



C.PCT 880

-21.1

November 6, 2002

Madam,
Sir,

This circular is addressed to your Office in its capacity as receiving Office and/or International Searching Authority under the Patent Cooperation Treaty (PCT) for the purpose of consultation under Rule 89.2(b). This Circular concerns new Rule 12.4 in the Regulations Under the PCT, as adopted by the PCT Assembly at its thirty-first (18th extraordinary) session held from
./ September 23 to October 1, 2002. The text of the Rule is set out in Annex I to this Circular. Another circular will deal with amended Rule 12.1.

It is recalled that new Rule 12.4, which will enter into force on January 1, 2003, deals with matters relating to the language(s) of translation of the international applications for the purposes of international publication. It is also recalled that the Assembly decided that the new Rule would apply to *any international application whose international filing date is on or after January 1, 2003*.

As a result of the adoption of new Rule 12.4, a number of modifications are now proposed to the Administrative Instructions under the PCT and to certain forms relating to receiving Offices, International Searching Authorities and the International Bureau (these forms are set out, respectively, in Part I, Part II and Part III of Annex A to the PCT Administrative Instructions).

PCT Administrative Instructions

The proposed modified text of Sections 102, 103, 104, 305*bis*, 308, 311,
./ 332, 506 and Annex D of the Administrative Instructions is set out in Annex II to this Circular. Added and deleted text is indicated, respectively, by underlining and striking through. The proposed modifications are also identified by vertical lines in the margins of the Sections concerned.

/...

Forms relating to receiving Offices, International Searching Authorities and the International Bureau

The following forms are proposed to be modified: PCT/RO/106 (cover sheet only), 117 and 118, PCT/ISA/219 and PCT/IB/313 (cover sheet only). Also, a new Form PCT/RO/157 is proposed. Forms PCT/ISA/207, 208 and 222 are proposed to be deleted.

./ The text of the draft modified and new forms is set out in Annex III to this Circular. The proposed modifications of the forms are identified by vertical lines in the margins of the sheets concerned.

Comments on the proposed modifications to the Administrative Instructions and forms

Noting that the modified Administrative Instructions and forms should be promulgated with effect from the date of entry into force of new Rule 12.4, that is, with effect from January 1, 2003, you are invited to provide comments, if any, to the International Bureau by December 2, 2002, preferably by fax to (+41-22) 910 00 30.

Notification by receiving Offices of language(s) accepted for the translation of international applications into a language of publication

Under proposed new paragraph (d) of Section 332, each receiving Office must notify the International Bureau of the language or languages which the Office is prepared to accept under Rule 12.4(a) for the translation of international applications into a language of publication. Therefore, concerned Offices are kindly asked to submit the requested notification to the International Bureau, at the latest by December 2, 2002, preferably by fax to (+41-22) 910 00 30, so that a corresponding notice can be published in the *PCT Gazette* before January 1, 2003, or as soon as possible thereafter.

Yours sincerely,



Francis Gurry
Assistant Director General

Enclosures: Annex I—Text of new Rule 12.4
Annex II—Proposed modifications of the Administrative Instructions under the PCT
Annex III—Draft modified and new forms

TEXT OF RULE 12.4
(as in force from January 1, 2003)

12.4 *Translation for the Purposes of International Publication*

(a) Where the language in which the international application is filed is not a language of publication and no translation is required under Rule 12.3(a), the applicant shall, within 14 months from the priority date, furnish to the receiving Office a translation of the international application into any language of publication which the receiving Office accepts for the purposes of this paragraph.

(b) Paragraph (a) shall not apply to the request nor to any sequence listing part of the description.

(c) Where the applicant has not, within the time limit referred to in paragraph (a), furnished a translation required under that paragraph, the receiving Office shall invite the applicant to furnish the required translation, and to pay, where applicable, the late furnishing fee required under paragraph (e), within 16 months from the priority date. Any translation received by the receiving Office before that Office sends the invitation under the previous sentence shall be considered to have been received before the expiration of the time limit under paragraph (a).

(d) Where the applicant has not, within the time limit under paragraph (c), furnished the required translation and paid any required late furnishing fee, the international application shall be considered withdrawn and the receiving Office shall so declare. Any translation and any payment received by the receiving Office before that Office makes the declaration under the previous sentence and before the expiration of 17 months from the priority date shall be considered to have been received before the expiration of that time limit.

(e) The furnishing of a translation after the expiration of the time limit under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a late furnishing fee equal to 50% of the basic fee referred to in item 1(a) of the Schedule of Fees.

[Annex II follows]

PROPOSED MODIFICATIONS TO
THE ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

Section 102
Use of the Forms

(a) Subject to paragraphs (b) to (i) and Sections 103 and 114, the International Authorities shall use, or require the use of, the mandatory Forms specified below:

(i) [No change]

(ii) Forms for use by the receiving Offices:

PCT/RO/103	PCT/RO/111	PCT/RO/123	PCT/RO/150
PCT/RO/104	PCT/RO/112	PCT/RO/126	PCT/RO/151
PCT/RO/105	PCT/RO/113	PCT/RO/133	PCT/RO/152
PCT/RO/106	PCT/RO/115	PCT/RO/136	PCT/RO/153
PCT/RO/107	PCT/RO/116	PCT/RO/139	PCT/RO/154
PCT/RO/109	PCT/RO/117	PCT/RO/143	PCT/RO/155
PCT/RO/110	PCT/RO/118	PCT/RO/147	PCT/RO/156
			PCT/RO/157

(iii) to (v) [No change]

(b) to (i) [No change]

Section 103
Languages of the Forms Used by International Authorities

(a) The language of the Forms used by any receiving Office shall be the same as the language in which the international application is filed, provided that:

(i) where the international application is to be published in the language of a translation required under Rule 12.3(a) [or 12.4\(a\)](#), the receiving Office shall use the Forms in such language;

(ii) the receiving Office may, in its communications to the applicant, use the Forms in any other language being one of its official languages.

(b) to (d) [No change]

Section 104
Language of Correspondence in Cases Not Covered by Rule 92.2

(a) The language of any letter from the applicant to the receiving Office shall be the same as the language of the international application to which such letter relates, provided that, where the international application is to be published in the language of a translation required under Rule 12.3(a) [or 12.4\(a\)](#), any letter shall be in such language. However, the receiving Office may expressly authorize the use of any other language.

(b) [No change]

Section 305bis
**Preparation, Identification and Transmittal of
the Copies of the Translation of the International Application**

(a) Where a translation of the international application is furnished under Rule 12.3, the receiving Office shall:

(i) be responsible for the prompt preparation of any additional copies required where the translation is furnished in less than the number of copies required for the purposes of this ~~Section~~ [paragraph](#), and shall have the right to fix a fee for performing that task and to collect such fee from the applicant;

(ii) to (iv) [No change]

(b) [No change]

(c) Where a translation of the international application is furnished under Rule 12.4, the receiving Office shall:

(i) be responsible for the prompt preparation of any additional copies required where the translation is furnished in less than the number of copies required for the purposes of this paragraph, and shall have the right to fix a fee for performing that task and to collect such fee from the applicant;

(ii) mark the words “RECORD COPY – TRANSLATION (RULE 12.4)” in the upper left-hand corner of the first page of the original copy of the translation and transmit that copy to the International Bureau; and

(iii) mark the words “HOME COPY – TRANSLATION (RULE 12.4)” in the same space on the other such copy of the translation, and keep that copy in its files.

Section 308

Marking of the Sheets of the International Application and of the Translation Thereof

The receiving Office shall indelibly mark the international application number referred to in Section 307 in the upper right-hand corner of each sheet of each copy of the purported international application and of any translation of the international application furnished under Rule 12.3 or 12.4.

Section 311

Renumbering in the Case of Deletion, Substitution or Addition of Sheets of the International Application and of the Translation Thereof

(a) to (c) [No change]

(d) Paragraphs (a) to (c) shall apply *mutatis mutandis* to any translation of the international application furnished under Rule 12.3 or 12.4.

Section 332

Notification of Languages Accepted by the receiving Office under Rules 12.1(a) and 12.4(a) for the Filing of International Applications

(a) Each receiving Office shall notify the International Bureau of the language or languages which, having regard to Rule 12.1(b), it is prepared to accept under Rule 12.1(a) for the filing of international applications.

(b) Each receiving Office shall notify the International Bureau of any change to the information notified under paragraphs (a) and (d). If the change means that the receiving Office is no longer prepared to accept the filing of international applications in a language that it had previously notified the International Bureau that it was prepared to accept or the receiving Office is no longer prepared to accept the translation of international applications into a language of publication that it had previously notified the International Bureau that it was prepared to accept, the effective date of such change shall be two months after the date of publication of the notification of the change in the Gazette pursuant to Section 405 or such later date as may be determined by the receiving Office.

(c) Nothing in paragraph (a), ~~or~~ (b) or (d) prevents any receiving Office from accepting, in a particular case, the filing of an international application in a language that it has not notified the International Bureau that it is prepared to accept or the translation of an international application into a language of publication that it has not notified the International Bureau that it is prepared to accept.

(d) Each receiving Office shall notify the International Bureau of the language or languages which it is prepared to accept under Rule 12.4(a) for the translation of international applications into a language of publication.

Section 506

Comments on Draft Translation of the International Application

~~— (a) Where the applicant has made comments, within the time limits fixed by the International Searching Authority, on the draft translation prepared under the responsibility of the International Searching Authority as provided in Rule 48.3(b), that Authority shall notify the applicant whether it has changed the draft translation and, if so, of the changes it has made therein.~~

~~— (b) Where the applicant submits comments on the draft translation prepared under the responsibility of the International Searching Authority after the expiration of the time limits fixed by the International Searching Authority, and that Authority changes the draft translation, it shall notify the applicant accordingly.~~

ANNEX D

INFORMATION FROM PAMPHLET FRONT PAGE TO BE INCLUDED
IN THE GAZETTE UNDER RULE 86.1(a)(i)

The following information shall be extracted from the front page of the pamphlet of each published international application and shall, in accordance with Rule 86.1(a)(i), appear in the corresponding entry of the Gazette:

1. as to the international publication:

1.1 the international publication number

1.2 the date of the international publication

1.3 an indication whether the following items were published in the pamphlet:

1.31 international search report

1.32 declaration under Article 17(2)

1.33 claims amended under Article 19(1)

1.34 statement under Article 19(1)

~~1.35 the essence of the comments by the applicant on the translation of the international application as referred to in Rule 48.3(b)~~

1.36 request for rectification under the third sentence of Rule 91.1(f)

1.37 information concerning a priority claim which was considered not to have been made, published upon request made under Rule 26bis.2(c)

1.4 and 1.5 [No change]

2. to 8 [No change]

[Annex III follows]

Annex III to Circular C.PCT 880
PATENT COOPERATION TREATY

From the RECEIVING OFFICE

PCT

INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION

(PCT Articles 3(4)(i) and 14(1) and Rule 26)

To:

Date of mailing <i>(day/month/year)</i>
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Applicant's or agent's file reference

REPLY DUE within _____ months/days from the above date of mailing

International application No.

International filing date <i>(day/month/year)</i>
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Applicant

1. The applicant is hereby **invited**, within the time limit indicated above, to correct, **in the international application as filed**, the defects specified on the attached
 - Annex A
 - Annex B1 (*text matter of the international application as filed*)
 - Annex C1 (*drawings of the international application as filed*)

2. The applicant is hereby **invited**, within the time limit indicated above, to correct, **in the translation of the international application** furnished under Rule 12.3 or 12.4, the defects specified on the attached
 - Annex A
 - Annex B2 (*text matter of the translation of the international application*)
 - Annex C2 (*drawings of the translation of the international application*)

Additional observations (if necessary):

HOW TO CORRECT THE DEFECTS?

Correction must be submitted by filing a replacement sheet embodying the correction and a letter accompanying the replacement sheet, which shall draw attention to the difference between the replaced sheet and the replacement sheet. A correction may be stated in a letter only if it is of such a nature that it can be transferred from the letter to the record copy without adversely affecting the clarity and direct reproducibility of the sheet onto which the correction is to be transferred (Rule 26.4).

ATTENTION

Failure to correct the defects will result in the international application being considered withdrawn by this receiving Office (see Rule 26.5 for further details).

A copy of this invitation and any attachments has been sent to the International Bureau
 and the International Searching Authority.

Name and mailing address of the receiving Office
Facsimile No.

Authorized officer
Telephone No.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

PCTNOTIFICATION THAT INTERNATIONAL
APPLICATION CONSIDERED
TO BE WITHDRAWN(PCT Article 14(1) or (3) and Rules 12.3(d) or 12.4(d),
29.1 or 92.4(g)(i))

To:	
Date of mailing (day/month/year)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference	
International application No.	International filing date (day/month/year)
Applicant	

The applicant is hereby notified that **the international application is declared by this receiving Office to be considered withdrawn** for the reason indicated below:

1. **Failure to correct certain defects:** An invitation (Form PCT/RO/106) to correct defects in the international application was mailed by this receiving Office on _____.

However: no corrections, in response to that invitation, have been received within the prescribed time limit.
 applicant's corrections as submitted do not properly correct the defects noted in that invitation.

2. **Failure to furnish the required translation of the international application and/or to pay the late furnishing fee:** An invitation (Form PCT/RO/150 or Form PCT/RO/157) to furnish the required translation of the international application and to pay, where applicable, the late furnishing fee was mailed by this receiving Office on _____.

However, within the time limit referred to in that invitation:

the required translation was not furnished the required late furnishing fee was not paid.

3. **Failure to pay prescribed fees:** An invitation (Form PCT/RO/133) to pay the prescribed fees was mailed by this receiving Office on _____.

However, within the time limit referred to in that invitation:

no fees have been paid.

the following fees have not been paid or the amounts paid are not sufficient to cover:

the transmittal fee

the search fee

the late payment fee

the basic fee

at least one designation fee

4. **Failure to furnish the original of the international application:** An invitation (Form PCT/RO/141) to furnish the original of the international application (transmitted earlier by facsimile machine/teleprinter/etc.) was mailed by this receiving Office on _____.

However, the original was not furnished within the time limit fixed in that invitation.

5. A copy of this notification has been sent to the International Bureau and to the International Searching Authority.

Name and mailing address of the receiving Office	Authorized officer
Facsimile No.	Telephone No.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

PCT

NOTIFICATION CONCERNING
DOCUMENTS TRANSMITTED

To:

Date of mailing
(day/month/year)

The receiving Office transmits herewith the following documents:

(number)

1. _____ record copies (Article 12(1)).
2. _____ search copies (Article 12(1)).
3. _____ translations of international applications (Rule 12.3 or 12.4)
4. _____ copies of purported international applications (Rule 20.7(iv)).
5. _____ record copies and corrections not already transmitted in respect of the international applications which have been considered withdrawn (Rule 29.1(a)(i)).
6. _____ (copies of the) letters of corrections or rectifications (Administrative Instructions, Section 325(b) and (c)).
7. _____ (copies of) replacement sheets (Administrative Instructions, Section 325(b) and (c)).
8. _____ (copies of) later submitted sheets (Administrative Instructions, Section 309(b)(iii), (c)(ii)).
9. _____ (copies of) later submitted drawings (Administrative Instructions, Section 310(c)(iii), (d)(ii)).
10. _____ other documents (*specify*):

The Annex contains a list identifying each document transmitted by the type of document it is, the corresponding international application number and, if necessary, other information.

This notification is sent to the addressee in its capacity as:

- the International Searching Authority
- the International Bureau

Name and mailing address of the receiving Office	Authorized officer
Facsimile No.	Telephone No.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

PCT

INVITATION TO FURNISH TRANSLATION OF
INTERNATIONAL APPLICATION AND TO PAY,
WHERE APPLICABLE, LATE FURNISHING FEE

(PCT Rule 12.4(c) and (e))

To:	
	Date of mailing (day/month/year)
Applicant's or agent's file reference	TIME LIMIT <p style="text-align: center;">see item 2 below</p>
International application No.	International filing date/Date of receipt (day/month/year)
Applicant	

1. The applicant is hereby notified that this receiving Office has **not yet received the required translation of the international application** into a language of publication accepted by this receiving Office that is, into the (or one of the) following language(s):

2. The applicant is hereby **invited**

to furnish the required translation within 16 months from the priority date

together with a late furnishing fee of _____ .

3. **Failure to furnish** the required translation and/or, where applicable, to pay the required late furnishing fee within the applicable time limit referred to in item 2 will result in the international application being considered withdrawn and so declared by the receiving Office. **However**, any translation and any payment received by the receiving Office before that Office makes the declaration under the previous sentence and before the expiration of 17 months from the priority date will be considered to have been received before the expiration of that time limit.

A copy of this invitation is being sent to the International Bureau

Name and mailing address of the receiving Office	Authorized officer
Facsimile No.	Telephone No.

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

NOTIFICATION CONCERNING
DOCUMENTS TRANSMITTED

To:

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

Date of mailing
(day/month/year)

The International Searching Authority transmits herewith the following documents:

(number)

1. _____ copies of international search reports (Rule 44.1).
2. _____ copies of declarations of non-establishment of international search reports (Rule 44.1).
3. _____ letters of rectifications (Administrative Instructions, Section 511(a)(v)).
4. _____ replacement sheets (Administrative Instructions, Section 511(a)(v)).
5. _____ other documents (*specify*):

The Annex contains a list identifying each document transmitted by the type of document it is, the corresponding international application number and, if necessary, other information.

Name and mailing address of the ISA/ Facsimile No.	Authorized officer Telephone No.
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PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCTNOTIFICATION OF DEFECTS IN
THE INTERNATIONAL APPLICATION

(PCT Articles 3(4)(i) and 14(1) and Rule 28.1)

To:

in its capacity as receiving Office

Date of mailing (day/month/year)	
International application No.	International filing date (day/month/year)
Applicant	

1. The International Bureau hereby calls the attention of the receiving Office to the defects **in the international application as filed**, which are specified on the attached
- Annex A
 - Annex B1 (*text matter of the international application as filed*)
 - Annex C1 (*drawings of the international application as filed*)
2. The International Bureau hereby calls the attention of the receiving Office to the defects **in the translation of the international application** furnished under Rule 12.3 or 12.4, which are specified on the attached
- Annex A
 - Annex B2 (*text matter of the translation of the international application*)
 - Annex C2 (*drawings of the translation of the international application*)

Additional observations (*if necessary*):

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer
Facsimile No. (41-22) 740.14.35	Telephone No. (41-22) 338.91.11