

K oznámeniu č. 244/2008 Z. z.

Amendments to the Regulations under the Patent Cooperation Treaty (PCT)
(to enter into force on July 1, 2008)

Rule 4**The Request (Contents)**4.1 *Mandatory and Optional Contents; Signature*

- (a) [No change]
- (b) The request shall, where applicable, contain:
 - (i) [no change]
 - (ii) indications relating to an earlier search as provided in Rules 4.12(i) and 12bis.1(c) and (f),
 - (iii) and (iv) [no change]
- (c) The request may contain:
 - (i) to (iv) [no change]
 - (v) a request for restoration of the right of priority,
 - (vi) a statement as provided in Rule 4.12(ii).
- (d) [No change]

4.2 to 4.10 [No change]

4.11 *Reference to Continuation or Continuation-in-Part, or Parent Application or Grant*

- (a) If:
 - (i) the applicant intends to make an indication under Rule 49bis.1(a) or (b) of the wish that the international application be treated, in any designated State, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition; or
 - (ii) the applicant intends to make an indication under Rule 49bis.1(d) of the wish that the international application be treated, in any designated State, as an application for a continuation or a continuation-in-part of an earlier application;

the request shall so indicate and shall indicate the relevant parent application or parent patent or other parent grant.

- (b) The inclusion in the request of an indication under paragraph (a) shall have no effect on the operation of Rule 4.9.

4.12 *Taking into Account Results of Earlier Search*

If the applicant wishes the International Searching Authority to take into account, in carrying out the international search, the results of an earlier international, international-type or national search carried out by the same or another International

Searching Authority or by a national Office ("earlier search"):

- (i) the request shall so indicate and shall specify the Authority or Office concerned and the application in respect of which the earlier search was carried out;
- (ii) the request may, where applicable, contain a statement to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language.

4.13 and 4.14 [*Remain deleted*]

4.14bis to 4.19 [No change]

Rule 12bis**Copy of Results of Earlier Search and of Earlier Application; Translation**12bis.1 *Copy of Results of Earlier Search and of Earlier Application; Translation*

- (a) Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search carried out by the same or another International Searching Authority or by a national Office, the applicant shall, subject to paragraphs (c) to (f), submit to the receiving Office, together with the international application, a copy of the results of the earlier search, in whatever form (for example, in the form of a search report, a listing of cited prior art or an examination report) they are presented by the Authority or Office concerned.
- (b) The International Searching Authority may, subject to paragraphs (c) to (f), invite the applicant to furnish to it, within a time limit which shall be reasonable under the circumstances:
 - (i) a copy of the earlier application concerned;
 - (ii) where the earlier application is in a language which is not accepted by the International Searching Authority, a translation of the earlier application into a language which is accepted by that Authority;
 - (iii) where the results of the earlier search are in

a language which is not accepted by the International Searching Authority, a translation of those results into a language which is accepted by that Authority;

- (iv) a copy of any document cited in the results of the earlier search.
- (c) Where the earlier search was carried out by the same Office as that which is acting as the receiving Office, the applicant may, instead of submitting the copies referred to in paragraphs (a) and (b)(i) and (iv), indicate the wish that the receiving Office prepare and transmit them to the International Searching Authority. Such request shall be made in the request and may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee.
- (d) Where the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, no copy or translation referred to in paragraphs (a) and (b) shall be required to be submitted under those paragraphs.
- (e) Where the request contains a statement under Rule 4.12(ii) to the effect that the international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out, or that the international application is the same, or substantially the same, as that earlier application except that it is filed in a different language, no copy or translation referred to in paragraphs (b)(i) and (ii) shall be required to be submitted under those paragraphs.
- (f) Where a copy or translation referred to in paragraphs (a) and (b) is available to the International Searching Authority in a form and manner acceptable to it, for example, from a digital library or in the form of the priority document, and the applicant so indicates in the request, no copy or translation shall be required to be submitted under those paragraphs.

Rule 16

The Search Fee

16.1 and 16.2 [No change]

16.3 *Partial Refund*

Where the International Searching Authority takes into account, under Rule 41.1, the results of an earlier search in carrying out the international search, that Authority shall refund the search fee paid in connection with the international application to the extent and under the conditions provided for in the agreement under Article 16(3)(b).

Rule 26bis

Correction or Addition of Priority Claim

26bis.1 and 26bis.2 [No change]

26bis.3 *Restoration of Right of Priority by Receiving Office*

- (a) to (c) [No change]
- (d) The submission of a request under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee for requesting restoration, payable within the time limit applicable under paragraph (e). The amount of that fee, if any, shall be fixed by the receiving Office. The time limit for payment of the fee may be extended, at the option of the receiving Office, for a period of up to two months from the expiration of the time limit applicable under paragraph (e).
- (e) to (j) [No change]

Rule 29

International Applications Considered Withdrawn

29.1 *Finding by Receiving Office*

If the receiving Office declares, under Article 14(1)(b) and Rule 26.5 (failure to correct certain defects), or under Article 14(3)(a) (failure to pay the prescribed fees under Rule 27.1(a)), or under Article 14(4) (later finding of non-compliance with the requirements listed in items (i) to (iii) of Article 11(1)), or under Rule 12.3(d) or 12.4(d) (failure to furnish a required translation or, where applicable, to pay a late furnishing fee), or under Rule 92.4(g)(i) (failure to furnish the original of a document), that the international application is considered withdrawn:

- (i) to (iii) [no change]
- (iv) the International Bureau shall not be required to notify the applicant of the receipt of the record copy;
- (v) no international publication of the international application shall be effected if the notification of the said declaration transmitted by the receiving Office reaches the International Bureau before the technical preparations for international publication have been completed.

29.2 [*Remains deleted*]

29.3 and 29.4 [No change]

Rule 41

Taking into Account Results of Earlier Search

41.1 *Taking into Account Results of Earlier Search*

Where the applicant has, under Rule 4.12, requested the International Searching Authority to take into account the results of an earlier search and has complied with Rule 12bis.1 and:

(i) the earlier search was carried out by the same International Searching Authority, or by the same Office as that which is acting as the International Searching Authority, the International Searching Authority shall, to the extent possible, take those results into account in carrying out the international search;

(ii) the earlier search was carried out by another International Searching Authority, or by an Office other than that which is acting as the International Searching Authority, the International Searching Authority may take those results into account in carrying out the international search.

