

PCT – Part E

Guidelines on General Procedural Matters

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Chapter I – Introduction

Part E contains guidelines for those procedural steps in respect of international applications which may occur at a number of stages in the procedure.

Chapter II – Observations by third parties

Third parties may, anonymously if so desired, file observations under the PCT which, unlike observations under the EPC, should exclusively refer to prior art relevant to the novelty and/or inventive step of the invention claimed in the international application.

AI 801-805
GL/ISPE 15.68, 16.57
and 17.69

The observations are to be submitted electronically to the IB using the online tool provided by WIPO between the date of international publication and 28 months from the priority date of the international application. They may be filed in any language of publication; the cited prior art may be in any language. For more details, see the guide entitled "ePCT Third Party Observations" published by WIPO.

Rule 48.3

The applicant is notified by the International Bureau (IB) of any such observations and may file comments within 30 months from the priority date.

The IB will promptly communicate any third-party observation and any comment by the applicant to the ISA, the SISA and the IPEA, unless the (supplementary) international search report or the international preliminary examination report (IPER) has already been received by the IB.

Promptly after the expiration of 30 months from the priority date, the third-party observation(s) and the applicant's comment(s) will be sent to all designated Offices and elected Offices. The EPO as designated/elected Office will consider a third-party observation filed during the international phase after entry into the European phase as to its contents once that observation becomes available to it. However, the EPO will only make every effort to issue the next office action within three months of expiry of the period under Rule 161 EPC on condition that the third party has clearly expressed its wish that such action be taken, and that the observation was substantiated and not filed anonymously. A third party wishing to achieve the above-mentioned result in the European phase should, therefore, make this clear in the observation or else file the observation with the EPO as designated/elected Office (see also GL/EPO E-VI, 3, last paragraph).

Any third-party observations/comments thereto will be made available for public inspection.

If the third-party observations and/or prior art are not in an official EPO language, the formalities officer at the EPO will invite the third party to submit a translation of the observations and/or the prior art in line with the European procedure (GL/EPO E-VI, 3), but setting a shorter time limit within the boundaries of the required strict PCT deadlines. No invitation is issued if these deadlines cannot be respected or if the third-party observations were filed anonymously.

Art. 14(1) EPC

If the third-party observations and/or prior art are not in an official EPO language and a translation is not or cannot be filed, the examiner should nevertheless take them into account to the extent that this is feasible, in particular when they seem to be *prima facie* relevant (e.g. from the drawings of the prior-art documents). The examiner may add a remark in the WO-ISA

that a translation will be required to allow a detailed assessment of the document(s).

Even when third-party observations have been filed, the deadlines indicated for issuing the different office actions under the PCT should be respected in order to ensure timely issuance of the ISR, SISR or IPER.

For third-party observations received during Chapter I, see GL/PCT-EPO B-IV, 1.3. For third-party observations received during Chapter II, see GL/PCT-EPO C-VII, 3.

Chapter III – Patent Prosecution Highway (PPH)

1. General

The Patent Prosecution Highway (PPH) enables an applicant whose claims have been determined to be patentable/allowable to have a corresponding application which has been filed with a PPH partner office processed in an accelerated manner while at the same time allowing the offices involved to exploit available work results.

Currently, the EPO's PPH partner offices are: JPO (Japan), KIPO (South Korea), CNIPA (China), USPTO (USA), ILPO (Israel), CIPO (Canada), IMPI (Mexico), IPOS (Singapore), IPA (Australia), SIC (Colombia), MyIPO (Malaysia), IPOPHL (Philippines), INPI (Brazil), INDECOPI (Peru) and (SAIP) Saudi Arabia.

The PPH programmes with Rospatent (Russian Federation) and EAPO (Eurasia) have been suspended.

Under the PPH (pilot) programme a PPH request can be based on:

- (i) the latest PCT work product (WO-ISA or IPRP/IPER) established by one of the PPH partner offices as ISA or IPEA (PPH based on PCT work products) (except under the PPH (pilot) programme with INPI (Brazil)); or
- (ii) any national work product (office action indicating patentable/allowable claims) established during the processing of a national application or of a PCT application that has entered the national phase before one of the PPH partner offices (PPH based on national work products).

2. PPH based on a WO-ISA established by the EPO as ISA

Where the EPO is the ISA and the international application contains claims that are determined to be patentable/allowable by the EPO as ISA, the applicant may under the PPH (pilot) programme request accelerated examination at the EPO's PPH partner offices when the application has entered the national phase before these offices. The procedures and requirements for filing a request with the EPO's PPH partner offices are available from their respective websites.

Irrespective of the PPH (pilot) programme, any applicant may request accelerated examination under the PACE programme in the procedure before the EPO as designated Office at any time. See GL/EPO E-VIII, 4.2.

3. PPH based on an IPER established by the EPO as IPEA

Under the PPH (pilot) programme, a PPH request can also be based on an IPER established by the EPO as IPEA. The procedures and requirements for filing a request with the EPO's PPH partner offices are available from their respective websites.

~~[OJ-EPO-2016,-A44,](#)~~

~~[OJ-EPO-2020,-A21,](#)~~

~~[OJ-EPO-2020,-A82,](#)~~

~~[OJ-EPO-2020,-A83,](#)~~

~~[OJ-EPO-2020,-A125](#)~~

~~[OJ-EPO-2020,-A137](#)~~

~~[OJ-EPO-2020,-A138](#)~~

~~[OJ-EPO-2022,-A44,](#)~~

~~[OJ-EPO-2022,-A45,](#)~~

~~[OJ-EPO-2022,-A58,](#)~~

~~[OJ-EPO-2022,-A59,](#)~~

~~[OJ-EPO-2022,-A88,](#)~~

~~[OJ-EPO-2022,-A115](#)~~

~~[OJ-EPO-2022,-A116](#)~~

~~[CJ-EPO-2015,-A93](#)~~

~~[CJ-EPO-2022,-A44,](#)~~

~~[CJ-EPO-2022,-A45,](#)~~

~~[CJ-EPO-2022,-A58,](#)~~

~~[CJ-EPO-2022,-A88,](#)~~

~~[CJ-EPO-2022,-A115](#)~~

~~[CJ-EPO-2022,-A116](#)~~

~~[CJ-EPO-2020,-A11,](#)~~

~~[A21,-A82,-A83,-A114,](#)~~

~~[A125,-A137,-A138,](#)~~

~~[CJ-EPO-2019,-A58,](#)~~

~~[A78,-A106,-A107](#)~~

~~[CJ-EPO-2016,-A44,](#)~~

~~[CJ-EPO-2015,-A93.](#)~~

Irrespective of the PPH (pilot) programme, any applicant may request accelerated examination under the PACE programme in the procedure before the EPO as elected Office at any time. See GL/EPO E-VIII, 4.2.