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PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS UNDER THE PATENT COOPERATION TREATY: MODIFICATIONS

with effect from January 11, 2001

1. This document contains the text of modifications, with effect from January 11, 2001, of the Administrative Instructions Under the Patent Cooperation Treaty (PCT) as in force from January 1, 1999 (see documents PCT/AI/1, dated June 17, 1998, and PCT/AI/1 Add.1, dated December 22, 1998), promulgated after consultation with the interested Offices and Authorities pursuant to Rule 89.2(a) of the Regulations under the PCT. The present modifications involve the inclusion of a new Part 8, consisting of new Sections 801 to 806, pursuant to Rule 89bis (Filing, Processing and Transmission of International Applications and Other Documents in Electronic Form or by Electronic Means) and Rule 89ter (Copies in Electronic Form of Documents Filed on Paper). As a matter of clarification, "Part 7," which has been reserved for those Administrative Instructions which will relate to electronic filing of international applications, is under consultation and will not be promulgated before the date of entry into force of the present modifications.
2. The text of the present modifications will be published in *PCT Gazette* No. 02/2001 on January 11, 2001.
3. Noting that the present modifications will enter into force on January 11, 2001, it follows that Rule 89bis will also enter into force on that date to the extent that the operation of that Rule is given effect in the modifications.

MODIFICATIONS OF THE ADMINISTRATIVE INSTRUCTIONS

PART 8 [NEW]
INSTRUCTIONS RELATING TO
INTERNATIONAL APPLICATIONS CONTAINING
LARGE NUCLEOTIDE AND/OR AMINO ACID SEQUENCE LISTINGS

Section 801 [New]
**Filing of International Applications Containing
Sequence Listings**

(a) Pursuant to Rules 89bis and 89ter, 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), be filed, at the option of the applicant:

- (i) only on an electronic medium in the computer readable form referred to in Annex C; or
- (ii) both on an electronic medium in that computer readable form and on paper in the written form referred to in Annex C;

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 computer readable form of the sequence listing part of international applications 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) A receiving Office which has not made a notification under paragraph (b) may nevertheless decide in a particular case to accept an international application the sequence listing part of which is filed with it under paragraph (a).

(d) Where the sequence listing part is filed in computer readable 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 a replacement sequence listing part on an electronic medium specified under paragraph (b).

(e) Where an international application containing a sequence listing part in computer readable 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 [New]
**Format and Identification Requirements Relating to International Applications
Containing Sequence Listings**

(a) Paragraphs 40 to 45 of Annex C shall apply *mutatis mutandis* to the sequence listing part of an international application filed in computer readable form. In addition, the label provided for in paragraph 44 of Annex C shall also include, as the case may be, the following indications:

- (i) that the sequence listing part is filed under Section 801(a);
- (ii) where the sequence listing part in computer readable form is 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 listing part in computer readable form has been filed, the numbering of each copy (for example, "COPY 1," "COPY 2," "COPY 3").

(b) 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 listing part of an international application filed, under Section 801(a)(i) or (ii), in computer readable form, a replacement sequence listing part in computer readable form containing the entire sequence listing part with the relevant correction, rectification or amendment shall be furnished and the label referred to in paragraph (a) shall be marked accordingly (for example, "SUBMITTED FOR CORRECTION," "SUBMITTED FOR RECTIFICATION," "SUBMITTED FOR AMENDMENT"). Where the sequence listing part was filed both in computer readable form and in written form under Section 801(a)(ii), replacement sheets containing the correction, rectification or amendment in question shall also be submitted in written form.

Section 803 [New]
Calculation of Basic Fee for International Applications
Containing Sequence Listings

Where the sequence listing part of an international application is filed in electronic form under Section 801(a), the basic fee payable in respect of that application shall comprise the following two components:

(i) a basic component calculated as provided in the Schedule of Fees in respect of all pages filed on paper (that is, all pages of the request, description (excluding the sequence listing part if also filed on paper), claims, abstract and drawings), and

(ii) an additional component, in respect of the sequence listing part, equal to 400 times the fee per sheet as referred to in item 1(b) of the Schedule of Fees, regardless of the actual length of the sequence listing part filed in computer readable form and regardless of the fact that the sequence listing part may have been filed both in written form and in computer readable form.

Section 804 [New]
Preparation, Identification and Transmittal of Copies of
International Applications Containing Sequence Listings

(a) Where the sequence listing part of an international application is filed only in computer readable 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 listing part filed in computer readable form.

(b) Where the sequence listing part of an international application is filed both in computer readable form and in written form 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 listing part in written form.

(c) Where the sequence listing part of an international application is filed in computer readable 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) promptly prepare any additional copies required, in which case it shall have the right to fix a fee for performing that task and to collect such fee from the applicant; or
- (ii) invite the applicant to promptly furnish the additional number of copies required, accompanied by a statement that the sequence listing part in computer readable form contained in those copies is identical to the sequence listing part in computer readable form as filed;

provided that, where that sequence listing part was also filed in written form 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 listing part in written form.

(d) Where the sequence listing part of an international application is 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 LISTING PART” on the original electronic medium containing the sequence listing part in computer readable 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 LISTING PART” on one additional copy of the electronic medium containing the sequence listing part in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13ter.1, together with the paper part of the search copy;

(iii) mark the words “HOME COPY—SEQUENCE LISTING PART” on the other such copy of the electronic medium containing the sequence listing part in computer readable 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 listing part of an international application is 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 LISTING PART” in the upper left-hand corner of the first page of the sequence listing part in written form 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 LISTING PART” on one copy of the electronic medium containing the sequence listing part in computer readable form and transmit that copy with the record copy;

(ii) mark the words “SEARCH COPY—SEQUENCE LISTING PART” on one additional copy of the electronic medium containing the sequence listing part in computer readable form and transmit that part of the search copy to the International Searching Authority, for the purposes of Rule 13ter.1, together with the paper part of the search copy;

(iii) mark the words “HOME COPY—SEQUENCE LISTING PART” on the other such copy of the electronic medium containing the sequence listing part in computer readable form and keep that part of the home copy in its files together with the paper part of the home copy.

(f) The receiving Office may, when marking the copies referred to in paragraphs (d) and (e), use, instead of the words referred to in those paragraphs, the equivalent of those words in the language of publication of the international application.

Section 805 [New]

Publication and Communication of International Applications Containing Sequence Listings; Copies; Priority Documents

(a) Notwithstanding Section 406, an international application containing a sequence listing part may be published under Article 21, in whole or in part, in electronic form as determined by the Director General.

(b) Paragraph (a) shall apply *mutatis mutandis* in relation to:

(i) the communication of an international application under Article 20;

(ii) the furnishing of copies of an international application under Rules 87 and 94.1;

(iii) the furnishing under Rule 17.1, as a priority document, of a copy of an international application containing a sequence listing part filed under Section 801(a);

(iv) the furnishing under Rules 17.2 and 66.7 of copies of a priority document.

Section 806 [New]
Sequence Listings for Designated Office

Where the sequence listing part of an international application was filed only in computer readable form under Section 801(a)(i), any designated Office which does not accept the filing of sequence listings in computer readable form may require that the applicant furnish to it, for the purposes of the national phase, a copy of such sequence listing part on paper in written form complying with Annex C and accompanied by a statement that the sequence listing part in written form is identical to the sequence listing part in computer readable form.

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