



C. PCT 1025
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March 24, 2005

Madam,
Sir,

In accordance with Rule 89.2(a) of the Regulations under the Patent Cooperation Treaty (PCT), modifications of the Administrative Instructions are hereby promulgated. These modifications are consequential to amendments to the Regulations under the PCT as adopted by the Assembly of the PCT Union at its thirty-third session on October 5, 2004.

This promulgation follows consultation with your Office in its capacity as receiving Office, International Searching Authority (ISA), International Preliminary Examining Authority (IPEA), designated and/or elected Office under the Patent Cooperation Treaty (PCT), or intergovernmental or non-governmental organization, by means of Circular C. PCT 1014, dated February 7, 2005.

The modifications are as proposed in Annex I to Circular C. PCT 1014. It is to be noted that in addition to the modifications referred to in Circular C. PCT 1014, the following changes have also been made to the Administrative Instructions:

– Section 513, paragraphs (d) and (e)(i), the words “in printed form” have been replaced with the words “on paper”.

– Annex C, paragraph 42, the word “readable” in line 4 has been replaced with the words “machine searchable”.

/...

The text of the modified sections and annexes of the Administrative Instructions (with effect from April 1, 2005) is set out in the enclosed document ./ PCT/AI/2 Rev.2, dated March 24, 2005.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Francis Gurry', written in a cursive style.

Francis Gurry
Deputy Director General

Enclosure: document PCT/AI/2 Rev.2

WIPO



PCT/AI/2 Rev.2

ORIGINAL: English

DATE: March 24, 2005

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY

as in force from April 1, 2005

1. This document contains the text of modifications to the Administrative Instructions under the Patent Cooperation Treaty (PCT), with effect from April 1, 2005. These modifications are consequential to amendments to the Regulations under the PCT as adopted by the Assembly of the PCT Union at its thirty-third session on October 5, 2004 (see document PCT/A/33/7). The modifications contained in this document are promulgated after consultation with the interested Offices and Authorities pursuant to Rule 89.2 of the Regulations under the PCT.
2. The present modifications will be published in *PCT Gazette* No. 13/2005 on March 31, 2005. The text of the Administrative Instructions is available on WIPO's Website at www.wipo.int/pct/en/texts/index.htm; paper copies are available from the International Bureau of WIPO upon request.

**Modifications to the
Administrative Instructions
under the Patent Cooperation Treaty**

(as in force as from April 1, 2005)

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¹ *Editor's Note:* Table of Contents added for the convenience of the reader; it is not part of the Administrative Instructions.

Section 101
Abbreviated Expressions and Interpretation

- (a) In these Administrative Instructions:
- (i) to (ix) [No change]
 - (x) “Director General” means the Director General as defined in Article 2(xx) of the Treaty;
 - (xi) “electronic” technology includes that having electrical, digital, magnetic, optical or electromagnetic capabilities.
- (b) [No change]

Section 208
Sequence Listings

Any nucleotide and/or amino acid sequence listing (“sequence listing”), whether on paper or in electronic form, filed as part of the international application, or furnished together with the international application or subsequently, shall comply with Annex C.

Section 313
Documents Filed with the International Application;
Manner of Marking the Necessary Annotations in the Check List

- (a) and (b) [No change]
- (c) Any sequence listing not forming part of the international application, whether on paper or in electronic form, that is furnished for the purposes of the international search to the receiving Office together with the international application or subsequent to the filing of the international application, shall be transmitted to the International Searching Authority together with the search copy. Where such a sequence listing is received by the receiving Office after the transmittal of the search copy, that sequence listing shall be promptly transmitted to the International Searching Authority.

Section 403
Transmittal of Protest Against Payment of Additional Fees and Decision Thereon
Where International Application Is Considered to Lack Unity of Invention

Where, under Rules 40.2(c) or 68.3(c), the International Bureau receives a request from the applicant to forward to any designated or elected Office the texts of both the protest against payment of additional fees as provided for in Articles 17(3)(a) and 34(3)(a) where the international application is considered to lack unity of invention and the decision thereon by the International Searching Authority or the International Preliminary Examining Authority, as the case may be, it shall proceed according to such request.

Section 502
Transmittal of Protest Against Payment of Additional Fees and Decision Thereon
Where International Application Is Considered to Lack Unity of Invention

The International Searching Authority shall transmit to the applicant, preferably at the latest together with the international search report, any decision which it has taken under Rule 40.2(c) on the protest of the applicant against payment of additional fees where the international application is considered to lack unity of invention. At the same time, it shall transmit to the International Bureau a copy of both the protest and the decision thereon, as

well as any request by the applicant to forward the texts of both the protest and the decision thereon to the designated Offices.

Section 513

Sequence Listings

(a) Where the International Searching Authority receives a correction of a defect under Rule 13*ter*.1(f), it shall:

(i) [No change]

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words “SUBSTITUTE SHEET (Rule 13*ter*.1(f))” or their equivalent in the language of publication of the international application;

(iii) to (v) [No change]

(b) and (c) [No change]

(d) The International Searching Authority shall indelibly mark, in the upper right-hand corner of the first sheet of any sequence listing on paper which was not contained in the international application as filed but was furnished subsequently to that Authority, the words “SUBSEQUENTLY FURNISHED SEQUENCE LISTING” or their equivalent in the language of publication of the international application.

(e) The International Searching Authority shall keep in its files:

(i) any sequence listing on paper which was not contained in the international application as filed but was furnished subsequently to that Authority; and

(ii) any sequence listing in electronic form furnished for the purposes of the international search.

Section 603

Transmittal of Protest Against Payment of Additional Fees and Decision Thereon Where International Application Is Considered to Lack Unity of Invention

The International Preliminary Examining Authority shall transmit to the applicant, preferably at the latest together with the international preliminary examination report, any decision which it has taken under Rule 68.3(c) on the protest of the applicant against payment of additional fees where the international application is considered to lack unity of invention. At the same time, it shall transmit to the International Bureau a copy of both the protest and the decision thereon, as well as any request by the applicant to forward the texts of both the protest and the decision thereon to the elected Offices.

Section 701

Abbreviated Expressions

For the purposes of this Part and Annex F, unless the contrary clearly follows from the wording, the nature of the provision or the context:

(i) [Deleted]

(ii) to (vi) [No change]

Section 702
International Applications Filed in Electronic Form

(a) and (b) [No change]

(c) This Part and Annex F do not apply to an international application containing a sequence listing part which is filed in electronic form under Section 801(a).

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 electronic form in accordance with Section 802;
or
- (ii) both on an electronic medium in electronic form and on paper in accordance with 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 electronic 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) [No change]

(d) Where the sequence listings and/or tables are filed in electronic 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 electronic 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 electronic form.

(b) Tables filed in electronic 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 electronic 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 electronic 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) Rules 13ter.1 and 2 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) [No change]

(ii) where the sequence listings and/or tables in electronic 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 electronic 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 electronic form, replacement sequence listings and/or tables in electronic 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 electronic form and on paper under Section 801(a)(ii), replacement sheets containing the correction, rectification or amendment in question shall also be submitted on paper.

Section 803

Calculation of International Filing 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 international filing fee payable in respect of that application shall include the following two components:

(i) [No change]

(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 of the Schedule of Fees, regardless of the actual length of the sequence listings and/or tables filed in electronic form and regardless of the fact that sequence listings and/or tables may have been filed both on paper and in electronic 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 electronic 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 electronic form.

(b) Where sequence listings and/or tables are filed both in electronic form and on paper 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 filed on paper.

(c) Where sequence listings and/or tables are filed in electronic 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) [No change]
- (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 electronic form contained in those copies are identical to the sequence listings and/or tables in electronic form as filed;

provided that, where those sequence listings and/or tables were also filed on paper 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 on paper.

(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 electronic 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 electronic 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 electronic 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 filed on paper 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 electronic 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 electronic 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 electronic form and keep that part of the home copy in its files together with the paper part of the home copy.

(f) [No change]

Section 806

Sequence Listings and/or Tables for Designated Office

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

(b) Rule 13~~ter~~.3 shall apply *mutatis mutandis* to any tables filed under Section 801(a).

(c) [No change]

ANNEX C
STANDARD FOR THE PRESENTATION
OF NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS
IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT

1 to 38. [No change]

Electronic Form of the Sequence Listing

39. A copy of the sequence listing shall also be submitted in electronic form, in addition to the sequence listing as contained in the application, whenever this is required by the competent Authority.

40. Any sequence listing in electronic form submitted in addition to the sequence listing as contained in the application shall be identical to the sequence listing as contained in the application and shall be accompanied by a statement that “the information recorded in electronic form is identical to the sequence listing as contained in the application.”

41. [No change]

42. The electronic form shall preferably be created by dedicated software such as PatentIn or other custom computer programs; it may be created by any means, as long as the sequence listing on a submitted diskette or any other electronic medium that is acceptable to the competent Authority is machine searchable under a Personal Computer Operating system that is acceptable to the competent Authority.

43 to 45. [No change]

46. Any correction of the sequence listing as contained in the application which is submitted under PCT Rules 13^{ter}.1(b) or 26.3, any rectification of an obvious error in the sequence listing as contained in the application which is submitted under PCT Rule 91, or any amendment which includes a sequence listing as contained in the application and which is submitted under PCT Article 34, shall be accompanied by a copy in electronic form of the sequence listing including any such correction, rectification or amendment.

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

1 and 2. [No change]

Tables related to sequence listings

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

(i) and (ii) [No change]

at the option of the competent Authority.

4 to 6. [No change]

7. Tables filed in electronic 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. [No change]

[End of document]