request is made,~~ and

(ii) the request is made, and all of the requirements in respect of which the time limit for the said action ~~in a procedure before the Office~~ applied are complied with, within the time limit prescribed in the Regulations.

[Article 11(1), continued]

(b) ~~— A Contracting Party may provide that a request for revival under subparagraph (a) be accompanied by a statement that the failure to comply with the time limit was unintentional.~~

(2) [*Exceptions*] ~~(a) No Contracting Party shall be required to provide for the continued processing and the re-instatement of an application [or patent] under paragraph (1) with respect to the exceptions prescribed in the Regulations which provides a maximum time limit for compliance with all of the requirements for the grant of a patent shall be required to grant further processing or revival under paragraph (1)(a) after the expiration of that time limit.~~

(b) ~~— The law of any Contracting Party may specify certain time limits in respect of which further processing or revival under paragraph (1)(a) shall be excluded.~~

(3) [*Request Form or Format*] A Contracting Party may require that the request referred to in paragraph (1)(a) be presented on a Form or in a format prescribed by that Contracting Party.

(4) ~~— [*Requests Filed in Paper or in Electronic Form or by Other Means*] Article 5(3) shall apply, *mutatis mutandis*, to requests for further processing or revival.~~

[*EDITORIAL NOTE: Incorporated into draft Article 7(1).*]

[Article 11, continued]

(45) [*Language*] Article 5(35) shall apply, *mutatis mutandis*, to requests for ~~further processing or revival~~ continued processing and re-instatement of rights without a finding of due care by the Office.

(56) [*Fees*] (a) Article 5(46) shall apply, *mutatis mutandis*, to requests for ~~further processing or revival~~ continued processing and re-instatement of rights without a finding of due care by the Office.

(b) Notwithstanding subparagraph (a), no Contracting Party may require the payment of a fee where the non-compliance with the time limit for action before the Office referred to in paragraph (1)(a) occurred:

(i) as a result of the loss of a communication by a postal service or another delivery service specified by the Contracting Party;

(ii) as a result of a failure by the Office.

(67) [*Evidence*] A Contracting Party which requires a statement ~~under paragraph (1)(b)~~ prescribed in the Regulation may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of that statement.

[Article 11, continued]

(78) [*Opportunity to Make Observations in Case of Intended Refusal*] A request under paragraph (1)(a) may not be refused, totally or in part, without the requesting party being given at least one opportunity to make observations on the intended refusal within a reasonable time limit.

~~(9) [*Intervening Rights*] (a) A Contracting Party may provide that, where a published application had been refused or considered withdrawn or abandoned, [and that fact had been made known to the public,] and where further processing or revival of the application has been allowed under paragraph (1), the application shall not be invoked against any person for any acts which were started, or for which effective and serious preparations were started, in good faith, during the period commencing three months after the expiration of the time limit for the action before the Office and expiring on the date on which further processing or revival was allowed.~~

~~(b) Notwithstanding subparagraph (a), a Contracting Party may require that a person claiming a right based on that subparagraph pay to the applicant a reasonable compensation for any act, subsequent to the date on which further processing or revival was allowed, which would, if not for the application of that subparagraph, contravene the rights of the applicant under the applicable law.~~

Article 12 45

*Restoration of Rights Re-instatement of Application or Patent Rights
After a Finding of Due Care or Unintentionality by the Office*

(1) [~~Request for Restoration of Rights~~] Where ~~the failure to comply with a time limit for an action in a procedure before the Office has the direct consequence of causing an application to be refused or considered withdrawn or abandoned, or causing a patent to be revoked, invalidated or considered lapsed or terminated~~ an applicant or owner has failed to comply with a time limit for an action in a procedure before the Office, the Office shall ~~restore~~ re-instate the rights of the applicant or owner with respect to the application or patent, upon ~~if~~:

(i) a request to that effect is made in a communication to the Office signed by the applicant or owner, ~~if~~;

(ii) the request is made, and all of the requirements in respect of which the ~~said~~ time limit for the said ~~an~~ action applied ~~in a procedure before the Office~~ are complied with, within the time limit prescribed in the Regulations;

(iii) the failure to comply with the time limit for the said action applied has the direct consequence of causing a loss of rights with respect to the application or patent;

(iv) the request states the grounds on which it is based; and

[Article 12(1), continued]

(iii) the Office finds that the failure to comply with the time limit occurred in spite of all due care required by the circumstances having been taken or, at the option of the Contracting Party, was unintentional.

(2) [~~Exclusions~~ Exceptions] No Contracting Party shall be required to provide for the re-instatement ~~restoration~~ of rights under paragraph (1) ~~in the case of failure to comply with a time limit for~~ with respect to the exceptions prescribed in the Regulations:

(i) ~~an action before a board of appeal or other review body constituted in the framework of the Office;~~

(ii) ~~the payment of maintenance fees, where such fees are not paid within the period of grace referred to in Article 5bis(1) of the Paris Convention;~~

(iii) ~~making a request under paragraph (1) or Article 13(1) or 14(1)(a);~~

(iv) ~~filing a request for search or examination;~~

(v) ~~filing a translation of a regional patent.~~

(3) [Request Form or Format] Article 44 ~~11~~(3) shall apply, *mutatis mutandis*, to requests for ~~restoration of rights~~ re-instatement of rights after a finding of due care or unintentionality by the Office.

[Article 12, continued]

~~(4) [Requests Filed on Paper or in Electronic Form or by Other Means] Article 5(3)~~
shall apply, *mutatis mutandis*, to requests for restoration of rights.

[EDITORIAL NOTE: Incorporated into draft Article 7(1).]

(45) [Language] Article 5(35) shall apply, *mutatis mutandis*, to requests for restoration of rights re-instatement of rights after a finding of due care or unintentionality by the Office.

(56) [Fees] Article 5(46) shall apply, *mutatis mutandis*, to requests for restoration of rights re-instatement of rights after a finding of due care or unintentionality by the Office.

(67) [Evidence] A Contracting Party may require that a declaration or other evidence in support of the grounds referred to in paragraph (1)(iv) be furnished to the Office within a time limit fixed by the Office.

(78) [Opportunity to Make Observations in Case of Intended Refusal] A request under paragraph (1) may not be refused, totally or in part, without the requesting party being given at least one opportunity to make observations on the intended refusal within a reasonable time limit.

~~(9) [Intervening Rights] Article 14(9) shall apply, *mutatis mutandis*, to the restoration of rights in published applications or patents.~~

Article 13 ~~16~~

Addition and Restoration of Priority Claim

(1) [*Addition of Priority Claim*] The Office shall, upon a request made in a communication to the Office signed by the applicant, add a priority claim to an application (“the subsequent application”) if:

(i) the request is made within the time limit prescribed in the Regulations; and

(ii) the filing date of the subsequent application is not later than the date of the expiration of the priority period calculated from the filing date of the earlier application whose priority is claimed.

(2) [*Delayed Filing of the Subsequent Application*] Where an application (“the subsequent application”) which claims or could have claimed the priority of an earlier application has a filing date which is later than the date on which the priority period expired, but within the time limit prescribed in the Regulations, the Office shall restore the right of priority, upon a request made in a communication to the Office signed by the applicant, if:

(i) the request is made before the expiration of the said time limit and before any technical preparations for publication of the subsequent application have been completed;

(ii) the request states the ground on which it is based;

(iii) the Office finds that the failure to furnish the subsequent application within the priority period occurred in spite of all due care required by the circumstances having been taken or, at the option of the Contracting Party, was unintentional; and

(iv) where the application did not claim the priority of the earlier application, the request is accompanied by the priority claim.

(3) [*Failure to Furnish a Copy of Earlier Application*] (a) Where a copy of an earlier application required under Article 5(~~57~~)(a) is not furnished to the Office within the time limit referred to in that Article, the Office shall restore the right of priority, upon a request made, in a communication to the Office signed by the applicant, within that time limit, if:

(i) the request for restoration indicates the Office to which the request for a copy of an earlier application had been made and the date of that request; and

(ii) the Office finds that the request for the copy to be provided had been made, to the Office with which the earlier application was filed, within the time limit prescribed in the Regulations.

(b) A Contracting Party may require that:

[Article 13(3)(b), continued]

(i) a declaration or other evidence in support of the request referred to in subparagraph (a) be furnished to the Office within a time limit fixed by the Office;

(ii) the copy of the earlier application referred to in subparagraph (a) be furnished to the Office within the time limit prescribed in the Regulations.

(4) [*Request Form or Format*] Article 14 ~~11~~(3) shall apply, *mutatis mutandis*, to requests under paragraphs (1) to (3).

~~(5) [*Requests Filed on Paper or in Electronic Form or by Other Means*] Article 5(3) shall apply, *mutatis mutandis*, to requests under paragraphs (1) to (3).~~

[*EDITORIAL NOTE: Incorporated into draft Article 7(1).*]

~~(6)~~ [*Language*] Article 5(~~3~~5) shall apply, *mutatis mutandis*, to requests under paragraphs (1) to (3).

~~(7)~~ [*Fees*] Article 5(~~4~~6) shall apply, *mutatis mutandis*, to requests under paragraphs (1) to (3).

~~(8)~~ [*Opportunity to Make Observations*] A request under paragraphs (1) to (3) may not be refused, totally or in part, without the requesting party being given at least one opportunity to make observations on the intended refusal within a reasonable time limit.

~~{Article 13, continued}~~

~~{(9) *[Intervening Rights]* Article 14(9) shall apply, *mutatis mutandis*, where a request under paragraphs (1) to (3) is allowed.}~~

Article 14 17

Regulations

- (1) [Content] (a) The Regulations annexed to this Treaty provide rules concerning:
- (i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;
 - (ii) details useful in the implementation of the provisions of this Treaty;
 - (iii) administrative requirements, matters or procedures.
- (b) The Regulations also provide rules concerning the formal requirements which a Contracting Party shall be permitted to apply in respect of requests for:
- (i) recordal of change in name and address;
 - (ii) recordal of change in applicant or owner;
 - (iii) recordal of a licensing agreement or security interest;
 - (iv) correction of a mistake.
- (cb) The Regulations ~~also contain~~ provide for the establishment of Model International Forms and formats by the Assembly, with the assistance of the International Bureau.

[Article 14, continued]

(2) [*Amending the Regulations*] [See document SCP/2/5.]

(3) [*Requirement of Unanimity*] [See document SCP/2/5.]

(4) [*Conflict Between the Treaty and the Regulations*] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

DRAFT REGULATIONS

Rule 1

Abbreviated Expressions

(1) [*“Treaty”; “Article”*] (a) In these Regulations, the word “Treaty” means the Patent Law Treaty.

(b) In these Regulations, the word “Article” refers to the specified Article of the Treaty.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of the Regulations.

Rule 2

Details Concerning Filing Date Under Article 4

(1) [*Time Limit Under Article 4(4)(b)*] The time limit referred to in Article 4(4)(b) shall be:

(i) where a notification has been made under Article 4(3), not less than two months from the date of the notification;

(ii) where a notification has not been made because indications allowing the applicant to be contacted by the Office have not been furnished, not less than two months from the date on which one or more elements referred to in Article 4(1)(a) were first received by the Office.

~~(2)(1bis)~~ [*Time Limit Under Article 4(5)(b)*] ~~(a)~~ The time limit referred to in Article 4(5)(b) shall be:

(i) where a notification has been made under Article 4(5)(a), not less than two months from the date of the notification;

(ii) where a notification has not been made, not less than two months from the date on which one or more elements referred to in Article 4(1)(a) were first received by the Office.

[Rule 2(2), continued]

~~(b) The date on which the applicant receives the notification provided for in Article 4(5)(a) shall have no effect on the time limit fixed under subparagraph (a).~~

(32) [*Requirements Under Article 4(65)(d)*] (a) Any Contracting Party may, subject to Rule 4, require that, for the contents of an earlier application to be considered under Article 4(65)(d):

~~(i) where a copy of the earlier application is required under Article 5(7)(a), that copy be furnished under that Article;~~

(ii) ~~where a copy of the earlier application is not required under Article 5(7)(a), a copy of the earlier application be furnished~~ filed, upon invitation by the Office, within a time limit which shall be not less than two months from the date of that invitation;

~~(iii) where a certification of a copy of the earlier application and the filing date of the earlier application is required under Article 5(7)(b), that certification be furnished under that Article;~~

[Rule 2(3), continued]

(~~iv~~) where a certification of a copy of the earlier application and the filing date of the earlier application is not required under Article 5(7)(b), a copy of the earlier application, and the date of filing of the earlier application, ~~be~~ certified as correct by the Office with which the earlier application was filed, be filed upon invitation by the Office, within a time limit which shall be not less than [~~two~~][four] months from the date of that invitation;

(~~viii~~) where the earlier application is not in a language accepted by the Office, a translation of the earlier application ~~be furnished~~ filed by the applicant, upon invitation by the Office, within a time limit which shall be not less than two months from the date of that invitation.

[EDITORIAL NOTE: Change was made in order to simplify the text and to provide same time limits for former items (i) and (ii) and items (iii) and (iv).]

(b) ~~No Contracting Party shall require the furnishing of a copy or a certified copy of the earlier application, or a certification of the filing date, as referred to in subparagraph (a), where the earlier application was filed with its Office, or is available to that Office, in a legally accepted electronic format, from a digital library which is accepted by the Office, in an official form, to that Office by electronic means.~~

[EDITORIAL NOTE: Incorporated in draft Rule 4.]

[Rule 2, continued]

~~(43)~~ [*Requirements Under Article 4(67)(a)*] (a) The reference to the previously filed application under Article 4(67)(a) shall indicate the number of that application and the Office with which the previously filed ~~that~~ application was filed, the filing date, the number, the name of the applicant[, the title] and the language of the previously filed application. A Contracting Party may require that the reference also indicate the filing date of the previously filed application.

~~(b)~~ Any Contracting Party may, subject to ~~subparagraph (e)~~ Rule 4, require that:

(i) a copy of the previously filed application and, where the earlier application is not in a language accepted by the Office, a translation of that previously filed application, be furnished to the Office within a time limit which shall be not less than two months from the date on which the application containing the reference referred to in Article 4(67)(a) was received by the Office;

(ii) a certified copy of the previously filed application be furnished to the Office either, where the priority of the previously filed application is claimed, in accordance with Article 5(57)(b) or, where the priority of the previously filed application is not claimed, within a time limit which shall be not less than four months from the date of the receipt of the application containing the reference referred to in Article 4(67)(a).

[Rule 2(4), continued]

(e) ~~No Contracting Party shall require the furnishing of a copy or a certified copy referred to in subparagraph (d), where the previously filed application was filed with its Office or is available to that Office, in a legally accepted electronic format, from a digital library which is accepted by the Office, in an official form, to that Office by electronic means.~~

[EDITORIAL NOTE: Incorporated into draft Rule 4.]

Rule 3

Modifications to the PCT Request Form Under Article 5(2)(b)

[EDITORIAL NOTE: Reserved pending study of the PLT/PCT interface.]

Rule 4bis

Availability of Priority Document Under Article 5(57)(c) and Rule 2(3) and (4)(b)

No Contracting Party shall require the furnishing of a copy or a certified copy of the earlier application, or a certification of the filing date, as referred to in Article 5(57)(a) and (b), and Rule 2(3) and (4)(b), where the earlier application was filed with its Office or is available to that Office, in a legally accepted electronic format, from a digital library which is accepted by that Office.

Rule 5 4

*Evidence Under Articles 5(68), 7(9), ~~8(3)(a)~~ 6(6), 7(2)(c) and 11(6) ~~14(7)~~ and
Rules 16(7) ~~9(8)~~, 17(8) ~~10(9)~~, 18(8) ~~11(9)~~ and 19(7) ~~12(8)~~*

Where the Office notifies the applicant, owner or other person that evidence is required under Articles 5(68), 7(9), ~~8(3)(a)~~, 6(6), 7(2)(c) or 11(6), or Rules 9(8) 16(7), ~~10(9)~~ 17(8), ~~11(9)~~ 18(8) or 12(8) 19(7) or ~~14(7)~~, the notification shall state the reason of the Office for doubting the veracity of the matter, indication or signature or other means of self-identification, or the accuracy of the translation, as the case may be.

[EDITORIAL NOTE: Consequential changes from the transfer of former Articles 9 to 12 to the Regulations and former Article 8 to Article 7(2).]

Rule 65

Time Limits Concerning the Application Under Article 5

(1) [*Time Limits Under Article 5(57)*] (a) The time limit referred to in Article 5(57)(a) shall be not less than 16 months from the filing date of the earlier application referred to in that Article or, where there is more than one such earlier application, from the earliest filing date of those earlier applications.

(b) The time limit referred to in Article 5(57)(d) shall be not less than two months from the date of the invitation referred to in that Article and not less than the time limit, if any, applied under subparagraph (a).

(2) [*Time Limit Under Article 5(79)*] (a) Subject to subparagraphs (b) and (c), the time limit referred to in Article 5(79) shall be not less than two months from the date of the notification referred to in that Article.

(b) Where a Contracting Party requires the furnishing of a translation of the application or an element of the application, the time limit referred to in Article 5(79) for furnishing that translation shall be not less than two months from the date on which the document which is required to be translated has been received by the Office.

(c) The time limit referred to in Article 5(79) for the correction of a priority claim shall be not less than the time limit applicable under the Patent Cooperation Treaty to an international application for the correction of a priority claim.

[Rule 6, continued]

- (3) [*Time Limit Under Article 5(~~810~~)*] (a) The time limit referred to in Article 5(~~810~~)(a) shall be:
- (i) subject to items (ii) and (iii), the time limit applied under paragraph (2)(a);
 - (ii) where a notification under Article 5(~~79~~) has not been made because indications allowing the applicant to be contacted by the Office have not been furnished, not less than three months from the earliest date on which one or more of the elements referred to in Article 4(1)(a) were first received by the Office;
 - (iii) where paragraph (2)(b) or (c) applies, the time limit under that paragraph.
- (b) The time limit referred to in Article 5(~~810~~)(b) shall be the time limit applied under paragraph (2)(c).

Rule 6

Receipt of Communications

~~{(1) [Date of Receipt] A Contracting Party shall be free to consider any communication which is received~~

~~(i) after the Office has closed for the receipt of such communications;~~

~~(ii) on a day when the Office is not open for the receipt of such communications;~~

~~to be received on the next subsequent day on which the Office is open for the receipt of such communications.}~~

~~(2) [Receipt on Behalf of the Office] Each Contracting Party shall be free to determine the circumstances under which the receipt of a communication by a branch or sub-office of an Office, by a national Office on behalf of an intergovernmental organization having the power to grant regional patents, by an entity, other than a branch or sub-office of an Office, specified by the Contracting Party, by a postal service, or by any other delivery service specified by the Contracting Party, shall be deemed to constitute receipt of the communication by the Office concerned.~~

Rule 7

Details Concerning Representation ~~and Address for Service~~ Under Article 6 ~~7~~

(1) ~~— [Form, Format and Means of Filing of Powers of Attorney] Rule 3(1) to (4) shall apply, mutatis mutandis, to the form, format and means of filing of powers of attorney.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

(1) [Other Procedures Under Article 6(2)(vi)] The other procedures referred to in Article 6(2)(vi) for which a Contracting Party may not require appointment of a representative are:

[(i) the furnishing of a copy of an earlier application under Rule 2(3);]

[(ii) the furnishing of a copy of a previously filed application under Rule 2(4)(b).]

[Proposal by the International Bureau:

See proposal by the International Bureau concerning Article 6(2).]

(2) [Time Limits Under Article ~~6(8)~~ ~~7(11)~~] (a) Subject to subparagraphs (b) ~~and (e)~~, the time limit ~~to comply with the requirements and to make observations under~~ referred to in Article ~~6(8)~~ ~~7(11)~~ shall be not less than two months from the date of the notification under that Article.

(be) Where a Contracting Party requires the furnishing of a translation of the power of attorney, the time limit ~~under~~ referred to in Article ~~6(8)~~ 7(11) for furnishing that translation shall be not less than two months from the date on which the power of attorney which is required to be translated has been received by the Office.

(3) [Time Limit Under Article 6(9)] The time limit referred to in Article 6(9) shall be:

(i) subject to items (ii) and (iii), the time limit applied under paragraph (2)(a);

(b) (ii) ~~W~~where a notification under Article ~~6(8)~~ 7(11) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been furnished, the time limit to comply with the requirements and to make observations under that Article shall be not less than three months from the date on which the procedure referred to in that Article was commenced;

(iii) where paragraph (2)(b) applies, the time limit under that paragraph.

Rule 8 ~~3~~

Filing of Communications Applications Under Article 7(1) 5(3); ~~Communication in Electronic Form or by Other Means~~

[(1) [~~Communications Applications Filed on Paper~~] A Contracting Party shall permit the filing of communications applications on paper.]

(2) [~~Communications Applications Filed in Electronic Form or by Electronic Means~~]
(a) Where a Contracting Party permits the filing of communications applications in electronic form or by electronic means with its Office in a particular language, and there are requirements applicable under the Patent Cooperation Treaty in relation to communications international applications filed in electronic form or by electronic means in that language, the Office shall permit the filing of communications applications in electronic form or by electronic means in the said language in accordance with those requirements.

(b) Any Contracting Party which permits the filing of communications applications in electronic form or by electronic means with its Office shall notify the International Bureau of the requirements under its national law relating to such filing. Any such notification shall be published by the International Bureau in the language in which it is notified and in the languages in which authentic and official languages of the Treaty are established under Article [reserved].

(3) [~~Filing of Communications Applications Filed by Telegraph, Teleprinter, Telefacsimile or Other Like Means of Communication~~] (a) Where a Contracting Party permits the filing of communications applications by telegraph, teleprinter, telefacsimile or other like means ~~of communication~~ resulting in the filing of a printed or written document, and there are requirements applicable under the Patent Cooperation Treaty in relation to communications international applications filed by such means, the Office shall permit the filing of communications applications by such means in accordance with those requirements.

(b) The Contracting Party referred to in subparagraph (a) may require that the original document which was transmitted by telegraph, teleprinter, telefacsimile or other like means be filed on paper with the Office within a time limit which shall be not less than one month from the date of the receipt of that transmittal.

[Proposal by the International Bureau:]

The International Bureau recommends that, since the means of filing under paragraph (3) are covered by “Electronic Means” under paragraph (2), paragraph (3)(a) be incorporated into paragraph (2)(a) and, for further consistency with PCT Rule 92.4(d), paragraph (3)(b) be modified as new paragraph (2)(c) as follows:

“(2) [Communications Filed in Electronic Form or by Electronic Means] (a) Where a Contracting Party permits the filing of communications in electronic form or by electronic means with its Office in a particular language, including the filing of communications by telegraph, teleprinter, telefacsimile or other like means, and there are requirements applicable under the Patent Cooperation Treaty in relation to communications filed in electronic form or by electronic means in that language, the Office shall permit the filing of communications in electronic form or by electronic means in the said language in accordance with those requirements.

(b) [Unchanged.]

[Rule 8, continued]

(c) *Where a Contracting Party permits the filing of communications by telegraph, teleprinter, telefacsimile or other like means under subparagraph (a), it may require that the original of any document which was transmitted by such means, accompanied by a letter identifying that earlier transmission, be filed on paper with the Office within a time limit which shall be not less than one month from the date of the transmission.”]*

(4) [~~Copies, Filed in Electronic Form or by Electronic Means, of Communications Applications Filed on Paper~~] (a) Where a Contracting Party ~~permits~~ allows the filing of a copy, in electronic form or by electronic means, of an communication application filed on paper in a language accepted by the Office, and there are requirements applicable under the Patent Cooperation Treaty in relation to the filing of such copies of communications international applications, the Office shall permit the filing of copies of communications applications in electronic form or by electronic means, in accordance if they comply with those requirements.

(b) Paragraph (2)(b) shall apply, *mutatis mutandis*, to copies, in electronic form or by electronic means, of communications applications filed on paper.

~~(5) [Communication of Other Documents and Correspondence] Paragraphs (2) to (4) shall apply, *mutatis mutandis*, to communication of other documents and correspondence.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1).]

Rule 9 &

Details Concerning the Signature Under Article 7(2) &

(1) [*Indications Accompanying Signature*] A Contracting Party may require that the signature of the natural person who signs be accompanied by:

(i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(2) [*Date*] A Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so permits, a date earlier than the latter date.

(3) [*Communication on Paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party:

(i) shall, subject to item (iii), accept a handwritten signature;

[Rule 9(3), continued]

(ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;

(iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) [*Signature of Communications in Electronic Form or by Electronic Means by Telefaesimile Resulting in Graphic Representation*] (a) Where a Contracting Party permits the filing transmittal of communications to the Office in electronic form or by electronic means by telefaesimile, it shall consider the communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) the reproduction of the signature or the reproduction of the seal, together with, where required under paragraph (1)(a), the indication in letters of the name of the natural person or legal entity whose seal is used, appears on that communication as received by the Office the paper copy resulting from the telefaesimile.

[Rule 9, continued]

(5) [~~Communications in Electronic Form~~ Electronic Signature] (a) Subject to subparagraph (b), a Contracting Party may require that a communication filed in electronic form or by electronic means be signed using an electronic signature as prescribed by that Contracting Party.

(b) Where a Contracting Party permits the filing of communications in electronic form or by electronic means ~~with its Office~~ in a particular language and there are requirements applicable under the Patent Cooperation Treaty in relation to the electronic signatures of communications filed in electronic form or by electronic means in that language, that Office shall accept an electronic signature ~~permit communications in electronic form in the said language signed in accordance~~ compliance with those requirements.

(~~c~~) Rule 3 8(2)(b) shall apply *mutatis mutandis*.

(6) [~~Exception to Certification of Signature Under Article 7(2)(b)~~] A Contracting Party may require that any electronic signature be confirmed by a certificate issued by a certification authority specified by a Contracting Party.

(~~6~~) [~~Time Limit Under Article 8(4)~~] (~~a~~) ~~Subject to subparagraph (b), the time limit to comply with the requirements and to make observations under Article 8(4) shall be not less than two months from the date of the notification under that Article.~~

[Rule 9(6), continued]

~~(b) — Where a notification under Article 8(4) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been furnished, the time limit to comply with the requirements and to make observations under that Article shall be not less than three months from the date on which the communication referred to in Article 8(1) was received by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Rule 11.]

Rule 10

Details Concerning the Indication of Addresses Under Article 7(4)(i) and (ii)

(1) [Address for Correspondence and Address for Legal Service] A Contracting Party may require that the address for correspondence under Article 7(4)(i) and the address for legal service under Article 7(4)(ii) be on one or more territories prescribed by that Contracting Party.

[EDITORIAL NOTE: The notes will make it clear that a Contracting Party is free to require that the addresses referred to in this provision be either on its own territory or – as in the case of the EU - on any other territory it prescribes.]

(2) [Address Where No Representative Is Appointed] Where no representative is appointed and an applicant, owner or other interested person has provided, as his address, a domicile or real and effective industrial or commercial establishment an address on the territory of one or more territories prescribed by the Contracting Party under paragraph (1), and has provided the address of that domicile or establishment, that Contracting Party may consider that address shall be considered to be the address for correspondence under Article 7(4)(i) and for legal service under Article 7(4)(ii), unless that applicant, owner or other interested person expressly indicates another such address under Article 7(1) as the address for service on the territory of the Contracting Party.

[EDITORIAL NOTE: This provision replaces former Article 7(3)(b).]

[Rule 10, continued]

(3) [Address Where Representative Is Appointed] Where a representative is appointed, a Contracting Party may consider the address of that representative to be the address for correspondence under Article 7(4)(i) and for legal service under Article 7(4)(ii), unless that applicant, owner or other interested person expressly indicates another such address under Article 7(1).

[EDITORIAL NOTE: This provision is added for completeness.]

Rule 11

Time Limits Concerning Communications Under Article 7(5) and (6)

(1) [Time Limit Under Article 7(5)] The time limit referred to in Article 7(5) shall be not less than two months from the date of the notification referred to in that Article.

(2) [Time Limit Under Article 7(6)] The time limit referred to in Article 7(6) shall be:

(i) subject to item (ii), the time limit applied under paragraph (1):

(ii) where a notification under Article 7(5) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been furnished, not less than three months from the date on which the communication referred to in that Article was received by the Office.

[EDITORIAL NOTE: Modeled after draft Rule 6(2) and (3).]

Rule 12 ~~13~~

*Details Concerning Extension of a Time Limit
Fixed by the Office Under Article 10 ~~13~~*

(1) [*Period Under Article (~~13~~10)(1)*] (a) The period referred to in Article 10(1) ~~13~~ shall be not less than two months.

(b) Where a time limit is extended under Article 10(1) ~~13~~, the extended time limit shall be calculated from the same date as the date from which the time limit fixed by the Office referred to in that Article was calculated.

(2) [*Exceptions Under Article 10(2)*] (a) No Contracting Party shall be required under Article 10(1) to grant:

(i) a second, or any subsequent, extension of a time limit in respect of which an extension has already been granted under that ~~paragraph~~ Article;

(ii) an extension of a time limit for the payment of maintenance fees;

(iii) an extension of a time limit for making filing a request under Articles 10(1), 11(1) or 12(1) ~~for an extension of a time limit;~~

(iv) an extension of a time limit referred to in Article 13(1), (2) or (3)(a);

(v) an extension of a time limit for an action before a board of appeal or other review body constituted in the framework of the Office;

[Rule 12(2)(a), continued]

(vi) an extension of a time limit for an action in proceedings in respect of an opposition to the grant of a patent:

(vii) an extension of a time limit for an action in interference proceedings;

[(viii) an extension of a time limit for an action in a procedure before the Office in respect of which a request for expedited or accelerated processing has been granted.]

(b) No Contracting Party which provides a maximum time limit for compliance with all of the requirements for the grant of a patent shall be required under ~~paragraph (1) Article 10~~ 13(1) to extend a time limit for an action in a procedure before the Office in respect of any of those requirements beyond that maximum time limit.

~~(2) — [Request Filed on Paper or in Electronic Form or by Other Means] Rule 3(1) to (4) shall apply, *mutatis mutandis*, where the request concerns the extension of a time limit fixed by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

Rule ~~13~~ 14

*Details Concerning ~~Further Processing or Revival of Application~~ Continued Processing
and/or Re-instatement of Application [or Patent] Rights
Without a Finding of Due Care by the Office Under Article ~~11~~ 14*

(1) [*Time Limit Under Article ~~14~~ 11(1)(a)*] The time limit for making a request, and for complying with the requirements, under Article ~~14~~ 11(1)(a), shall be not less than two months from the date on which the applicant [or owner] was notified by the Office ~~that the application had been, or was to be, refused or considered withdrawn or abandoned following~~ of the failure to comply with the time limit concerned.

(2) [*Statement*] Any Contracting Party may require that a request ~~for revival~~ under ~~subparagraph (a) Article ~~14~~ 11(1)~~ Article ~~14~~ 11(1) which is filed later than two months from the date of the expiration of the time limit for the action referred to in that paragraph be accompanied by a statement that the failure to comply with the time limit was unintentional.

(3) [*Exceptions Under Article ~~14~~ 11(2)*] (a) No Contracting Party shall be required to consider the time limit to have been complied with, or to re-instate the rights of the applicant [or owner] with respect to the application [or patent] under Article ~~14~~ 11(1) where the applicant [or owner] fails to comply with a time limit for:

(i) for an action before a board of appeal or other review body constituted in the framework of the Office;

(ii) for the payment of maintenance fees;

[Rule 13(3)(a), continued]

(iii) for making a request under Article 10(1), 11(1) or 12(1);

(iv) for which an extension has already been granted under Article 10;

(v) referred to in Article 13(1), (2) or (3)(a);

(vi) for filing a request for search or examination;

(vii) for filing a translation of a regional patent[;

(viii) an extension of a time limit for an action in proceedings in respect of an opposition to the grant of a patent;

(ix) an extension of a time limit for an action in interference proceedings;

(x) an extension of a time limit for an action in a procedure before the Office in respect of which a request for expedited or accelerated processing has been granted].

(b) No Contracting Party which provides a maximum time limit for compliance with all of the requirements for the grant of a patent shall be required under Article 11(1) to grant further processing or revival under paragraph (1)(a) consider the time limit to have been complied with, or to re-instate the rights of the applicant with respect to the application after the expiration of that maximum time limit.

[Rule 13, continued]

(2) — [*Requests Filed on Paper or in Electronic Form or by Other Means*] Rule 3(1) to (4) shall apply, *mutatis mutandis*, where the request concerns the re-instatement of an application [or patent] without a finding of due care by the Office further processing or revival of an application.

[*EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.*]

Rule 14 15

*Details Concerning ~~Restoration of Rights~~ Re-instatement of ~~Application or Patent Rights~~
After a Finding of Due Care or Unintentionality by the Office Under Article 12 15*

(1) [~~Time Limit Under Article 15 12(1)(ii)~~] The time limits for making a request, and for complying with the requirements, under Article ~~15 12(1)(ii)~~, shall be the shorter of the following:

(i) not less than two months from the date of the removal of the cause of the on which the requesting party was notified by the Office that the application had been refused or considered withdrawn or abandoned, or that the patent had been revoked, invalidated or considered lapsed or terminated, following failure to comply with the time limit concerned for the action in question;

(ii) not less than [six] [12] months from the date of expiration of the time limit for the action in question.

(2) [~~Exceptions Under Article 12(2)~~] ~~Rule 14(1ter)(b) shall apply, mutatis mutandis, to requests for the restoration of rights. No Contracting Party shall be required to consider the time limit to have been complied with, or to re-instate the rights of the applicant or owner with respect to the application or patent under Article 12(1) where the applicant or owner fails to comply with a time limit:~~

(i) for an action before a board of appeal or other review body constituted in the framework of the Office;

[Rule 14(2), continued]

(ii) for the payment of maintenance fees;

(iii) for making a request under Article 10(1), 11(1) or 12(1);

(iv) referred to in Article 13(1), (2) or (3)(a);

(v) for filing a request for search or examination;

(vi) for filing a translation of a regional patent[;

(vii) for an action in proceedings in respect of an opposition to the grant of
a patent;

(viii) for an action in interference proceedings;

(ix) for an action in a procedure before the Office in respect of which a
request for expedited or accelerated processing has been granted].

[Rule 14, continued]

(2) — [~~Requests Filed on Paper or in Electronic Form or by Other Means~~] Rule 3(1) to (4) shall apply, *mutatis mutandis*, to requests for the restoration of rights ~~where the request concerns the re-instatement of an application or patent after a finding of due care by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

Rule ~~15~~ 16

*Details Concerning Addition and
Restoration of Priority Claim Under Article 13 ~~16~~*

(1) [*Time Limit Under Article ~~16~~ 13(1)*] The time limit referred to in Article ~~16~~ 13(1) shall be not less than the time limit applicable under the Patent Cooperation Treaty to an international application for the submission of a priority claim after the filing of an international application.

[Proposal by the International Bureau:

The International Bureau recommends that, for further consistency with the term used in PCT Rule 26bis, the word “submission” be modified to the word “addition.”]

(~~2~~)(~~1bis~~) [*Time Limit under Article ~~16~~ 13(2)*] The time limit referred to in Article ~~16~~ 13(2) shall be not less than two months from the date on which the priority period expired.

(~~3~~) [*Time Limit Under Article ~~16~~ 13(3)(a)(ii)*] The time limit referred to in Article ~~16~~ 13(3)(a)(ii) shall be two months before the expiration of the time limit prescribed in Rule ~~5~~ 6(1).

(~~4~~)(~~2bis~~) [*Time Limit under Article ~~16~~ 13(3)(b)(ii)*] The time limit referred to in Article ~~16~~ 13(3)(b)(ii) shall be not less than one month from the date on which the applicant is provided with the copy referred to in that provision by the Office with which the earlier application was filed.

[Rule 15, continued]

~~(3) — [Request Filed on Paper or in Electronic Form or by Other Means] Rule 3(1) to (4) shall apply, *mutatis mutandis*, to requests for the addition or restoration of a priority claim.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

Rule 16 Article 9
[Combination of former Article 9 and Rule 9]

Request for Recordal of Change in Name or Address

(1) [*Request*] Where there is no change in the person of the applicant or owner but there is a change in his name or address, a Contracting Party shall accept that a request for recordal of the change be made in a communication signed by the applicant or owner and containing the following indications ~~prescribed in the Regulations~~:

(i) the number of the application or patent concerned;

(ii) the change to be recorded;

(iii) the name and address of the applicant or the owner prior to the change.

[EDITORIAL NOTE: Items (i) to (iii) are moved from former draft Rule 9(1).]

[Proposal by the International Bureau:

The International Bureau recommends that, for further consistency with proposed Rule 10(1), the following new item (i) be included in paragraph (1) with a consequential change of numbering of items (i) to (iii):

“(i) an indication to the effect that a recordal of change in name or address is requested;”]

(2) [*Request Form or Format*] (a) A Contracting Party may require that the request referred to in paragraph (1) be presented on a Form or in a format prescribed by that Contracting Party.

(b) Notwithstanding subparagraph (a), a Contracting Party shall accept the presentation of the request referred to in paragraph (1), filed on paper, if it is presented on a ~~Form~~ or in a ~~Format~~ which corresponds to the ~~Form or format provided for in the Regulations~~ Model International Form or Model International Format in respect of requests for recordal of change in name or address.

~~(3) [*Form, Format and Means of Filing of Requests*] Article 5(3) shall apply, *mutatis mutandis*, to requests for recordal of a change in name or address.~~

[*EDITORIAL NOTE: Incorporated into draft Article 7(1).*]

(43) [*Language*] Article 5(~~35~~) shall apply, *mutatis mutandis*, to requests for recordal of a change in name or address.

(54) [*Fees*] Article 5(~~46~~) shall apply, *mutatis mutandis*, to requests for recordal of a change in name or address.

(65) [*Single Request*] (a) A single request shall be sufficient even where the change relates to both the name and address of the applicant or the owner.

[Rule 16(5), continued]

(b) A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the numbers of all applications and patents concerned are indicated in the request. A Contracting Party may require that, where that single request is filed on paper, a separate copy thereof be furnished for each application and patent to which it relates.

(76) [*Unknown Application Number*] Notwithstanding paragraphs (1)(a) and (65)(b), where the application number of any application concerned has not yet been issued or is not known to the requesting party, the request shall identify that application as prescribed in ~~the Regulations~~ Rule 20.

(87) [*Evidence*] A Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

(98) [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (87) be complied with in respect of the request referred to in paragraph (1)(a). In particular, the furnishing of any certificate concerning the change may not be required.

~~(109) [Notification] Where one or more of the requirements applied under paragraphs (1) to (6) are not complied with, or where evidence is required under paragraph (7), the Office shall notify the applicant or owner, giving an opportunity to comply with any such requirement, and to make observations, within not less than two months from the date of the notification. Article 5(9) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (7) are not complied with, or where evidence is required under paragraph (8).~~

[EDITORIAL NOTE: Modeled after draft Article 5(7) and former draft Rule 9(3).]

~~(10bis) [Non-Compliance with Requirements] (a) Where one or more of the requirements applicable under paragraphs (1) to (7) are not complied with within the time limit prescribed in the Regulations under subparagraph (b), the Contracting Party may provide that the request shall be refused, but no more severe sanction may be applied.~~

~~(b) The time limit referred to in Article 9(10bis) subparagraph (a) shall be:~~

~~(i) subject to item (ii), the time limit applied under paragraph (3) not less than two months from the date of the notification;~~

[Rule 16(10)(b), continued]

(ii) where indications allowing the Office to contact the person who made the request referred to in ~~Article 9 paragraph~~ (1) have not been furnished, not less than three months from the date on which ~~the~~ that request referred to in ~~Article 9(10bis)~~ was received by the Office.

[EDITORIAL NOTE: Moved from former draft Rule 9(4).]

(11) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraphs (1) to (10~~bis~~) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, and to any change relating to the address for service.

[Proposal by the International Bureau:

The International Bureau recommends that, in view of draft Article 7(4), paragraph (11) be modified to read as follows:

*“(11) [*Change in the Name or Address of the Representative or in the Address for Correspondence or Address for Legal Service*] Paragraphs (1) to (10) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, and to any change relating to the address for correspondence or address for legal service.”]*

Rule 9

Details Concerning Request for Recordal of Change in Name or Address Under Article 9

~~(1) [Request] A Contracting Party may require that the request for recordal of a change in name or address indicate:~~

~~(i) the number of the application or patent concerned;~~

~~(ii) the change to be recorded;~~

~~(iii) the name and address of the applicant or the owner prior to the change.~~

[EDITORIAL NOTE: Incorporated into draft Rule 16(1).]

~~(2) [Form, Format and Means of Filing of Requests] Rule 3(1) to (4) shall apply, mutatis mutandis, to requests for recordal of a change in name or address.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

~~(3) [Time Limit Under Article 9(10)] The time limit to comply with the requirements and to make observations under Article 9(10) shall be not less than two months from the date of the notification under that Article.~~

[EDITORIAL NOTE: Incorporated into draft Rule 16(9).]

[Rule 9, continued]

~~(4) — [Time Limit Under Article 9(10bis)] The time limit referred to in Article 9(10bis) shall be:~~

~~(i) — subject to item (ii), the time limit applied under paragraph (3);~~

~~(ii) — where indications allowing the Office to contact the person who made the request referred to in Article 9(1) have not been furnished, not less than three months from the date on which the request referred to in Article 9(10) was received by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Rule 16(10)(b).]

Rule 17 Article 10
[Combination of former Article 10 and Rule 10]

Request for Recordal of Change in Applicant or Owner

(1) [*Request for Recordal of a Change in Applicant or Owner*] (a) Where there is a change in the person of the applicant or owner, a Contracting Party shall accept that a request for recordal of the change be made in a communication signed by the applicant or owner, or by the new applicant or new owner, and containing the following indications ~~prescribed in the Regulations~~:

(i) an indication to the effect that a recordal of change in applicant or owner is requested;

(ii) the number of the application or patent concerned;

(iii) the name and address of the applicant or owner;

(iv) the name and address of the new applicant or new owner;

(v) the date of the change in the person of the applicant or owner;

(vi) the name of a State of which the new applicant or new owner is a national if he is the national of any State, the name of a State in which the new applicant or new owner has his domicile, if any, and the name of a State in which the new applicant or new owner has a real and effective industrial or commercial establishment, if any;

[Rule 17(1)(a), continued]

(vii) the basis for the change requested.

[EDITORIAL NOTE: Items (ii) to (vii) are moved from former draft Rule 10(1).]

(b) A Contracting Party may require that the request contain:

[(i) a statement that the information contained in the request is true and correct;

[(ii) information relating to any government interest.]

(2) *[Request Form or Format]* ~~Article 9~~ Rule 16(2) shall apply, *mutatis mutandis*, to requests for recordal of a change in applicant or owner.

~~(3) *[Form, Format and Means of Filing of Requests]* Article 5(3) shall apply, *mutatis mutandis*, to requests for recordal of a change in applicant or owner.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1).]

(43) [~~Documentation of the Basis of the Change in Applicant or Owner~~] (a) Where the recordal of a change in applicant or owner results from a contract, a Contracting Party may require that [, where the recordal is requested by the new applicant or the new owner, rather than by the applicant or the owner,] the request be accompanied, at the option of the [requesting party] [Contracting Party], by one of the following:

(i) a copy of the contract, which copy may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original contract;

(ii) an extract of the contract showing the change, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the contract;

(iii) an uncertified certificate of transfer of ownership by contract drawn up with the content as prescribed in the ~~Regulations~~ Model International Form in respect of a certificate of transfer and signed by both the applicant and the new applicant, or by both the owner and the new owner. ~~Article 9~~ Rule 16(2) shall apply, *mutatis mutandis*, to the uncertified certificate of transfer of ownership by contract.

[Rule 17(3), continued]

(b) Where the change in applicant or owner results from a merger, or from the reorganization or division of a legal entity, a Contracting Party may require that the request be accompanied by a copy of a document, which document originates from a competent authority and evidences the merger, or the reorganization or division of the legal entity, and any attribution of rights involved, such as a copy of an extract from a register of commerce. A Contracting Party may also require that the copy be certified, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original document.

(c) Where the change in applicant or owner does not result from a contract, a merger, or the reorganization or division of a legal entity, but results from another ground, for example, by operation of law or a court decision, a Contracting Party may require that the request be accompanied by a copy of a document evidencing the change. A Contracting Party may also require that the copy be certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office.

(d) Where the change is in the person of one or more but not all of several co-applicants or co-owners, a Contracting Party may require that evidence of the consent to the change of any co-applicant or co-owner in respect of whom there is no change be provided to the Office.

(~~54~~) [*Language; Translation*] A Contracting Party may require that:

(i) the request referred to in paragraph (1) and the certificate of transfer referred to in paragraph (~~43~~)(a)(iii) be in a language accepted by the Office;

(ii) where a document submitted under paragraph (~~43~~)(a)(i) or (ii), (b), (c) or (d) is not in a language accepted by the Office, that document be accompanied by a translation.

(~~65~~) [*Fees*] Article 5(~~46~~) shall apply, *mutatis mutandis*, to requests for the recordal of a change in applicant or owner.

(~~76~~) [*Single Request*] A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the change in applicant or owner is the same for all applications and patents concerned, and the numbers of all applications and patents concerned

[Rule 17(6), continued]

are indicated in the request. A Contracting Party may require that, where that single request is filed on paper, a separate copy thereof be furnished for each application and patent to which it relates.

(~~87~~) [*Unknown Application Number*] ~~Article 9(7)~~ Rule 16(6) shall apply, *mutatis mutandis*, to requests for the recordal of a change in applicant.

(~~98~~) [*Evidence*] A Contracting Party may require that evidence, or further evidence in the case of paragraph (~~43~~), be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present ~~Article~~ Rule.

(~~109~~) [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (~~98~~) be complied with in respect of the request referred to in this Article.

(~~110~~) [*Notification; Non-Compliance with Requirements*] ~~Articles~~ Rule 516(9) and ~~9(10bis)~~ shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (~~87~~) are not complied with, or where evidence or further evidence is required under paragraph (~~98~~).

[Rule 17, continued]

(~~12~~11) [*Exclusion with Respect to Inventorship*] A Contracting Party may exclude the application of this ~~Article~~ Rule in respect of changes in inventorship. What constitutes inventorship shall be determined under the applicable law of the Contracting Party.

Rule 10

Details Concerning Request for Recordal of Change in Applicant or Owner Under Article 10

(1) ~~[Request]~~ A Contracting Party may require that the request for recordal of a change in applicant or owner indicate:

~~(i) the number of the application or patent concerned;~~

~~(ii) the name and address of the applicant or owner;~~

~~(iii) the name and address of the new applicant or new owner;~~

~~(iiiiv) the date of the change in the person of the applicant or owner;~~

~~(iv) the name of a State of which the new applicant or new owner is a national if he is the national of any State, the name of a State in which the new applicant or new owner has his domicile, if any, and the name of a State in which the new applicant or new owner has a real and effective industrial or commercial establishment, if any;~~

~~(v) where the applicant or owner has a representative, the name and address of that representative;~~

~~(vi) where the applicant or owner has an address for service, such address;~~

~~(vii) where the new applicant or new owner has a representative, the name and address of that representative;~~

[Rule 10(1), continued]

~~(viii) — where the new applicant or new owner has an address for service, that address;~~

~~(ixvi) — the basis for the change requested.~~

[EDITORIAL NOTE: Incorporated into draft Rule 17(1)(a).]

~~(2) — [Request Filed on Paper or in Electronic Form or by Other Means] Rule 3(1) to (4) shall apply, *mutatis mutandis*, to requests for recordal of a change in applicant or owner.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

~~(3) — [Time Limit Under Article 10(11)] (a) Subject to subparagraph (b), the time limit to comply with the requirements and to make observations under Article 10(11) shall be not less than two months from the date of the notification under that paragraph.~~

~~(b) — Where a notification under Article 10(11) has not been made, the time limit to comply with the requirements and to make observations under that paragraph shall be not less than three months from the date on which the request referred to in Article 10(1)(a) was received by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Rule 17(10) by reference to Rule 16(9).]

Rule 18 Article 11
[Combination of former Article 11 and Rule 11]

Request for Recordal of a Licensing Agreement or Security Interest

(1) [*Request for Recordal of a Licensing Agreement*] (a) Where a licensing agreement in respect of an application or patent may be recorded under the applicable law, the Contracting Party shall accept that a request for recordal of that licensing agreement be made in a communication signed by the licensor or the licensee and ~~indicating the number of the application or patent concerned.~~

~~(b) A Contracting Party may require that the request containing the following indications prescribed in the Regulations:~~

~~(i) an indication to the effect that a recordal of a licensing agreement or security interest is requested;~~

~~(ii) the number of the application or patent concerned;~~

~~(iii) the name and address of the licensor;~~

~~(iv) the name and address of the licensee.~~

[EDITORIAL NOTE: Items (ii) to (iv) are moved from former draft Rule 11(1).]

(b) A Contracting Party may require that the request contain:

[Rule 18(1)(b), continued]

[(i)] a statement that the information contained in the request is true and correct:

[(ii) information relating to any government interest.]

(2) [*Request Form or Format*] ~~Article 9~~ Rule 16(2) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

~~(3) [*Requests Filed on Paper or in Electronic Form or by Other Means*] Article 5(3) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1).]

~~(4)~~ 3 [*Documentation of the Basis of the Licensing Agreement*] (a) A Contracting Party may require that [, where the recordal is requested by the licensee, rather than by the licensor,] the request be accompanied, at the option of the [requesting party][Contracting Party], by one of the following:

(i) a copy of the licensing agreement, which copy may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original licensing agreement;

[Rule 18(3)(a), continued]

(ii) an extract of the licensing agreement showing at least the territory, duration or any quantitative extent of the licensing agreement, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the licensing agreement.

(b) A Contracting Party may require that any applicant, owner, exclusive licensee, co-applicant, co-owner or co-exclusive licensee who is not party to a licensing agreement give his consent to the recordal of that licensing agreement in a communication to the Office.

~~(54)~~ [*Language; Translation*] A Contracting Party may require that:

(i) the request referred to in paragraph (1) be in a language accepted by the Office;

(ii) if the document referred to in paragraph ~~(34)~~ is not in a language accepted by the Office, that document be accompanied by a translation.

~~(65)~~ [*Fees*] Article 5~~(46)~~ shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

[Rule 18, continued]

(~~76~~) [*Single Request*] ~~Article 10(7)~~ Rule 17(6) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

(~~87~~) [*Unknown Application Number*] ~~Article 9(7)~~ Rule 16(6) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

(~~98~~) [*Evidence*] ~~Article 10(9)~~ Rule 17(8) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

(~~109~~) [*Prohibition of Other Requirements*] No Contracting Party may require that requirements other than those referred to in paragraphs (1) to (~~98~~) be complied with in respect of the request referred to in paragraph (1)(a).

(~~110~~) [*Notification; Non-Compliance with Requirements*] ~~Article 5~~ Rule 16(9) and (10) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (~~87~~) are not complied with, or where evidence is required under paragraph (~~98~~), ~~except that the time limits with respect to requests for the recordal of a licensing agreement shall be as prescribed in the Regulations.~~

(~~111~~) [*Request for Recordal of a Security Interest or Cancellation of the Recordal of a Licensing Agreement or a Security Interest*] Paragraphs (1) to (~~110~~) shall apply, *mutatis mutandis*, to the requests for:

[Rule 18(11), continued]

- (i) recordal of a security interest in respect of an application or patent;
- (ii) cancellation of the recordal of a licensing agreement or a security interest in respect of an application or patent.

Rule 11

*Details Concerning Request for Recordal of a Licensing Agreement
or Security Interest Under Article 11*

~~(1) [Request] A Contracting Party may require that the request for recordal of a licensing agreement indicate:~~

~~(i) the number of the application or patent concerned;~~

~~(ii) the name and address of the licensor;~~

~~(iii) the name and address of the licensee;~~

~~(iii) where the licensor has a representative, the name and address of that representative;~~

~~(iv) where the licensor has an address for service, such address;~~

~~(v) where the licensee has a representative, the name and address of that representative;~~

~~(vi) where the licensee has an address for service, such address.~~

[EDITORIAL NOTE: Incorporated into draft Rule 18(1).]

[Rule 11, continued]

~~(2) — [Request Filed on Paper] A Contracting Party shall permit the filing of requests for recordal of a licensing agreement on paper.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

~~(3) — [Request Filed in Electronic Form or by Other Means] Where a Contracting Party permits the filing of requests for recordal of a licensing agreement in electronic form in a particular language or by other means, that Office shall permit the filing of such requests in electronic form or by other means if they conform to the requirements referred to in Rule 3(2) to (4).~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

~~(4) — [Time Limit Under Article 11(11)] (a) Subject to subparagraph (b), the time limit to comply with the requirements and to make observations under Article 11(11) shall be not less than two months from the date of the notification under that paragraph.~~

~~(b) — Where a notification under Article 11(11) has not been made, the time limit to comply with the requirements and to make observations under that paragraph shall be not less than three months from the date on which the request referred to in Article 11(1)(a) was received by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Rule 18(10) by reference to Rule 16(9).]

[Rule 11, continued]

(5) — [~~Request for Recordal of a Security Interest or Cancellation of the Recordal of a Licensing Agreement or a Security Interest~~] Paragraphs (1) to (4) shall apply, *mutatis mutandis*, to requests for:

(i) — ~~recordal of a security interest in respect of an application or patent;~~

(ii) — ~~cancellation of the recordal of a licensing agreement or a security interest in respect of an application or patent.~~

[EDITORIAL NOTE: Incorporated into draft Rule 18(11).]

Rule 19 Article 12
[Combination of former Article 12 and Rule 12]

Request for Correction of a Mistake

(1) *[Request]* (a) Where an application, a patent or any request communicated to the Office in respect of an application or a patent contains a mistake which is correctable under the applicable law, the Contracting Party shall accept that a request for correction of that mistake in the records and publications of the Office be made in a communication signed by the applicant or owner and ~~indicating the number of the application or patent concerned, the mistake to be corrected and the correction to be made.~~

~~(b) A Contracting Party may require that the request containing the following indications prescribed in the Regulations:~~

- ~~(i) an indication to the effect that a correction of mistake is requested;~~
- (ii) the number of the application or patent concerned;
- (iii) the mistake to be corrected;
- (iv) the correction to be made;
- (v) the name and address of the requesting party.

[EDITORIAL NOTE: Items (ii) to (v) are moved from former draft Rule 12(1).]

[Rule 19(1), continued]

(~~eb~~) A Contracting Party may require that the request be accompanied by a replacement ~~sheet part~~ part incorporating the correction or, where paragraph (~~56~~) applies, by such a replacement ~~sheet part~~ part for each application and patent to which the request relates.

[EDITORIAL NOTE: In view of filing a request in electronic form or by electronic means, the word "sheet" may not be appropriate.]

(~~ec~~) A Contracting Party may require that the request be subject to a declaration from the requesting party stating that the mistake was made in good faith.

(~~ed~~) A Contracting Party may require as a condition of acceptance of a request for correction of a mistake that the said request was made without undue delay or, at the option of the Contracting Party, that it was made without ~~un~~intentional delay, following the discovery of the mistake.

(2) [*Request Form or Format*] ~~Article 9~~ Rule 16(2) shall apply, *mutatis mutandis*, to requests for correction of a mistake.

~~(3) [*Requests Filed on Paper or in Electronic Form or by Other Means*] Article 5(3) shall apply, *mutatis mutandis*, to requests for correction of a mistake.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1).]

(~~43~~) [*Language*] Article 5(~~35~~) shall apply, *mutatis mutandis*, to requests for correction of a mistake.

[Rule 19, continued]

(54) [*Fees*] Article 5(46) shall apply, *mutatis mutandis*, to requests for correction of a mistake.

(65) [*Single Request*] ~~Article 10(7)~~ Rule 17(6) shall apply, *mutatis mutandis*, to requests for correction of a mistake, provided that the mistake and the requested correction are the same for all applications and patents concerned.

(76) [*Unknown Application Number*] ~~Article 9(7)~~ Rule 16(6) shall apply, *mutatis mutandis*, to requests for correction of mistakes.

(87) [*Evidence*] A Contracting Party may, where the Office may reasonably doubt that the alleged mistake is in fact a mistake, or where it may reasonably doubt the veracity of any matter contained in, or of any document filed in connection with, the request for correction of a mistake, require that evidence in support of the request be furnished to the Office.

(98) [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (87) be complied with in respect of the request referred to in paragraph (1)(a).

(109) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

[Rule 19, continued]

(~~11~~10) [*Notification of Requesting Party; Non-Compliance with Requirements*]

~~Article 5~~ Rule 16(9) and (10) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (~~7~~6) are not complied with, or where evidence is required under paragraph (~~8~~7), ~~except that the time limits with respect to requests for the correction of a mistake shall be as prescribed in the Regulations.~~

(~~12~~11) [*Exclusion With Respect to Inventorship of Application of Article 12*] A

Contracting Party may exclude the application of this ~~Article~~ Rule in respect of ~~corrections~~ changes in inventorship. What constitutes inventorship shall be determined under the applicable law of the Contracting Party.

Rule 12

Details Concerning Request for Correction of a Mistake Under Article 12

~~(1) [Request] A Contracting Party may require that the request for correction of a mistake indicate:~~

~~(i) the number of the application or patent concerned;~~

~~(ii) the mistake to be corrected;~~

~~(iii) the correction to be made;~~

~~(iv)(i) the name and address of the requesting party;~~

~~(ii) where the requesting party has a representative, the name and address of that representative;~~

~~(iii) where the requesting party has an address for service, such address.~~

[EDITORIAL NOTE: Incorporated into draft Rule 19(1).]

~~(2) [Request Filed on Paper or in Electronic Form or by Other Means] Rule 3(1) to (4) shall apply, *mutatis mutandis*, to requests for correction of a mistake.~~

[EDITORIAL NOTE: Incorporated into draft Article 7(1) and Rule 8.]

[Rule 12, continued]

~~(3) — [Time Limit Under Article 12(11)] (a) Subject to subparagraph (b), the time limit to comply with the requirements and to make observations under Article 12(11) shall be not less than two months from the date of the notification referred to in that paragraph.~~

~~(b) — Where a notification under Article 12(11) has not been made, the time limit to comply with the requirements and to make observations under that paragraph shall be not less than three months from the date on which the request referred to in Article 12(1)(a) was received by the Office.~~

[EDITORIAL NOTE: Incorporated into draft Rule 19(10).]

Rule ~~20~~ 17

*Manner of Identification of an Application
Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number, but such a number has not yet been issued or is not known to the person concerned or his representative, the application shall be considered identified if one of the following is supplied, at his option:

(i) the provisional application number, if any, given by the Office;

(ii) a copy of the request part of the application along with the date on which the application was sent to the Office;

(iii) a reference number given to the application by the applicant or his representative and indicated in the application, along with the name and address of the applicant, the title of the invention and the date on which the application was sent to the Office.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the person concerned or his representative.

Rule 21

Establishment of Model International Forms and Formats

(1) [Model International Forms] (a) The Assembly shall, under Article 14(1)(c), establish Model International Forms in respect of:

(i) a power of attorney;

(ii) a request for recordal of change in name or address;

(iii) a request for recordal of change in applicant or owner;

(iv) a certificate of transfer;

(v) a request for recordal, or cancellation of recordal, of a licensing agreement;

(vi) a request for recordal, or cancellation of recordal, of a security interest;

(vii) a request for correction of a mistake.

(b) The International Bureau shall present proposals to the Assembly concerning the establishment of Model International Forms referred to in subparagraph (a).

[Rule 21, continued]

(2) [*Model International Formats*] [Reserved.]

[End of document]