



C.PCT 960  
-21.1

December 8, 2003

Madam,  
Sir,

This Circular is addressed to your Office in its capacity as receiving Office, International Searching Authority, or International Preliminary Examining Authority under the Patent Cooperation Treaty (PCT). It concerns Rule 90.4(d) of the Regulations under the PCT as adopted by the PCT Assembly at its thirty-first (18<sup>th</sup> extraordinary) session held from September 23 to October 1, 2002, (see document PCT/A/31/10), and Rule 90.5(c) as adopted by the PCT Assembly at its thirty-second (14<sup>th</sup> ordinary) session held from September 22 to October 1, 2003 (see the report of the session, document PCT/A/32/8). Reference is also made to new Sections 336, 517 and 617 of the Administrative Instructions under the PCT as promulgated by Circular C.PCT 958 dated December 4, 2003. The Rules and Sections are due to enter into force on January 1, 2004 and will apply to international applications filed on or after January 1, 2004. For ease of reference, the texts of the relevant amended Rules and new Sections are annexed to this Circular.

It is recalled that:

(i) under Rule 90.4(d), any receiving Office, any International Searching Authority, any International Preliminary Examining Authority and the International Bureau may waive the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it; however, under Rule 90.4(e), where the agent or the common representative submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4, the requirement for a separate power of attorney shall not be waived;

/...

(ii) under Rule 90.5(c), any receiving Office, any International Searching Authority and any International Preliminary Examining Authority may waive the requirement under Rule 90.5(a)(ii) that a copy of the general power of attorney is attached to the request, the demand or a separate notice; however, under Rule 90.5(d), where the agent submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4, a copy of the general power of attorney shall be submitted to the Office or Authority.

It should also be noted that any Office, Authority and the International Bureau is permitted to require a separate power of attorney in particular instances even if it has waived the requirement in general, and any Office or Authority is permitted to require a copy of a general power of attorney in particular instances even if it has waived the requirement in general.


Your office is kindly requested to inform the International Bureau that, in accordance with Sections 336, 517 and 617, whether your Office and/or Authority:

- (i) waives under Rule 90.4(d) the requirement under Rule 90.4(b) that a separate power of attorney be submitted;
- (ii) waives under Rule 90.5(c) the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney is attached to the request, the demand or a separate notice, as the case may be;
- (iii) in what particular instances (if any) that your Office and/or Authority would require a separate power of attorney even though it waives the requirement in general;
- (iv) in what particular instances (if any) that your Office and/or Authority would require a copy of a general power of attorney even though it waives the requirement in general.

The International Bureau would appreciate receiving the information requested above from your Office and/or your Authority as soon as possible in order to inform PCT users.

Please send your answers by fax to (+41-22) 910 00 30 or by e-mail to [pct.legal@wipo.int](mailto:pct.legal@wipo.int). Moreover, please do not hesitate to contact the International Bureau if you have any questions concerning this circular.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Francis Gurry', is centered on the page. The signature is written in a cursive style with a prominent 'F' and 'G'.

Francis Gurry  
Deputy Director General

Enclosures:    Annex I–Excerpt from the Regulations under the PCT (as in force from January 1, 2004), Rules 90.4 and 90.5

Annex II–Excerpt from Administrative Instructions under the PCT (document PCT/AI/1 Rev.1 Add.9), Sections 336, 517 and 617

EXCERPT FROM THE REGULATIONS UNDER THE PCT (AS IN FORCE  
FROM JANUARY 1, 2004), RULES 90.4 AND 90.5

90.4 *Manner of Appointment of Agent or Common Representative*

(a) The appointment of an agent shall be effected by the applicant signing the request, the demand or a separate power of attorney. Where there are two or more applicants, the appointment of a common agent or common representative shall be effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney.

(b) Subject to Rule 90.5, a separate power of attorney shall be submitted to either the receiving Office or the International Bureau, provided that, where a power of attorney appoints an agent under Rule 90.1(b), (c) or (d)(ii), it shall be submitted to the International Searching Authority or the International Preliminary Examining Authority, as the case may be.

(c) If the separate power of attorney is not signed, or if the required separate power of attorney is missing, or if the indication of the name or address of the appointed person does not comply with Rule 4.4, the power of attorney shall be considered non-existent unless the defect is corrected.

(d) Subject to paragraph (e), any receiving Office, any International Searching Authority, any International Preliminary Examining Authority and the International Bureau may waive the requirement under paragraph (b) that a separate power of attorney be submitted to it, in which case paragraph (c) shall not apply.

(e) Where the agent or the common representative submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4, the requirement under paragraph (b) for a separate power of attorney shall not be waived under paragraph (d).

90.5 *General Power of Attorney*

(a) Appointment of an agent in relation to a particular international application may be effected by referring in the request, the demand or a separate notice to an existing separate power of attorney appointing that agent to represent the applicant in relation to any international application which may be filed by that applicant (i.e., a “general power of attorney”), provided that:

(i) the general power of attorney has been deposited in accordance with paragraph (b), and

(ii) a copy of it is attached to the request, the demand or the separate notice, as the case may be; that copy need not be signed.

(b) The general power of attorney shall be deposited with the receiving Office, provided that, where it appoints an agent under Rule 90.1(b), (c) or (d)(ii), it shall be deposited with the International Searching Authority or the International Preliminary Examining Authority, as the case may be.

(c) Any receiving Office, any International Searching Authority and any International Preliminary Examining Authority may waive the requirement under paragraph (a)(ii) that a copy of the general power of attorney is attached to the request, the demand or the separate notice, as the case may be.

(d) Notwithstanding paragraph (c), where the agent submits any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4 to the receiving Office, the International Searching Authority or the International Preliminary Examining Authority, a copy of the general power of attorney shall be submitted to that Office or Authority.

[Annex II follows]

EXCERPT FROM ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT  
(DOCUMENT PCT/AI/1 REV.1 ADD.9), SECTIONS 336, 517 AND 617

**Section 336**

**Waivers Under Rules 90.4(d) and 90.5(c)**

(a) Where, in accordance with Rule 90.4(d), a receiving Office waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the receiving Office shall notify the International Bureau accordingly.

(b) Where, in accordance with Rule 90.5(c), a receiving Office waives the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to the request or any separate notice, the receiving Office shall notify the International Bureau accordingly.

(c) A receiving Office may require a separate power of attorney, or a copy of a general power of attorney, in particular instances even if the receiving Office has waived the requirement in general.

(d) A receiving Office which has notified the International Bureau under paragraph (a) or (b) shall notify the International Bureau of any change to the information notified under those paragraphs.

**Section 517**

**Waivers Under Rules 90.4(d) and 90.5(c)**

(a) Where, in accordance with Rule 90.4(d), an International Searching Authority waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the International Searching Authority shall notify the International Bureau accordingly.

(b) Where, in accordance with Rule 90.5(c), an International Searching Authority waives the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to any separate notice, it shall notify the International Bureau accordingly.

(c) An International Searching Authority may require a separate power of attorney, or a copy of a general power of attorney, in particular instances even if the International Searching Authority has waived the requirement in general.

(d) An International Searching Authority which has notified the International Bureau under paragraph (a) or (b) shall notify the International Bureau of any change to the information notified under those paragraphs.

**Section 617**

**Waivers Under Rules 90.4(d) and 90.5(c)**

(a) Where, in accordance with Rule 90.4(d), an International Preliminary Examining Authority waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the International Preliminary Examining Authority shall notify the International Bureau accordingly.

(b) Where, in accordance with Rule 90.5(c), an International Preliminary Examining Authority waives the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to the demand or any separate notice, it shall notify the International Bureau accordingly.

(c) An International Preliminary Examining Authority may require a separate power of attorney, or a copy of a general power of attorney, in particular instances even if the International Preliminary Examining Authority has waived the requirement in general.

(d) An International Preliminary Examining Authority which has notified the International Bureau under paragraph (a) or (b) shall notify the International Bureau of any change to the information notified under those paragraphs.

[End of Annex II]