

C. PCT 1599

April 30, 2020

Madam,
Sir,

Promulgation of modifications of the Administrative Instructions under the PCT, certain Forms annexed to the Administrative Instructions, the PCT Receiving Office Guidelines and the PCT International Search and Preliminary Examination Guidelines

In accordance with Rule 89.2(b) of the Regulations under the Patent Cooperation Treaty (PCT), modifications of the Administrative Instructions under the PCT (“the Administrative Instructions”), certain Forms annexed to the Administrative Instructions, the PCT Receiving Office Guidelines (“the RO Guidelines”) and the PCT International Search and Preliminary Examination Guidelines (“the ISPE Guidelines”) are hereby promulgated with effect from July 1, 2020.

The promulgation follows consultation under Rule 89.2(b) of the Regulations under the PCT with your Office in its capacity as a receiving Office, an International Searching and Preliminary Examining Authority, an Authority specified for supplementary search, and/or a designated or elected Office and also with certain non-governmental organizations representing users of the PCT system. The modifications are as proposed in Circular C. PCT 1586, dated February 4, 2020, except where further changes have been made as a result of the consultation, as indicated below (editorial and minor drafting changes are not specifically mentioned).

Aside from the above, the occasion of this Circular is also used to promulgate modifications to Chapter 10 of the ISPE Guidelines following the consultations made via Circular C. PCT 1573, dated October 7, 2019, and the discussions in the PCT Meeting of International Authority (MIA) Quality Subgroup, tenth informal meeting, held in Gatineau, Canada, from February 3 to 5, 2020 (see document PCT/MIA/27/16, Annex II, paragraph 32).

Moreover, with respect to the Rule changes concerning the transfer of PCT fees which will come into force from July 1, 2020 as well, a separate round of consultation and promulgation is being carried out with a view to modifying the Administrative Instructions and the RO Guidelines (see Circular C. PCT 1596, dated April 17, 2020).

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Modifications of the Administrative Instructions

Sections 111 is modified as proposed in Circular C. PCT 1586. It should be noted that, under Section 111(c), any Office that provides for the excuse of a delay in meeting time limits under Rule 82*quater*.2 shall notify the International Bureau of the World Intellectual Property Organization (WIPO) accordingly. Your Office is thus invited to notify the International Bureau of WIPO of any such provisions that exist as of July 1, 2020, and/or whenever any new provisions are adopted. The notification should clearly specify under which conditions delays in meeting time limits may be excused. Moreover, Rule 82*quater*.2 requires the Offices concerned to notify the International Bureau of WIPO of the specific periods of unavailability. In this respect, in addition to publishing this information in the Gazette as per Section 111(e), the International Bureau of WIPO will consider providing a central system in parallel to the information published by the Offices, whereby information on all such notifications could be seen immediately, without waiting for the Gazette notices to be published.

Section 308*bis* has been further modified to provide clarity.

Sections 309, 310 and 310*bis* are modified as proposed in Circular C. PCT 1586, except for the following further changes as a result of the consultation. Specifically, Sections 309(c)(iv) and 310(b)(iv) are slightly further modified to provide more clarity, Section 309(b)(v) is further modified so that the notice under Rule 20.6(a) should also be transmitted in the described occasion, and Section 310*bis*(b)(v) is further modified so that the notice under Rule 20.6(a) should also be transmitted while a copy of the corrected first and last sheets of the request need not be transmitted in this occasion.

Section 310*ter* is also modified to cover the case of correct elements and parts in item (ii) following the amendments to Rule 20.7, though no modification was proposed previously.

Sections 311, 317*bis*, 410, 413, 419*bis* and 420*bis* and Annexes C, D and E are modified or added as proposed in Circular C. PCT 1586.

Section 602*bis* has been further modified to provide more clarity (in item (a)(ii)). Moreover, following the request of an International Preliminary Examining Authority (IPEA), the proposed deadline in paragraph (c) for implementing the new Rule 71.1(b) has been dropped. The International Bureau of WIPO nevertheless urges all IPEAs to implement the new Rule and this Section as soon as their technical systems are ready for making the transmittal.

Modifications of certain Forms annexed to the Administrative Instructions

Form PCT/RO/101 (Request) is modified as proposed in Circular C. PCT 1586, with a slight wording change being further made in the Notes (page 3).

Form PCT/RO/107 is further modified (in item 5 of the Annex) for the consistency with Rule 20.6(a)(iv).

Forms PCT/RO/114, PCT/RO/118, PCT/RO/126, PCT/IB/310 and PCT/IPEA/415 are modified, and new Forms PCT/RO/129, PCT/ISA/208 and PCT/IB/324 are created as proposed in Circular C. PCT 1586.

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Offices which use languages other than English, French and Spanish are requested to prepare the Forms needed by them in such other languages, with due regard to the provisions of Section 102 of the Administrative Instructions. The International Bureau of WIPO encourages Offices to make such translations available to the International Bureau of WIPO so that they can be accessed by all Offices from the WIPO website.

Modifications of certain paragraphs of the RO Guidelines

Paragraphs 30, 30D, 45A, 47, 116, Chapter VIII (concerning paragraphs 194A, 196 to 198, 200, 200A, 203A, 203B, 204 to 206 and 208) and 325 are modified as proposed in Circular C. PCT 1586.

Paragraphs 30A, 195 and 199 have been slightly further modified to provide more clarity.

Paragraphs 30B and 30C have been further modified to make it clear that, for the purpose of excusing delays in meeting time limits under Rule 82*quater*.2, it would be for the receiving Office concerned to decide if it would require a request from the applicant indicating that the time limit was not met due to the unavailability of electronic means of communication at the Office.

Modifications of certain paragraphs of the ISPE Guidelines

Paragraphs 2.12, 3.25 to 3.28, 15.11B, 15.11C, 17.13, 17.16A, 17.16B, 18.07, 22.27, 22.52A, 22.58A and 22.58B are modified as proposed in Circular C. PCT 1586.

Paragraphs 6.01, 15.11, 19.50 and 22.52B have been slightly further modified to provide more clarity.

Chapter 10 is modified as proposed in Circular C. PCT 1573, with some additional changes following the discussions in the PCT MIA Quality Subgroup mentioned above and further changes of editorial nature in paragraph 10.20.

Paragraph 15.11A has been further modified (last sentence deleted) so as to allow the International Searching Authority concerned to set out its own policy in this regard.

Following the request of an International Searching Authority (ISA), a new paragraph 15.11D is added to clarify that, in the case where the additional fees under Rule 40*bis*.1 have been timely paid, the ISA may nevertheless decide to also complete its work on the international application initially transmitted to it.

Paragraphs 22.52C and 22.52D have been further modified to make it clear that, for the purpose of excusing delays in meeting time limits under Rule 82*quater*.2, it would be for the International Authorities concerned to decide if it would require a request from the applicant indicating that the time limit was not met due to the unavailability of electronic means of communication at the Authority.

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Availability of the modified Administrative Instructions, Forms, RO Guidelines and ISPE Guidelines

The modified Administrative Instructions and RO Guidelines promulgated by the present Circular are available on the WIPO website at: www.wipo.int/pct/en/texts/ and at: www.wipo.int/pct/en/texts/gdlines.html, respectively, and the consolidated versions of the Administrative Instructions and the RO Guidelines (*as in force from July 1, 2020*) will be available later on after the completion of the consultations on fee-related issues via Circular C.PCT 1596.

The modified Forms are available from the WIPO website under “Forms in force from July 1, 2020” at: www.wipo.int/pct/en/forms/.

The consolidated version of the ISPE Guidelines as modified (*as in force from July 1, 2020*) is available on the WIPO website at: www.wipo.int/pct/en/texts/gdlines.html.

Offices which need marked-up copies and/or electronic files of the Administrative Instructions, Forms, the RO Guidelines or the ISPE Guidelines should contact the PCT Legal and User Relations Division at: pct.legal@wipo.int.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Sandage', with a long horizontal flourish extending to the right.

John Sandage
Deputy Director General