

General Part

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1. Preliminary remarks

The present Guidelines are dedicated to the specific procedures before the EPO in its capacity as PCT Authority. Their full name is "Guidelines for Search and Examination at the European Patent Office as PCT Authority", or "PCT-EPO Guidelines" for short, and throughout these Guidelines they are also referred to as "GL/PCT-EPO".

These Guidelines can be used and referred to by examiners and formalities officers, as well as patent attorneys, in addition to the Euro-PCT Guide ("PCT procedure at the EPO, [International phase and entry into the European phase], Guide for applicants"), the PCT-RO (Receiving Office) Guidelines and the PCT ISPE (International Search and Preliminary Examination) Guidelines. They are complementary to, but not a substitute for, the ISPE and RO Guidelines, as well as the PCT Applicant's Guide ("WIPO PCT Guide"), all published by WIPO. They will exist in parallel with the Euro-PCT Guide which, as before, has the status of a Notice from the EPO.

The PCT-EPO Guidelines are published as a standalone document in electronic format only, and will be revised on a yearly basis at the same time as the Guidelines for Examination in the European Patent Office ("EP Guidelines"). The electronic publication includes not only the online version in HTML format, but also a printable file.

The aim is to gradually expand the PCT-EPO Guidelines with each revision cycle. The major change in this ~~eighth-ninth~~ edition is the further development of Part A, which now includes ~~a new chapter sections on the form of documents and on the signature of documents~~ representation. The completion of Part A in this ninth edition has resulted in further alignment with the EPC Guidelines and has made attaining a comprehensive set of Guidelines a reachable objective.

Any indication from readers drawing attention to errors as well as suggestions for improvement is highly appreciated and may be sent by email to Department ~~5.2.2.15.3.1.1, PCT Affairs and Procedures~~ Patent Filing Process and PCT Affairs, at international_pct_affairs@epo.org.

2. Explanatory notes

2.1 Overview

The PCT-EPO Guidelines follow the structure of the EP Guidelines (Parts **A, B, C, E, F, G and H**, without D because there is no opposition, limitation or revocation under the PCT), and as far as possible the organisation within each part is similar to that of the EP Guidelines, adapted to the particularities of the PCT system. The sequence of chapters within Part A, however, differs from that of the EP Guidelines. This is due to the particular way in which the content is being gradually extended and the structure may be reconsidered prior to completion of Part A.

Thus, these Guidelines comprise the following seven parts:

- Part A: Guidelines for Formalities Examination;
- Part B: Guidelines for Search;
- Part C: Guidelines for Procedural Aspects in Chapter II;
- Part E: Guidelines on General Procedural Matters;
- Part F: The International Application
- Part G: Patentability
- Part H: Amendments and Corrections

Part A deals with the procedures for formalities examination at the EPO in its capacity as RO, (S)ISA and IPEA. Part B deals with search matters. Part C relates to procedures to be followed in Chapter II.

Part E deals with procedural matters relevant to several or all of the stages in procedure at the EPO as PCT Authority. Part F deals with the requirements which the application must fulfil other than patentability, in particular unity of invention (Rule 13), sufficiency of disclosure (Art. 5), clarity (Art. 6) and the right to priority (Art. 8). Part G deals with excluded subject-matter (Art. 17(2)(a)(i) and Rule 39; Art. 34(4)(a)(i) and Rule 67), novelty (Art. 33(2)), inventive step (Art. 33(3)) and industrial application (Art. 33(4)). Part H deals with the requirements relating to amendments and corrections. It relates in particular to the right to amend, the allowability of amendments and the correction of defects and errors.

Each part of the Guidelines is divided into chapters, each subdivided into numbered sections which may be further divided into subsections. Cross-references to other sections and subsections are in the format GL/PCT-EPO, followed by the relevant letter of that part, then the chapter number (a Roman numeral) and then the section or subsection number (thus, e.g. GL/PCT-EPO C-V, 4.2 would be used to refer to subsection 4.2 of chapter V of Part C of the PCT-EPO Guidelines). When referring to the Guidelines for Examination in the EPO, the same format is used, but with "GL/EPO" instead of "GL/PCT-EPO".

Marginal references to articles and rules without further identification relate to the Articles or Rules of the Patent Cooperation Treaty which provide authority for what is stated. It is believed that such references avoid the need for extensive quotation from the PCT itself. References to Articles or Rules of the European Patent Convention are followed by "EPC".

Art. 150(2) EPC

Marginal references to the RO and ISPE Guidelines relate to the corresponding sections in those Guidelines and are an indication that the present Guidelines apply within the framework of the RO and ISPE Guidelines, in conformity with the supplementary role of the EPC in the international phase.

Where the practice for EP and PCT applications is the same (e.g. for the assessment of novelty), cross-references are made to the EP Guidelines. Where the practices are only partially overlapping, the information is contained in full in the PCT-EPO Guidelines, in order to avoid possible confusion. Chapter 3, Annex I, provides an EPC-PCT concordance table.

Any references to persons made in the PCT-EPO Guidelines are to be understood as being gender-neutral.

2.2 Applicability of the PCT-EPO Guidelines

These Guidelines are intended to cover normal occurrences. They should therefore be considered only as general instructions. The application of these Guidelines to individual international patent applications is the responsibility of the formalities and examining staff and they may have to go beyond these instructions in exceptional cases. Nevertheless, as a general rule, parties can expect the EPO in its capacity as RO, (S)ISA or IPEA to act in accordance with these Guidelines until such time as they – or the relevant legal provisions – are amended. Notices concerning such amendments are published in the Official Journal of the EPO and on the EPO website. It should also be noted that these Guidelines do not constitute legal provisions.

2.3 Relationship between the PCT-EPO Guidelines and the ISPE Guidelines

The PCT-EPO Guidelines are intended to be complementary to, but not a substitute for, the PCT ISPE¹ and RO Guidelines, as well as the PCT Applicant's Guide ("WIPO PCT Guide") and the Euro-PCT Guide² ("PCT procedure at the EPO, [International phase and entry into the European phase], Guide for applicants").

The ISPE Guidelines published by WIPO set out in detail the procedures and criteria to be followed by all International Searching and Preliminary Examining Authorities. Since practice varies amongst different authorities these Guidelines provide some degrees of freedom as to which procedure/criteria can be used. Such different criteria are listed in the ISPE Guidelines in appendices to the respective chapters or defined within a specific paragraph. Generally, the EPO will use the same criteria when searching and examining an international application as would have been used in the European procedure. This means that where the ISPE Guidelines are either silent or give no guidance on a particular topic, then the equivalent provisions of the EP Guidelines are applied *mutatis mutandis* to PCT search and preliminary examination. A list of policy options is provided in section 3.2 below, Annex II.

2.4 Further sources of information

Regularly updated general information on the EPO and specific information on the procedures before the EPO as receiving Office, International Authority (ISA, SISA and IPEA) and designated/elected Office under the PCT is

¹ GL/ISPE and GL/RO: www.wipo.int/pct/en/texts/gdlines.html

² www.epo.org/applying/international/guide-for-applicants.html

provided in the Annexes to the WIPO PCT Guide³. Relevant information is also provided on the EPO website⁴ and in the EPO's Official Journal ("OJ"), which is published in electronic form only⁵.

Up-to-date news about the PCT is available on the WIPO website and also from the PCT Newsletter and the Official Notices (PCT Gazette), both published in electronic form by WIPO⁶.

Applicants desiring further information about the PCT procedure in the international phase are advised to consult the Administrative Instructions under the PCT ("AI")⁷, the PCT Receiving Office Guidelines ("GL/RO") and the PCT International Search and Preliminary Examination Guidelines ("ISPE Guidelines", "GL/ISPE"), all available on the WIPO website.

2.5 Abbreviations

In these Guidelines, the following abbreviations are used:

AAD	Arrangements for the automatic debiting procedure
ADA	Arrangements for deposit accounts
AI	Administrative Instructions under the PCT
ARIPO	African Regional Intellectual Property Organization
Art.	Article
EPC	European Patent Convention
EPO	European Patent Office
ESOP	European search opinion
GL/EPO	Guidelines for Examination in the EPO
GL/ISPE	PCT International Search and Preliminary Examination Guidelines
GL/PCT-EPO	Guidelines for Search and Examination at the EPO as PCT Authority
GL/RO	PCT Receiving Office Guidelines

³ wipo.int/pct/en/appguide/index.jsp

⁴ www.epo.org

⁵ www.epo.org/law-practice/legal-texts/official-journal.html

⁶ PCT Newsletter: wipo.int/pct/en/newslett/

Official Notices (PCT Gazette): wipo.int/pct/en/official_notices/index.html

⁷ AI: wipo.int/pct/en/texts/index.html

IB	International Bureau
IPE	International preliminary examination
IPEA	International Preliminary Examining Authority
IPER	International preliminary examination report
IPRP	International preliminary report on patentability
ISA	International Searching Authority
ISR	International search report
OJ EPO	Official Journal of the European Patent Office
PCT	Patent Cooperation Treaty
PCT AG I	PCT Applicant's Guide – Introduction to the International Phase
PCT-CLAR	Request for clarification before search
PPH	Patent Prosecution Highway
RFees	Rules relating to Fees
RO	Receiving Office
SIS	Supplementary international search
SISA	Supplementary International Searching Authority
SISR	Supplementary international search report
WIPO	World Intellectual Property Organization
WO-ISA	Written opinion of the International Searching Authority

2.6 Forms used by the RO, ISA, SISA and IPEA

The following forms are used by the EPO as RO:

PCT/RO/103	Invitation to correct the purported international application
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PCT/RO/104	Notification that the purported international application is not and will not be treated as an international application
PCT/RO/105	Notification of the international application number and of the international filing date
PCT/RO/106	Invitation to correct defects in the international application
PCT/RO/107	Invitation relating to certain parts of the international application that are, or appear to be, missing
PCT/RO/108	Invitation to request rectification
PCT/RO/110	Invitation to correct priority claim and/or notification of possibility to request restoration of the right of priority
PCT/RO/111	Notification relating to priority claim
PCT/RO/114	Notification on decision of confirmation of incorporation by reference of element or part
PCT/RO/117	Notification that international application considered to be withdrawn
PCT/RO/119	Notification of refund of fees
PCT/RO/126	Notification concerning later submitted parts of an international application
PCT/RO/130	Invitation to request omission of information from international publication
PCT/RO/132	Communication in cases for which no other form is applicable
PCT/RO/133	Invitation to pay prescribed fees together with late payment fee
PCT/RO/135	Notification of date of receipt of priority document or of priority application number
PCT/RO/136	Notification of withdrawal
PCT/RO/138	Communication regarding extension of time limit
PCT/RO/141	Invitation to furnish original of document transmitted by telegraph, teleprinter, facsimile machine, etc.

PCT/RO/151	Notification of transmittal of purported international application to the International Bureau as receiving Office and invitation to pay fee
PCT/RO/158	Notification of intended refusal of request to restore right of priority and/or invitation to furnish declaration or other evidence
PCT/RO/159	Notification of decision on request to restore right of priority

The following forms are used by the EPO as ISA:

PCT/ISA/202	Notification of receipt of search copy
PCT/ISA/203	Declaration of non-establishment of international search report
PCT/ISA/205	Notification of modification of abstract approved by International Searching Authority
PCT/ISA/206	Invitation to pay additional fees and, where applicable, protest fee
PCT/ISA/207	Informal clarification: note/invitation
PCT/ISA/210	International search report
PCT/ISA/212	Notification of decision on protest or declaration that protest considered not to have been made
PCT/ISA/213	Notification of refund of search fee
PCT/ISA/216	Invitation to request rectification
PCT/ISA/217	Notification of decision concerning request for rectification
PCT/ISA/220	Notification of transmittal of the international search report and the written opinion of the International Searching Authority, or the declaration
PCT/ISA/224	Communication in cases for which no other form is applicable
PCT/ISA/225	Invitation to furnish nucleotide and/or amino acid sequence listing and to pay, where applicable, late furnishing fee
PCT/ISA/237	Written opinion of the International Searching Authority

The following forms are used by the EPO as SISA:

PCT/SISA/501	Supplementary international search report
PCT/SISA/502	Declaration of non-establishment of supplementary international search report
PCT/SISA/503	Notification of decision on review of opinion; or declaration that request for review of opinion considered not to have been made
PCT/SISA/504	Invitation to furnish nucleotide and/or amino acid sequence listing and to pay, where applicable, late furnishing fee
PCT/SISA/506	Notification of receipt of copy of international application for the purposes of supplementary international search
PCT/SISA/524	Communication in cases for which no other form is applicable

The following forms are used by the EPO as IPEA:

PCT/IPEA/402	Notification of receipt of demand by competent International Preliminary Examining Authority
PCT/IPEA/403	Notification concerning payment of the preliminary examination and handling fees
PCT/IPEA/404	Invitation to correct defects in the demand
PCT/IPEA/405	Invitation to restrict or pay additional fees, and, where applicable, protest fee
PCT/IPEA/407	Notification that demand considered not to have been submitted
PCT/IPEA/408	Written opinion of the International Preliminary Examining Authority
PCT/IPEA/409	International preliminary report on patentability (Chapter II of the Patent Cooperation Treaty)
PCT/IPEA/411	Invitation to request rectification
PCT/IPEA/412	Notification of decision concerning request for rectification
PCT/IPEA/415	Notification concerning documents transmitted

PCT/IPEA/420	Notification of decision on protest or declaration that protest considered not to have been made
PCT/IPEA/423	Invitation to correct defects in correspondence submitted by the applicant
PCT/IPEA/424	Communication in cases for which no other form is applicable
PCT/IPEA/425	Notification of cancellation of certain elections
PCT/IPEA/427	Communication regarding extension of time limit
PCT/IPEA/428	Note on informal communication with the applicant
PCT/IPEA/429	Notification concerning informal communication with the applicant
PCT/IPEA/431	Invitation to submit amendments
PCT/IPEA/432	Communication regarding amendments not taken into account
PCT/IPEA/433	Notification regarding attempted transmission of documents via telegraph, teleprinter, facsimile machine, etc.
PCT/IPEA/436	Notification of transmittal of demand to the International Bureau or to the competent International Preliminary Examining Authority
PCT/IPEA/440	Invitation to pay prescribed fees together with late payment fee
PCT/IPEA/441	Invitation to furnish nucleotide and/or amino acid sequence listing and to pay, where applicable, late furnishing fee
PCT/IPEA/442	Invitation to indicate competent International Preliminary Examining Authority
PCT/IPEA/443	Invitation to furnish translation for the purposes of international preliminary examination
PCT/IPEA/444	Notification by non-competent International Preliminary Examining Authority that demand considered not to have been submitted

The forms can be found via the following link: wipo.int/pct/en/forms/

2.7 Publications

Since 1 January 2009, the following kind codes have been used for publication of a PCT application:

Code	Publication details
A1	International application published with ISR
A2	International application published without ISR or international application published with declaration under Article 17(2)(a)
A3	Later publication of ISR with revised front page
A4	Later publication of amended claims and/or statement (Article 19) with revised front page
A8	International application republished with corrections to front page bibliographic data
A9	International application or ISR republished with corrections, alterations or supplements (see also WIPO Standard ST.50)

3. Annexes

3.1 Annex I: EPC-PCT concordance table Articles

EPC	PCT	Comments
Art. 52(2) EPC	Rule 39.1 PCT, Rule 67.1 PCT	
Art. 52(3) EPC	Rule 39.1 PCT, Rule 67.1 PCT	
Art. 53(a) EPC	Rule 9.1(i) PCT, Rule 9.1(ii) PCT	
Art. 53(b) EPC	Rule 39.1(ii) PCT, Rule 67.1(ii) PCT	
Art. 53(c) EPC	Rule 39.1 PCT, Rule 67.1 PCT	
Art. 54(1) EPC	Art. 33(2) PCT	
Art. 54(2) EPC	Rule 64.2 PCT (prior use), Rule 33.1(a), (b) and (c) PCT	prior use, except that there is no provision for purely oral disclosure

Articles

EPC	PCT	Comments
Art. 54(3) EPC	Rule 64.3 PCT, Rule 70.10 PCT	intermediate/conflicting documents
Art. 55 EPC	Art. 27(5) PCT, Art. 27(6) PCT, Rule 4.17(v) PCT, Rule 51 <i>bis</i> .1(a)(v) PCT	
Art. 56 EPC	Art. 33(3) PCT	
Art. 57 EPC	Art. 33(4) PCT	
Art. 67(1) EPC	Art. 29(1) PCT	
Art. 67(2) EPC	Art. 29(1) PCT	
Art. 67(3) EPC	Art. 29(2) PCT	
Art. 69 EPC	Art. 29(1) PCT, Art. 29(2) PCT	
Art. 76 EPC	No equivalent	
Art. 82 EPC	Rule 13.1 PCT	
Art. 83 EPC	Art. 5 PCT	
Art. 84 EPC	Art. 6 PCT	
Art. 87 EPC	Art. 8 PCT	
Art. 88 EPC	Art. 8 PCT	
Art. 89 EPC	Rule 64.1(b) PCT	
Art. 122(1) EPC	Rule 26 <i>bis</i> .3 PCT, Rule 49 <i>ter</i> .2 PCT	
Art. 123(2) EPC	Art. 19(2) PCT, Art. 34(2)(b) PCT	
Art. 128(1) EPC	Art. 30 PCT	unpublished applications not available for inspection

Articles

EPC	PCT	Comments
Art. 128(4) EPC	Rule 94 PCT	designated and elected Offices may allow access to files of international applications (EPO as elected Office allows access to preliminary examination files after completion of the IPER, OJ EPO 2003, 382)
No equivalent	Art. 28(1) PCT, Art. 41(1) PCT	

Rules

EPC	PCT	Comments
Rule 30 EPC	Rule 13 <i>bis</i> PCT	
Rule 31 EPC	Rule 13 <i>bis</i> PCT	
Rule 32 EPC	Rule 13 <i>bis</i> PCT	
Rule 33 EPC	Rule 13 <i>bis</i> PCT	
Rule 34 EPC	Rule 13 <i>bis</i> PCT	
Rule 42(1) EPC	Rule 5.1(a) PCT	
Rule 42(2) EPC	Rule 5.1(b) PCT	
Rule 43(1) EPC	Rule 6.3(a) PCT	
Rule 43(1)(a) EPC	Rule 6.3(b)(i) PCT	
Rule 43(1)(b) EPC	Rule 6.3(b)(ii) PCT	
Rule 43(4) EPC	Rule 6.4(a) (part), (b) and (c) PCT	
Rule 43(5) EPC	Rule 6.1(a) PCT, Rule 6.1(b) PCT	
Rule 43(6) EPC	Rule 6.2(a) PCT	

Articles

EPC	PCT	Comments
Rule 43(7) EPC	Rule 6.2(b) PCT	
Rule 44(1) EPC	Rule 13.2 PCT	
Rule 44(2) EPC	Rule 13.3 PCT	
Rule 46 <u>49(2)</u> EPC	Rule 11.6(c) PCT, Rule 11.11 PCT, Rule 11.13 PCT	<u>See decision of the President of the EPO of 25.11.2022 on the presentation of application and other documents (OJ EPO 2022, A113).</u>
Rule 46(2)(i) EPC	Rule 11.13(l) and (m) PCT	
Rule 46(2)(j) EPC	Rule 11.11 PCT	
Rule 48 EPC	Rule 9.1(i) - (iv) PCT	
Rule 49(9 <u>2</u>) EPC	Rule 11.10 PCT	<u>See decision of the President of the EPO of 25.11.2022 on the presentation of application and other documents (OJ EPO 2022, A113).</u>
Rule 49(10) EPC	Rule 10.1(a), (b), (d) and (e) PCT	
Rule 49(11) EPC	Rule 10.2 PCT	
Rule 56a EPC	Rule 20.5 <i>bis</i> PCT	
Rule 134(5) EPC	Rule 82 <i>quater</i> PCT	
Rule 136 EPC	Rule 26 <i>bis</i> .3 PCT, Rule 49 <i>ter</i> .2 PCT	
Rule 137(2) EPC	Art. 19(1) PCT, Art. 34(2)(b) PCT, Rule 66.4 PCT	
Rule 137(3) EPC	Art. 34(2)(b) PCT, Rule 66.3(a) PCT, Rule 66.4 PCT, Rule 66.4 <i>bis</i> PCT	
No equivalent	Art. 7(2)(ii) PCT, Rule 7 PCT	
No equivalent	Rule 65.1 PCT	derives from practice

3.2 Annex II: Criteria chosen by the EPO as ISA/IPEA on specific points in the ISPE Guidelines

In a number of cases the ISPE Guidelines leave ISAs/IPEAs the choice between alternative guidelines upon which each ISA/IPEA may rely as appropriate.

The options are set out in the appendices to the chapters of the ISPE Guidelines mentioned below. The paragraph number (e.g. Point A5.16) refers to the relevant paragraph in the chapter concerned (in this case Chapter 5, point 16).

The EPO as ISA/IPEA has chosen the options listed below.

Appendix to Chapter 4

Point A4.05	References to prior art	Option [1] applies
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Appendix to Chapter 5

Point A5.16	Multiple dependent claims	Option [2] applies
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Point A5.20	Interpretation of claims	Option [2] applies
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Point A5.21	The EPO applies the first sentence concerning "use" claims	
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Point A5.26	Product-by-process claims	Option [1] applies
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Point A5.42	Conciseness	Option [2] applies
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Appendix to Chapter 9

Point A9.07	Excluded subject matter	Option [2] applies
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Point A9.15	Programs for computers	Option [2] applies
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Appendix to Chapter 12

Point A12.02	Novelty: effective date	Option [1] applies
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Appendix to Chapter 13

Point A13.08.1	The EPO applies the problem-solution approach	
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Appendix to Chapter 14

Point A14.01[2]	The EPO applies the criterion of industrial applicability	
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Appendix to Chapter 20

Point A20.21 Disclaimer

Option [2] applies