



C.PCT 863
00/21.1

September 2, 2002

Madam,
Sir,

1. Following consultation under Rule 89.2(b) of the Regulations under the Patent Cooperation Treaty (PCT) with interested Offices and Authorities, as well as certain non-governmental organizations (see circular C.PCT 857 dated July 22, 2002), Part 8 (Sections 801 to 806) of the Administrative Instructions under the PCT has been modified, and a new Annex *C-bis* has been added, with effect from September 6, 2002, so as to urgently extend the existing provisions contained in Part 8 which relate to large nucleotide and/or amino acid sequence listings to tables related to such listings. The text of modified Part 8 and new Annex *C-bis* is set out in document PCT/AI/1 Rev.1 Add.3 (dated September 2, 2002), enclosed herewith; it will also be published in the *PCT Gazette* on September 6, 2002.

2. The International Bureau expresses its appreciation to the Offices and Authorities which responded to Circular C. PCT 857, in light of the short time frame for submitting comments. Furthermore, because of that time element, it was not possible for the International Bureau to take into account all of the comments submitted, as explained below.

3. Modified Part 8 is as proposed by Circular C.PCT 857 except where further changes have been made as a result of consultation, as outlined below (editorial and minor drafting changes are not mentioned).

4. For general background on the question of large nucleotide and/or amino acid sequence listings, reference should be made to Circular C.PCT 762, dated December 21, 2000.

5. *New Annex C-bis (containing new technical requirements applying exclusively to tables filed under the modified provisions)*. Even though Annex *C-bis* was not proposed as such by Circular C.PCT 857, part of its contents was proposed as Section 802(b) and the remainder is the result of consultation. Furthermore, it seemed desirable to place such requirements at the

same level as the requirements applying to sequence listings themselves, which are contained in Annex C.

6. *Need for International Searching Authorities to notify the International Bureau of their technical requirements.* While, under Section 801(b), receiving Offices must currently notify the International Bureau of the *electronic media* they are prepared to accept (and will continue to have to do so), International Searching Authorities which require that sequence listings be furnished in computer readable form will in future, as provided by Section 802(b-*bis*), need to notify the International Bureau of their *technical requirements*, chosen amongst those referred to in new Annex C-*bis*, in relation to matters such as, the character format of sequence-related tables (see Annex C-*bis*, paragraph 3), the electronic media acceptable for the filing of such tables (see Annex C-*bis*, paragraph 6), and the Personal Computer Operating systems acceptable to the Authority (see Annex C-*bis*, paragraphs 5 and 7). Furthermore, where applicable, the International Bureau will also specify those technical requirements acceptable to it, since it will need to be able to effectively process the tables in question for the purposes of international publication.

7. *Translation, for designated Offices, of text matter contained in tables.* Section 806 has been further amended to provide expressly that designated Offices would be entitled to require applicants to furnish a translation of any text matter that may be contained in a table filed under Section 801, along the lines of the current provisions applying to sequence listings *per se*, that is, only where such text does not already appear in the description (such text would otherwise be contained in the translation of the description as a whole).

Consequential modifications to the front page of PCT pamphlets, entries in the PCT Gazette and layout and presentation of the relevant page of WIPO's Internet site containing published sequence listing-related data

8. As a result of the modification of Part 8, minor consequential changes will be made by the International Bureau to the front page of the PCT pamphlet, the definition of certain entries in the *PCT Gazette* and to the layout and presentation of the relevant page of WIPO's Internet site containing published sequence listing-related data in order to reflect that international applications may, in future, be published with sequence listing-related tables in electronic form, in addition to sequence listings themselves in electronic form.

Future electronic filing of sequence listings

9. Circular C. PCT 857, paragraph 4, stated “[a]s indicated in Circular C. PCT 752 (September 22, 2000, paragraph 5), it is envisaged that the long-term solutions to the problem of filing and processing very large applications will be addressed jointly by the PCT electronic filing project (PCT-SAFE) and the PCT internal automation project (IMPACT).” It is clear that a fully elaborated standard for the electronic filing and processing of sequence listings will need to be implemented in the near future, and that such a standard should provide

consistency between Parts 7 and 8. For the moment, however, sequence listings are specifically exempted from the application of Part 7 of the Administrative Instructions and Annex F (see Section 702(c) and corresponding footnote 7, in the *PCT Gazette*, Special No. S-04/2001, dated December 27, 2001, page 4).

10. As part of such a standard, a Document Type Definition (DTD) for tables would be an important addition. It is noted that a change proposal in relation to Annex F has been submitted for “Stand-alone table for the ePCT DTDs” (see PCT/EF/PFC 02/005 at http://www.wipo.int/pct/efiling_standard/en/pfc_files.htm).

Responses to specific comments which could not be taken into account at this time

11. Some of the comments received would, in the opinion of the International Bureau, best be handled by future modifications to Annex C itself (which corresponds to WIPO Standard ST.25), and others by amendments of the PCT Regulations, neither of which there was time to undertake in relation to this consultation. In addition, some of the comments received included proposals for improvement of existing Part 8, without limiting themselves to the issue of the expansion of the scope of Part 8 to include sequence listing-related tables. While those suggestions are appreciated and can be considered in relation to the further consultation in relation to sequence listing-related matters which is under preparation, it was the view of the International Bureau that such changes could not be accepted without going beyond the scope of the provisions on which the consultation was based—and because of the aforementioned time constraints, an additional consultation at this time was not possible.

12. Certain of the comments pointed out that such sequence listing-related tables could be submitted under existing Annex C as feature data under items <220> to <230>. While the International Bureau is of the opinion that the requirements in relation to sequence listing-related tables (including their placement in relation to the rest of the international application) could feasibly and logically be merged into an amended version of Annex C (ST.25) in the future (see preceding paragraph), it also believes that any such change and its implications, in particular, for those substantive examiners who have to handle sequence listings, for example, for the purposes of carrying out international search, should be carefully considered.

13. One comment proposed that any tables submitted under Part 8 be consolidated in a specific and separate part of the description, in order to enable efficient processing in particular for the question of calculation of the applicable fee in accordance with Section 803. While the International Bureau is not opposed in principle to such a change, it is of the view that this feature could be most efficiently introduced by an amendment to PCT Rule 5.2 and perhaps to Rule 11. It is also worth noting that requiring sequence listing-related tables to be segregated in a separate part of the description would appear to be

unnecessary when such tables are being submitted only in electronic form in accordance with Section 801(a)(i).

14. A comment proposed that sequence identifiers (SEQ ID numbers—see Annex C, paragraph 2(v)) be included on the labels of the electronic media being submitted under Part 8, as well as an itemization of the specific tables contained on that medium. The International Bureau agrees that it is in the interest of the examiners who will be called upon to review the sequence listings and the tables that they be able to access the desired information in a quick and efficient manner. However, because this proposed change goes beyond the extension of Part 8 to include sequence listing-related tables, it is the view of the International Bureau that such a change should be considered in the context of future amendments to Annex C (and ST.25), and that a review be made in relation to the practicalities of including on the labels affixed to the electronic media all of the information which now must be included (see Sections 802(c) and (d), 804(d) and (e) and Annex C, paragraphs 44 and 45—see also Annex C-*bis*, paragraph 8).


15. One comment recalled that, in accordance with Section 3.1.1.1, third paragraph, of Annex F, each receiving Office may specify a particular character encoding scheme and inform the International Bureau of that specification. It is the view of the International Bureau that Annex C-*bis* could be modified in the context of a future consultation to include such a possibility and to make it parallel to Annex F in this sense.

16. The International Bureau is of the view that consideration may be given, in future, to integrating into existing Annex C the contents of new Annex C-*bis*.

Further consultation on the filing and processing of international applications containing voluminous sequence listings and tables

17. As alluded to in Circular C. PCT 857, and as can be derived from the above explanations, it is the intention of the International Bureau to further consult with all Offices and Authorities concerned on a wide range of issues which have emerged from the previous consultations and from the comments received in response to the current consultation.

Yours sincerely,



Francis Gurry
Assistant Director General

Enclosure: document PCT/AI/1 Rev.1 Add.3

WIPO



PCT/AI/1 Rev.1 Add.3

ORIGINAL: English

DATE: September 2, 2002

E

WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY: MODIFICATIONS

with effect from September 6, 2002

1. This document contains the text of modifications, with effect from September 6, 2002, as detailed below, of the Administrative Instructions Under the Patent Cooperation Treaty (PCT) as in force from July 1, 2002 (see documents PCT/AI/1 Rev.1 dated August 23, 2001, PCT/AI/1 Rev.1 Add.1 dated October 26, 2001 and PCT/AI/1 Rev.1 Add.2 dated December 20, 2001). The modifications, which are promulgated after consultation with the interested Offices and Authorities pursuant to Rule 89.2(a) of the Regulations under the PCT, involve the modification of Part 8 and the addition of new Annex C-bis.

2. The text of the present modifications will be published in *PCT Gazette* No. 36/2002 on September 6, 2002.

MODIFICATIONS OF THE ADMINISTRATIVE INSTRUCTIONS
(with effect from September 6, 2002)

PART 8
INSTRUCTIONS RELATING TO
INTERNATIONAL APPLICATIONS CONTAINING
LARGE NUCLEOTIDE AND/OR AMINO ACID SEQUENCE LISTINGS
AND/OR TABLES RELATING THERETO

Section 801
Filing of International Applications
Containing Sequence Listings and/or Tables

(a) Pursuant to Rules 89*bis* and 89*ter*, where an international application contains disclosure of one or more nucleotide and/or amino acid sequence listings (“sequence listings”), the receiving Office may, if it is prepared to do so, accept that the sequence listing part of the description, as referred to in Rule 5.2(a) and/or any table related to the sequence listing(s) (“sequence listings and/or tables”), be filed, at the option of the applicant:

- (i) only on an electronic medium in the computer readable form referred to in Section 802;
or
- (ii) both on an electronic medium in that computer readable form and on paper in the written form referred to in Section 802;

provided that the other elements of the international application are filed as otherwise provided for under the Regulations and these Instructions.

(b) Any receiving Office which is prepared to accept the filing in computer readable form of the sequence listings and/or tables under paragraph (a) shall notify the International Bureau accordingly. The notification shall specify the electronic media on which the receiving Office will accept such filings. The International Bureau shall promptly publish any such information in the Gazette.

(c) A receiving Office which has not made a notification under paragraph (b) may nevertheless decide in a particular case to accept an international application the sequence listings and/or tables of which are filed with it under paragraph (a).

(d) Where the sequence listings and/or tables are filed in computer readable form under paragraph (a) but not on an electronic medium specified by the receiving Office under paragraph (b), that Office shall, under Article 14(1)(a)(v), invite the applicant to furnish to it replacement sequence listings and/or tables on an electronic medium specified under paragraph (b).

(e) Where an international application containing sequence listings and/or tables in computer readable form is filed under paragraph (a) with a receiving Office which is not prepared, under paragraph (b) or (c), to accept such filings, Section 333(b) and (c) shall apply.

Section 802
Format and Identification Requirements Relating to
International Applications Containing Sequence Listings and/or Tables

(a) Paragraphs 40 to 45 of Annex C shall apply *mutatis mutandis* to the sequence listing part of an international application filed in computer readable form.

(b) Tables filed in computer readable form under Section 801(a) shall comply with Annex C-*bis*.

(b-bis) Any International Searching Authority which requires that sequence listings be furnished in computer readable form shall select from the technical requirements contained in Annex C-bis those which it will apply and it shall notify the International Bureau accordingly. The International Bureau shall promptly publish any such information in the Gazette.

(b-ter) Where sequence listings and tables are both filed in computer readable form under Section 801(a), such listings and tables shall, respectively, be contained on separate electronic carriers which shall contain no other programs or files.

(b-quater) Rule 13ter.1 shall apply *mutatis mutandis* to any tables not complying with Annex C-bis and paragraph (b-ter).

(c) The label provided for in paragraph 44 of Annex C shall, in respect of the sequence listings and/or tables, also include, as the case may be, the following indications:

(i) that the sequence listings and/or tables are filed under Section 801(a);

(ii) where the sequence listings and/or tables in computer readable form are contained on more than one electronic carrier, the numbering of each such carrier (for example, "DISK 1/3," "DISK 2/3," "DISK 3/3");

(iii) where more than one copy of the sequence listings and/or tables in computer readable form has been filed, the numbering of each copy (for example, "COPY 1," "COPY 2," "COPY 3").

(d) Where any correction under Rule 26.3, any rectification of an obvious error under Rule 91, or any amendment under Article 34 is submitted in respect of the sequence listings and/or tables filed, under Section 801(a)(i) or (ii), in computer readable form, replacement sequence listings and/or tables in computer readable form containing the entirety of the sequence listings and/or tables with the relevant correction, rectification or amendment shall be furnished and the label referred to in paragraph (c) shall be marked accordingly (for example, "SUBMITTED FOR CORRECTION," "SUBMITTED FOR RECTIFICATION," "SUBMITTED FOR AMENDMENT"). Where the sequence listings and/or tables were filed both in computer readable form and in written form under Section 801(a)(ii), replacement sheets containing the correction, rectification or amendment in question shall also be submitted in written form.

Section 803
Calculation of Basic Fee for
International Applications Containing Sequence Listings and/or Tables

Where sequence listings and/or tables are filed in electronic form under Section 801(a), the basic fee payable in respect of that application shall comprise the following two components:

(i) a basic component calculated as provided in the Schedule of Fees in respect of all pages filed on paper (that is, all pages of the request, description (excluding sequence listings and/or tables if also filed on paper), claims, abstract and drawings), and

(ii) an additional component, in respect of sequence listings and/or tables, equal to 400 times the fee per sheet as referred to in item 1(b) of the Schedule of Fees, regardless of the actual length of the sequence listings and/or tables filed in computer readable form and regardless of the fact that sequence listings and/or tables may have been filed both in written form and in computer readable form.

Section 804
Preparation, Identification and Transmittal of Copies
of International Applications Containing Sequence Listings and/or Tables

(a) Where sequence listings and/or tables are filed only in computer readable form under Section 801(a)(i), the record copy for the purposes of Article 12 shall consist of those elements of the international application filed on paper together with the sequence listings and/or tables filed in computer readable form.

(b) Where sequence listings and/or tables are filed both in computer readable form and in written form under Section 801(a)(ii), the record copy for the purposes of Article 12 shall consist of all the elements of the international application filed on paper, including the sequence listings and/or tables in written form.

(c) Where sequence listings and/or tables are filed in computer readable form under Section 801(a)(i) or (ii) in less than the number of copies required for the purposes of this Section, the receiving Office shall either:

- (i) promptly prepare any additional copies required, in which case it shall have the right to fix a fee for performing that task and to collect such fee from the applicant; or
- (ii) invite the applicant to promptly furnish the additional number of copies required, accompanied by a statement that the sequence listings and/or tables in computer readable form contained in those copies are identical to the sequence listings and/or tables in computer readable form as filed;

provided that, where those sequence listings and/or tables were also filed in written form under Section 801(a)(ii), the receiving Office shall not, notwithstanding Rule 11.1(b), require the applicant to file additional copies of the sequence listings and/or tables in written form.

(d) Where the sequence listings and/or tables are filed under Section 801(a)(i), the receiving Office shall, in addition to proceeding under Section 305 with respect to the parts of the international application filed on paper:

(i) mark the words “RECORD COPY—SEQUENCE LISTINGS AND/OR TABLES” on the original electronic medium containing the sequence listings and/or tables in computer readable form and transmit that part of the record copy to the International Bureau together with the paper part of the record copy;

(ii) mark the words “SEARCH COPY—SEQUENCE LISTINGS AND/OR TABLES” on one additional copy of the electronic medium containing the sequence listings and/or tables in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13*ter*.1, together with the paper part of the search copy;

(iii) mark the words “HOME COPY—SEQUENCE LISTINGS AND/OR TABLES” on the other such copy of the electronic medium containing the sequence listings and/or tables in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.

(e) Where the sequence listings and/or tables are filed under Section 801(a)(ii), the receiving Office shall, in addition to proceeding under Section 305 with respect to the parts of the international application filed on paper:

(i) mark the words “RECORD COPY—SEQUENCE LISTINGS AND/OR TABLES” in the upper left-hand corner of the first page of the first sequence listing and of the first page of the first table in written form and transmit that part of the record copy to the International Bureau together with the paper part of the record copy; it shall also mark the words “COPY FOR INTERNATIONAL

BUREAU—SEQUENCE LISTINGS AND/OR TABLES” on one copy of the electronic medium containing the sequence listings and/or tables in computer readable form and transmit that copy with the record copy;

(ii) mark the words “SEARCH COPY—SEQUENCE LISTINGS AND/OR TABLES” on one additional copy of the electronic medium containing the sequence listings and/or tables in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13*ter*.1, together with the paper part of the search copy;

(iii) mark the words “HOME COPY—SEQUENCE LISTINGS AND/OR TABLES” on the other such copy of the electronic medium containing the sequence listings and/or tables in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.

(f) The receiving Office may, when marking the copies referred to in paragraphs (d) and (e), use, instead of the words referred to in those paragraphs, the equivalent of those words in the language of publication of the international application.

Section 805
Publication and Communication of International Applications
Containing Sequence Listings and/or Tables; Copies; Priority Documents

(a) Notwithstanding Section 406, an international application containing sequence listings and/or tables may be published under Article 21, in whole or in part, in electronic form as determined by the Director General.

(b) Paragraph (a) shall apply *mutatis mutandis* in relation to:

- (i) the communication of an international application under Article 20;
- (ii) the furnishing of copies of an international application under Rules 87 and 94.1;
- (iii) the furnishing under Rule 17.1, as a priority document, of a copy of an international application containing sequence listings and/or tables filed under Section 801(a);
- (iv) the furnishing under Rules 17.2 and 66.7 of copies of a priority document.

Section 806
Sequence Listings and/or Tables for Designated Office

(a) Where sequence listings and/or tables were filed only in computer readable form under Section 801(a)(i), any designated Office which does not accept the filing of sequence listings and/or tables in computer readable form may require that the applicant furnish to it, for the purposes of the national phase, a copy on paper of such sequence listings in written form complying with Annex C and a copy on paper of such tables in written form, accompanied by a statement that the sequence listings and/or tables in written form are identical to the sequence listings and/or tables in computer readable form.

(b) Rule 13*ter*.2 shall apply *mutatis mutandis* to any tables filed under Section 801(a).

(c) For the purposes of Rule 49.5, any designated Office may require that the applicant furnish to it a translation of any text matter contained in any tables filed under Section 801(a), if that text matter is not in the language-neutral vocabulary referred to in Annex C and if it does not appear in the main part of the description in the language thereof.

ANNEX C-*bis*
TECHNICAL REQUIREMENTS
FOR THE PRESENTATION OF TABLES RELATED TO
NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS
IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT

Introduction

1. These technical requirements have been elaborated so as to provide standardization of the presentation of tables related to nucleotide and amino acid sequence listings in international patent applications. These technical requirements are intended to allow the applicant to draw up such tables in a manner which is acceptable to all receiving Offices, International Searching Authorities, International Preliminary Examining Authorities and to the International Bureau for the purposes of the international phase and to all designated and elected Offices for the purposes of the national phase.

Definition

2. For the purposes of these technical requirements, “competent Authority” is the International Searching Authority that is to carry out the international search on the international application, or the International Preliminary Examining Authority that is to carry out the international preliminary examination on the international application, or the designated/elected Office before which the processing of the international application has started.

Tables related to sequence listings

3. Tables filed in computer readable form under Section 801(a) shall comply with one of the following character formats:

- (i) UTF-8-encoded Unicode 3.0; or
- (ii) XML format conforming to the “Application-Body” Document Type Definition referred to in Appendix I of Annex F;

at the option of the competent Authority.

4. The spatial relationships (e.g., columns and rows) of the table elements shall be maintained.

5. At the option of the competent Authority, file compression is acceptable, so long as the compressed file is in a self-extracting format that will decompress on a Personal Computer Operating system that is acceptable to the competent Authority and to the International Bureau.

6. Each table shall be contained within a separate electronic file on any electronic medium that is acceptable to the competent Authority. The file recorded on the electronic medium that is acceptable to the competent Authority shall be encoded using IBM Code Page 437, IBM Code Page 932 or a compatible code page. A compatible code page, as would be required for, for example, Japanese, Chinese, Cyrillic, Arabic, Greek or Hebrew characters, is one that assigns the Roman alphabet and numerals to the same hexadecimal positions as do the specified code pages.

7. Tables filed in computer readable form may be created by any means, as long as the table on an electronic medium that is acceptable to the competent Authority is readable under a Personal Computer Operating system that is acceptable to the competent Authority and to the International Bureau.

8. If the electronic medium that is acceptable to the competent Authority is submitted after the date of filing of an application, the labels shall also include the filing date of the application and the application number.