

Interpretative statement and Recommended Patent Cooperation Treaty (PCT) Practice  
Changes in light of the COVID-19 Pandemic

*International Bureau of the World Intellectual Property Organization (WIPO)*

- 1) In the view of the International Bureau of WIPO, PCT Rule 82*quater*.1 of the Regulations under the Patent Cooperation Treaty (PCT) applies in the current circumstance of global COVID-19 disruption, and the International Bureau of WIPO urges all PCT Offices and Authorities to likewise adopt this interpretation.
- 2) The Rule provides for excuse of delay in meeting PCT time limits (which may relate to the submission of documents and/or the payment of fees), due to reasons of *force majeure* (“war, revolution, civil disorder, strike, natural calamity... or other like reason”). The position of the International Bureau of WIPO is that the current global pandemic should be considered to be a “natural calamity .... or other like reason”.<sup>1</sup>
- 3) The International Bureau of WIPO, including in its role as receiving Office, will treat favorably any PCT Rule 82*quater* request made citing COVID-19 related issues and not require evidence to be provided that the virus affected the locality in which the interested party resides. The International Bureau of WIPO urges PCT Offices and Authorities to do likewise.
- 4) One acknowledged limitation of PCT Rule 82*quater*.1 is that it would not be an effective remedy in a situation in which an international application had lost its legal effect as a result of having been declared considered withdrawn (see PCT Article 14(3)(a)), for example, for having failed to pay the appropriate fees within the prescribed time limit.<sup>2 3</sup> As a result, the receiving Office of the International Bureau of WIPO has decided to delay the issuance of any such notifications (Form PCT/RO/117) until May 31, 2020, and the International Bureau of WIPO urges all PCT receiving Offices to adopt the same practice.
- 5) Furthermore, the International Bureau of WIPO recommends that:
  - (a) for at least one further month (potentially to be further extended), such notifications should only be issued in relation to deadlines which have expired over two months previously; and
  - (b) receiving Offices waive the charging of late payment fees under PCT Rule 16*bis*.2.

[Signed by Francis Gurry  
Director General]  
April 9, 2020

---

<sup>1</sup> To benefit from this Rule, the applicant would normally be required to present evidence to the relevant Office not later than six months after the expiration of the applicable time limit, in addition to having taken the relevant action as soon as reasonably possible. It would be up to the relevant Office to decide if the failure to meet the time limit is excused according to the Rule.

<sup>2</sup> Reinstatement of PCT applications which have lost their legal effect during the international phase is not provided for in the PCT legal framework.

<sup>3</sup> For applicants paying a filing or search fee in an equivalent amount, the appropriate fee is the equivalent amount published in the *PCT Newsletter* effective on the date of the original filing of the application.