

maintenance fee will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed.

[78 FR 62407, Oct. 21, 2013]

Subpart C—International Processing Provisions

AUTHORITY: Secs. 1.401 to 1.499 also issued under 35 U.S.C. 41 and 351 through 376.

SOURCE: 43 FR 20466, May 11, 1978, unless otherwise noted.

GENERAL INFORMATION

§ 1.401 Definitions of terms under the Patent Cooperation Treaty.

(a) The abbreviation *PCT* and the term *Treaty* mean the Patent Cooperation Treaty.

(b) *International Bureau* means the World Intellectual Property Organization located in Geneva, Switzerland.

(c) *Administrative Instructions* means that body of instructions for operating under the Patent Cooperation Treaty referred to in PCT Rule 89.

(d) *Request*, when capitalized, means that element of the international application described in PCT Rules 3 and 4.

(e) *International application*, as used in this subchapter is defined in § 1.9(b).

(f) *Priority date* for the purpose of computing time limits under the Patent Cooperation Treaty is defined in PCT Art. 2 (xi). Note also § 1.465.

(g) *Demand*, when capitalized, means that document filed with the International Preliminary Examining Authority which requests an international preliminary examination.

(h) *Annexes* means amendments made to the claims, description or the drawings before the International Preliminary Examining Authority.

(i) Other terms and expressions in this subpart C not defined in this section are to be taken in the sense indicated in PCT Art. 2 and 35 U.S.C. 351.

[43 FR 20466, May 11, 1978, as amended at 52 FR 20047, May 28, 1987]

§ 1.412 The United States Receiving Office.

(a) The United States Patent and Trademark Office is a Receiving Office only for applicants who are residents or nationals of the United States of America.

(b) The Patent and Trademark Office, when acting as a Receiving Office, will be identified by the full title “United States Receiving Office” or by the abbreviation “RO/US.”

(c) The major functions of the Receiving Office include:

(1) According of international filing dates to international applications meeting the requirements of PCT Art. 11(1), and PCT Rule 20;

(2) Assuring that international applications meet the standards for format and content of PCT Art. 14(1), PCT Rule 9, 26, 29.1, 37, 38, 91, and portions of PCT Rules 3 through 11;

(3) Collecting and, when required, transmitting fees due for processing international applications (PCT Rule 14, 15, 16);

(4) Transmitting the record and search copies to the International Bureau and International Searching Authority, respectively (PCT Rules 22 and 23); and

(5) Determining compliance with applicable requirements of part 5 of this chapter.

(6) Reviewing and, unless prescriptions concerning national security prevent the application from being so transmitted (PCT Rule 19.4), transmitting the international application to the International Bureau for processing in its capacity as a Receiving Office:

(i) Where the United States Receiving Office is not the competent Receiving Office under PCT Rule 19.1 or 19.2 and § 1.421(a); or

(ii) Where the international application is not in English but is in a language accepted under PCT Rule 12.1(a) by the International Bureau as a Receiving Office; or

(iii) Where there is agreement and authorization in accordance with PCT Rule 19.4(a)(iii).

[43 FR 20466, May 11, 1978, as amended at 60 FR 21439, May 2, 1995; 63 FR 29617, June 1, 1998]

§ 1.413 The United States International Searching Authority.

(a) Pursuant to appointment by the Assembly, the United States Patent and Trademark Office will act as an International Searching Authority for international applications filed in the United States Receiving Office and in other Receiving Offices as may be agreed upon by the Director, in accordance with the agreement between the Patent and Trademark Office and the International Bureau (PCT Art. 16(3)(b)).

(b) The Patent and Trademark Office, when acting as an International Searching Authority, will be identified by the full title “United States International Searching Authority” or by the abbreviation “ISA/US.”

(c) The major functions of the International Searching Authority include:

- (1) Approving or establishing the title and abstract;
- (2) Considering the matter of unity of invention;
- (3) Conducting international and international-type searches and preparing international and international-type search reports (PCT Art. 15, 17 and 18, and PCT Rules 25, 33 to 45 and 47), and issuing declarations that no international search report will be established (PCT Article 17(2)(a));
- (4) Preparing written opinions of the International Searching Authority in accordance with PCT Rule 43*bis* (when necessary); and
- (5) Transmitting the international search report and the written opinion of the International Searching Authority to the applicant and the International Bureau.

[43 FR 20466, May 11, 1978, as amended at 68 FR 59886, Oct. 20, 2003]

§ 1.414 The United States Patent and Trademark Office as a Designated Office or Elected Office.

(a) The United States Patent and Trademark Office will act as a Designated Office or Elected Office for international applications in which the United States of America has been designated or elected as a State in which patent protection is desired.

(b) The United States Patent and Trademark Office, when acting as a Designated Office or Elected Office dur-

ing international processing will be identified by the full title “United States Designated Office” or by the abbreviation “DO/US” or by the full title “United States Elected Office” or by the abbreviation “EO/US”.

(c) The major functions of the United States Designated Office or Elected Office in respect to international applications in which the United States of America has been designated or elected, include:

- (1) Receiving various notifications throughout the international stage and
- (2) National stage processing for international applications entering the national stage under 35 U.S.C. 371.

[52 FR 20047, May 28, 1987, as amended at 77 FR 48823, Aug. 14, 2012]

§ 1.415 The International Bureau.

(a) The International Bureau is the World Intellectual Property Organization located at Geneva, Switzerland. It is the international intergovernmental organization which acts as the coordinating body under the Treaty and the Regulations (PCT Art. 2 (xix) and 35 U.S.C. 351 (h)).

(b) The major functions of the International Bureau include:

- (1) Publishing of international applications and the International Gazette;
- (2) Transmitting copies of international applications to Designated Offices;
- (3) Storing and maintaining record copies; and
- (4) Transmitting information to authorities pertinent to the processing of specific international applications.

§ 1.416 The United States International Preliminary Examining Authority.

(a) Pursuant to appointment by the Assembly, the United States Patent and Trademark Office will act as an International Preliminary Examining Authority for international applications filed in the United States Receiving Office and in other Receiving Offices as may be agreed upon by the Director, in accordance with agreement between the Patent and Trademark Office and the International Bureau.

(b) The United States Patent and Trademark Office, when acting as an International Preliminary Examining Authority, will be identified by the full

title “United States International Preliminary Examining Authority” or by the abbreviation “IPEA/US.”

(c) The major functions of the International Preliminary Examining Authority include:

- (1) Receiving and checking for defects in the Demand;
- (2) Forwarding Demands in accordance with PCT Rule 59.3;
- (3) Collecting the handling fee for the International Bureau and the preliminary examination fee for the United States International Preliminary Examining Authority;
- (4) Informing applicant of receipt of the Demand;
- (5) Considering the matter of unity of invention;
- (6) Providing an international preliminary examination report which is a non-binding opinion on the questions of whether the claimed invention appears: to be novel, to involve an inventive step (to be nonobvious), and to be industrially applicable; and
- (7) Transmitting the international preliminary examination report to applicant and the International Bureau.

[52 FR 20047, May 28, 1987, as amended at 63 FR 29617, June 1, 1998]

§ 1.417 Submission of translation of international publication.

The submission of an English language translation of the publication of an international application pursuant to 35 U.S.C. 154(d)(4) must clearly identify the international application to which it pertains (§ 1.5(a)) and be clearly identified as a submission pursuant to 35 U.S.C. 154(d)(4). Otherwise, the submission will be treated as a filing under 35 U.S.C. 111(a). Such submissions should be marked “Mail Stop PCT.”

[68 FR 71007, Dec. 22, 2003]

§ 1.419 Display of currently valid control number under the Paperwork Reduction Act.

(a) Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the collection of information in this subpart has been reviewed and approved by the Office of Management and Budget under control number 0651-0021.

(b) Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget control number. This section constitutes the display required by 44 U.S.C. 3512(a) and 5 CFR 1320.5(b)(2)(i) for the collection of information under Office of Management and Budget control number 0651-0021 (see 5 CFR 1320.5(b)(2)(ii)(D)).

[63 FR 29617, June 1, 1998]

WHO MAY FILE AN INTERNATIONAL APPLICATION

§ 1.421 Applicant for international application.

(a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office. If an international application does not include an applicant who is indicated as being a resident or national of the United States of America, and at least one applicant:

- (1) Has indicated a residence or nationality in a PCT Contracting State, or
- (2) Has no residence or nationality indicated, applicant will be so notified and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(4), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office (*see also* § 1.412(c)(6)).

(b) Although the United States Receiving Office will accept international applications filed by any applicant who is a resident or national of the United States of America for international processing, for the purposes of the designation of the United States, an international application will be accepted by the Patent and Trademark Office for the national stage only if the applicant is the inventor or other person as provided in § 1.422 or § 1.424. Joint inventors must jointly apply for an international application.