

# World Intellectual Property Organization

## BASIC FACTS about the PATENT COOPERATION TREATY (PCT)

The worldwide system for simplified  
multiple filing of patent applications

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### **Do you want to protect your invention in several countries?**

If so, you should consider the advantages that are offered by filing an “international” patent application under the Patent Cooperation Treaty (the “PCT”). By filing one international patent application, you can simultaneously seek protection for an invention in each of a large number of countries.

### **Do you want to evaluate your chances of protecting your invention before major costs in foreign countries are incurred?**

If your answer is yes, you should consider that the “international search report” contains a list of documents relevant as to prior art, which you can evaluate and which is sent to all of the countries in which your international patent application has effect. You also have the option of obtaining an international preliminary examination report, which gives you even more information about the patentability of your invention before you incur the high costs of the patent granting procedure in each of those countries.

### **Do you want to keep open your options to protect your invention while investigating its commercial possibilities abroad?**

If you do, you should consider the extra time you gain when you file an international patent application.

### **Do you want to have more reliable patents abroad?**

If so, you should take into account the benefits of international standards which are applied by the “International Searching Authorities” and the “International Preliminary Examining Authorities” when carrying out the international search and the international preliminary examination of your application. Any patents subsequently granted on the international application by the national or regional Offices can be relied on by the applicant to a greater extent than would have been the case without the benefit of the international search report and the international preliminary examination report.

## **What are the basic facts about the PCT?**

Set out below are the basic facts which you should know about the PCT. For further information and contact points, refer to the end of this brochure.

### **(1) Your right to file an international patent application**

You are entitled to file an international patent application if you are a national or resident of one of the PCT Contracting States which are listed at the end of this brochure.

### **(2) Where to file your international patent application**

You can file your international patent application with your national Patent Office which will act as a PCT “receiving” Office or, unless not permitted by national security provisions in your national law, with the International Bureau of WIPO, at the address indicated on the last page of this brochure. If you are a national or resident of a country which is party to one of certain regional patent treaties (the ARIPO Harare Protocol, the Eurasian Patent Convention and the European Patent Convention), you may alternatively file your international patent application with the regional Patent Office concerned, if permitted by your national law.

### **(3) The effect of your international patent application**

Your international patent application has the effect of a national patent application in those PCT Contracting States which you “designate” in your application. It has the effect of a regional patent application in those PCT Contracting States which are also party to a regional patent treaty (the ARIPO Harare Protocol, the Eurasian Patent Convention, the European Patent Convention and the OAPI Agreement), provided they are designated for a regional patent. (It should be noted that, for some of these States, only a regional patent can be obtained via the PCT.) Because your international patent application must be prepared in accordance with international standards effective in all of the PCT Contracting States, subsequent adaptation to varying national (or regional) formal requirements (and the cost associated therewith) will not be necessary. The granting of a patent remains the responsibility of the national or regional Offices but the start of the processing of your application before those Offices (the “national phase” or “regional phase”), including examination as to substance, is delayed until

after the end of the 20th or 30th month from the priority date (see (12), below).

#### **(4) The cost of filing your international patent application**

Because your international patent application is effective in all designated PCT Contracting States, you do not have to incur the costs that would arise if you prepared and filed separate applications for all of those States, and you have to pay only a single set of fees for filing your international patent application with the PCT receiving Office. Information about these fees can be obtained from the receiving Offices (see (2), above). They cover the filing, searching and publication of your international patent application, and are payable in the currency, or one of the currencies accepted by your Office (the receiving Office). National fees in the designated States become payable much later because national processing is delayed if you use the PCT (see (12), below). In several Offices, including the European Patent Office, national fees are also lower for international patent applications than they would be if you filed separate national applications.

An applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below 3,000 US dollars (according to the average per capita national income figures used by the United Nations for the years 1995, 1996 and 1997) is entitled to a reduction of 75% of certain fees, including the international fee (basic fee and designation fees). If there are several applicants, each must satisfy those criteria. For more details, including the list of the PCT Contracting States the nationals and residents of which are eligible for such fee reductions, please refer to the *PCT Applicant's Guide* or contact the PCT Information Line (see back page).

#### **(5) The language of your international patent application**

In general, your international patent application can be filed in any language which your receiving Office is prepared to accept. Receiving Offices are, however, obliged to accept filings in at least one language which is both a language accepted by the competent International Searching Authority that is to carry out the international search (see below) and a “publication language,” that

is, one of the languages in which international patent applications are published (Chinese, English, French, German, Japanese, Russian, Spanish). You therefore always have the option of filing your international patent application in a language from which no translation is required for either search or publication purposes. If you file your application in a language which is not accepted by the International Searching Authority that is to carry out the international search, you will be required to furnish a translation of the application for the purposes of international search.

## **(6) Claiming the priority of an earlier application**

In your international patent application, you may claim the priority, under the Paris Convention, of your earlier patent application for the same invention, whether it was a national, a regional (for example, European) or an international (PCT) application, for up to 12 months after the filing of that earlier application. If you do not claim priority from an earlier application, the priority date will be the international filing date of your international application.

## **(7) The quality of the international search**

Every international patent application is subjected to an “international search” by an International Searching Authority. International search is a high-quality search of the patent documents and other technical literature in those languages in which most patent applications are filed (English, French and German, and in certain cases, Chinese, Japanese, Russian and Spanish). The high quality of the search is assured by the international standards prescribed in the PCT for the documentation to be consulted, and by the qualified staff and effective search methods of the International Searching Authorities, which are experienced Patent Offices that have been specially appointed to carry out international searches. The following are the International Searching Authorities: the national Offices of Australia, Austria, China, Japan, the Russian Federation, Spain, Sweden and the United States of America, and the European Patent Office. For a given international patent application, there will be one or more competent International Searching Authorities (your PCT receiving Office can supply details or you may consult the *PCT Applicant’s Guide*).

## **(8) The value of the international search report**

The results of the international search are set out in an “international search report” which is made available to you by the fourth or fifth month (or tenth month, if no priority is claimed) after the international patent application is filed. The international search report contains no comments on the value of your invention but lists citations of prior art relevant to the claims of your international patent application and gives an indication of the possible relevance of the citations to the questions of novelty and inventive step (non-obviousness). This enables you to evaluate your chances of obtaining patents in the countries you have designated. A search report which is favorable, that is, in which the citations of prior art would appear not to prevent the grant of a patent, assists you in the later prosecution of your application in those countries in which you wish to have protection. If a search report is unfavorable, you have the opportunity to amend the claims in your international patent application or to withdraw the application before it is published. The high quality of the international search assures you that any patent granted is less likely to be successfully challenged, and thus provides valuable input to investment decisions.

## **(9) The option of international preliminary examination**

Under the PCT system, you have the option, as applicant, to have an international preliminary examination of your application carried out, on payment of a fee, for the purposes of the patent granting procedure in any of those PCT Contracting States which recognize the international preliminary examination procedure. This preliminary examination is made on the basis of the international search report according to internationally accepted criteria of patentability (novelty, inventive step and industrial applicability). It is carried out by an International Preliminary Examining Authority having qualifications similar to those of the International Searching Authorities mentioned above. As applicant, you participate actively in the international preliminary examination. The International Preliminary Examining Authorities are the International Searching Authorities mentioned above, except the national Office of Spain. For a given international patent application, there will be one or more competent International Preliminary Examining Authorities (your PCT receiving Office can supply details or you may consult the *PCT Applicant's Guide*).

## **(10) The value of the international preliminary examination report**

The results of the international preliminary examination are set out in an “international preliminary examination report” which is provided to you. The report consists of an opinion on the compliance with the international criteria mentioned above of each of the claims which has been searched. It provides you with an even stronger basis on which to evaluate your chances of obtaining patents, and, if the report is favorable, a stronger basis on which to deal with the national and regional Patent Offices when prosecuting your application before them. It should be noted that the decision on the granting of a patent remains the task of each of the national or regional Offices designated in the international patent application; the international preliminary examination report is authoritative but is not binding on those Offices.

## **(11) Confidential nature of the international patent application**

Until international publication (18 months after the priority date), no third person is allowed access to your international patent application unless so requested or authorized by you. If you wish to withdraw your application (and you do so in time before international publication), international publication does not take place.

## **(12) Delaying of the procedure before the national or regional Offices**

When an international patent application has been filed, all national procedures in the designated States are delayed until the end of the 20th month from the priority date or, if international preliminary examination is requested before the end of the 19th month from the priority date, until the end of the 30th month from that date. (An even longer delay is available before some Offices.) The delay gives you at least eight months (or 18 months where preliminary examination has been sought) more, before you have to fulfill the national requirements (see (13), below), than if you do not use the PCT. This additional time can be very useful for evaluating your chances of obtaining patents and of exploiting your invention commercially in the various designated countries, and for assessing the technical value of your invention as well as the continued need for protection in those countries. In making your evaluation, you

have the benefit of the international search report and possibly the international preliminary examination report.

### **(13) Start of the procedure before the national or regional Offices**

It is only after you have decided whether, and in which States, you wish to proceed further with your application that you must fulfill the various national requirements for entry into the national phase. These requirements include paying national fees and, in some cases, filing translations of the application as filed and/or as amended. These steps must be taken before the end of the 20th or 30th month from the priority date (see (12), above). There may also be other requirements in connection with the national phase—for example, the appointment of local agents.

### **(14) Examination and further processing before the national or regional Offices**

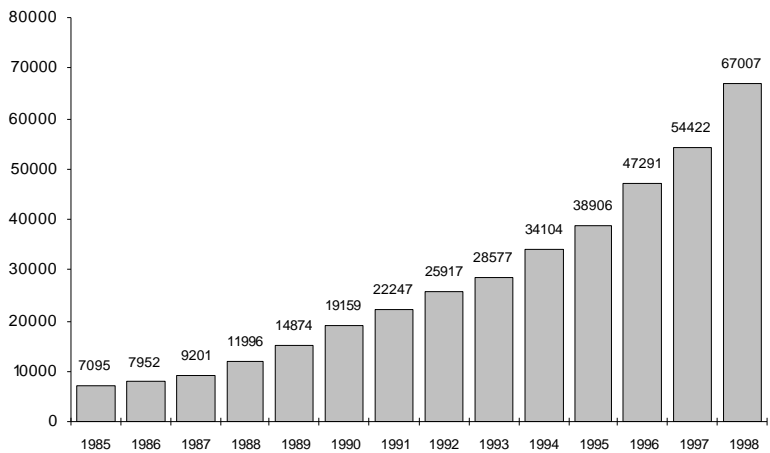
The substantive examination and other processing of your international patent application before the national and regional Offices is made easier by the international search, which enables you to make necessary amendments to your application even before the national or regional procedure starts (you can amend the claims centrally before international publication). It is facilitated even more by international preliminary examination during which further amendments are possible. You also achieve other savings in communications, postage and translations as the work done during the international processing is not repeated before each designated Office (for example, you submit only one copy of the priority document instead of having to submit several copies).



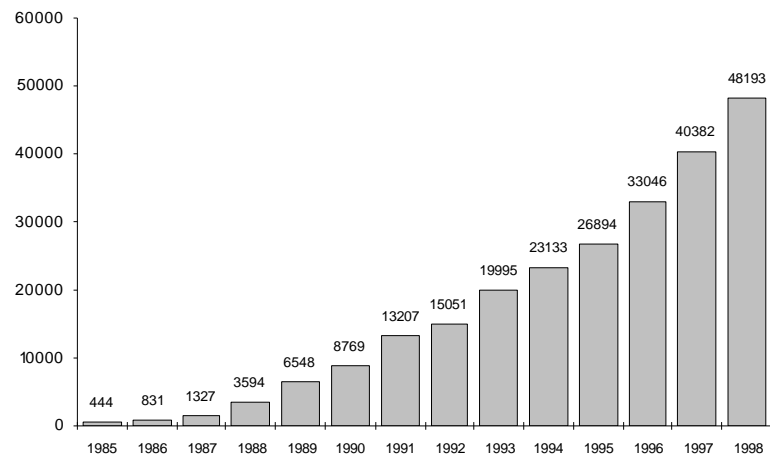
(15) Statistics

The following charts illustrate the increasing use of the PCT. They show annual figures for international applications and for demands for international preliminary examination since 1985.

Number of International Applications



Number of Demands for International Preliminary Examination



## PCT Contracting States (Total: 104 at July 15, 1999)\*

Albania	Ghana	Republic of Moldova
Armenia	Greece	Romania
Australia	Grenada	Russian Federation
Austria	Guinea	Saint Lucia
Azerbaijan	Guinea-Bissau	Senegal
Barbados	Hungary	Sierra Leone
Belarus	Iceland	Singapore
Belgium	India	Slovakia
Benin	Indonesia	Slovenia
Bosnia and Herzegovina	Ireland	South Africa
Brazil	Israel	Spain
Bulgaria	Italy	Sri Lanka
Burkina Faso	Japan	Sudan
Cameroon	Kazakhstan	Swaziland
Canada	Kenya	Sweden
Central African Republic	Kyrgyzstan	Switzerland
Chad	Latvia	Tajikistan
China	Lesotho	The former Yugoslav
Congo	Liberia	Republic of
Costa Rica (as from	Liechtenstein	Macedonia
August 3, 1999)*	Lithuania	Togo
Côte d'Ivoire	Luxembourg	Trinidad and Tobago
Croatia	Madagascar	Turkey
Cuba	Malawi	Turkmenistan
Cyprus	Mali	Uganda
Czech Republic	Mauritania	Ukraine
Democratic People's	Mexico	United Arab Emirates
Republic of Korea	Monaco	United Kingdom
Denmark	Mongolia	United Republic of
Dominica (as from	Morocco (as from	Tanzania (as from
August 7, 1999)*	October 8, 1999)*	September 14, 1999)*
Estonia	Netherlands	United States of
Finland	New Zealand	America
France	Niger	Uzbekistan
Gabon	Norway	Viet Nam
Gambia	Poland	Yugoslavia
Georgia	Portugal	Zimbabwe
Germany	Republic of Korea	

\* This list includes all States that have adhered to the PCT by the date shown in the heading. Applicants intending to file international applications under the PCT should ask the receiving Office or the International Bureau about adherence by any further States. Where a State has adhered to but is not yet bound by the PCT, the date on which it will become bound is shown in parentheses; it cannot be designated in international applications filed before that date.

## Further information

If, knowing these basic facts, you are considering filing an international patent application or would like to have more detailed information, you should contact the PCT Information Line (see below) or consult the *PCT Applicant's Guide* (which provides a complete set of instructions for filing international patent applications), a patent attorney or agent in your country, or your national Patent Office. The forms required for the filing of an international application may be obtained free of charge from your national Office.

### *PCT Information Line*

*Telephone:* (41 22) 338 83 38

*Fax:* (41 22) 338 83 39

*E-mail:* [pct.infoline@wipo.int](mailto:pct.infoline@wipo.int)

**For filing international applications with  
the International Bureau of WIPO, please contact:**

### *WIPO*

*PCT Receiving Office Section*

*34, chemin des Colombettes*

*CH-1202 Geneva, Switzerland*

*Telephone:* (41 22) 338 93 52

*Fax:* (41 22) 910 06 10

*E-mail:* [jeanluc.baron@wipo.int](mailto:jeanluc.baron@wipo.int)

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