

# WIPO



SCP/2/9bis

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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

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## STANDING COMMITTEE ON THE LAW OF PATENTS

Second Session  
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DRAFT ARTICLE 4(5BIS) AND DRAFT RULE 2(2)

*Suggestion of the International Bureau, based on the  
Proposal by the Delegation of Australia in document SCP/2/9*

1. The following suggestion was prepared by the International Bureau, based on the proposal by the Delegation of Australia contained in document SCP/2/9:

*Article 4*

*Filing Date*

...

(5bis) (a) Where a missing part of the description or a missing drawing is 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, subject to subparagraphs (b) and (c), the filing date shall be [no later than] the date on which the Office has received that part of the

description or that drawing, or the date on which all of the requirements referred to in paragraphs (1) and (2) are complied with, whichever is later.

(b) Where the missing part of a description or missing drawing is filed under subparagraph (a) to rectify its omission from an application which, at the time of filing, claims the priority of an earlier application, the filing date shall, [at the request of the applicant and] subject to the requirements prescribed in the Regulations, be [no later than] the date on which all the requirements referred to in paragraph (1) and (2) are complied with.

(c) Where the missing part of the description or the missing drawing filed under subparagraph (a) is withdrawn within a time limit fixed by the Contracting Party, the filing date shall be the date on which the requirements referred to in paragraphs (1) and (2) are complied with.

*Rule 2*

*Details Concerning Filing Date Under Article 4*

...

(2) [*Time Limit Under Article 4(5bis)(a)*] The time limit referred to in Article 4(5bis)(a) 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.

...

(3bis) [*Requirements Under Article 4(5bis)(b)*] Any Contracting Party may, subject to Rule 4, require that, for the filing date to be determined under Article 4(5bis)(b):

(i) a copy of the earlier application be filed within the time limit applicable under paragraph (2);

(ii) a copy of the earlier application, and the date of filing of the earlier application, 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;

(iii) where the earlier application is not in a language accepted by the Office, a translation of the earlier application be filed within the time limit applicable under paragraph (2);

(iv) the missing part of the description or missing drawing be completely contained in the earlier application;

and, at the option of the Contracting Party, either

(v) the application, at the time of filing, contained an indication that the contents of the earlier application were incorporated by reference in the application; or

(vi) an indication be filed within the time limit applicable under paragraph (2) as to where, in the earlier application or in the translation referred to in item (iii), the missing part of the description or the missing drawing is contained.

[End of document]