



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 under the PCT, and designating any or all of the PCT Contracting States, you can simultaneously seek patent protection for an invention in each of a large number of countries.

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

If your answer is yes, you should consider that the “international search report,” which you will normally receive a few months after filing your PCT application, contains a list of relevant “prior art” documents which you can evaluate. You also have the option of obtaining an “international preliminary examination report” which gives you more detailed information about the patentability of your invention before you incur the high costs of the patent granting procedure in each of the countries you designated.

## **Do you want to keep all of your options open for protecting your invention while still investigating its commercial possibilities abroad?**

If you do, you should consider the extra time you gain when you file a PCT application: in relation to most designated Offices, 18 months more than under the traditional patent system (based on the Paris Convention for the Protection of Industrial Property).

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

If so, you should take into account the benefits of the 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 by the national or regional Offices on the international application 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 filing patent applications under 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. A significant amount of important information is available on the PCT website: [www.wipo.int/pct/en/](http://www.wipo.int/pct/en/).

### **(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 an international patent application**

You can file an 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 at the end 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 OAPI Agreement, 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 the applicable national law.

### **(3) Effect of an international patent application**

Provided it complies with the minimum requirements for obtaining an international filing date, your international application has the effect of a national patent application in those PCT Contracting States which you have “designated” 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 the regional patent concerned. (It should be noted that, for some of these States, only a regional patent can be obtained via the PCT.) Because an international patent application must be prepared in accordance with certain requirements set out in the Treaty and Regulations, which have become 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 the application

before those Offices (the “national phase” or “regional phase”), including examination as to substance, is generally delayed until after the end of the 30th month from the priority date (see (13), below).

#### **(4) Cost of filing an international patent application**

Because an 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 the international patent application with the PCT receiving Office. Information about these fees can be obtained from the receiving Offices (see (2), above) or in the *PCT Applicant's Guide* and the *PCT Newsletter* (see the end of this brochure). They cover the filing, searching and publication of the international patent application, and are payable in the currency, or one of the currencies accepted by your Office (the receiving Office). For fees payable when you request international preliminary examination, refer to (10), below. National fees in the designated States become payable much later because national processing is delayed if the PCT is used (see (13), below). In several Offices, national fees are also lower for international patent applications than they would be if direct national applications had been filed.

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 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) Language of the international patent application**

In general, an 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 (7), below) and a “publication language,” that is, one of the languages in which international patent applications are published (Chinese, English, French, German, Japanese, Russian and 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 an international patent application, you may claim the priority, under the Paris Convention—and to a certain extent within the framework of the World Trade Organization—, of an 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 the international application.

## **(7) Quality of the international search**

International patent applications are 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 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 Republic of Korea, the Russian Federation, Spain, Sweden and the United States of America, and the European Patent Office. For a given international patent application, there may be one or more competent International Searching Authorities (your PCT receiving Office can supply details or you may consult the *PCT Applicant’s Guide* and *PCT Newsletter* (see the end of this brochure)).

## **(8) Value of the international search report**

The results of the international search are set out in an “international search report” which is generally made available to you by the fourth or fifth month after the international patent application is filed. The international search report contains no comments on the value of your invention but lists prior art documents 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. An international 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 subsequent prosecution of your application in those countries in which you wish to obtain protection. If a search report is unfavorable (for example, if it lists prior art documents questioning the novelty and/or inventive step of your invention), you have the opportunity to centrally amend the claims in your international patent application (to better distinguish your invention from the prior art) 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) Publication of the international application**

If the international application has not been withdrawn earlier, it is published by the International Bureau shortly after 18 months from the priority date, together with the international search report, and communicated by the International Bureau to each designated Office.

### **(10) Option of international preliminary examination**

Under the PCT system, you have the option to have an international preliminary examination of your application carried out, on payment of the relevant fees. This preliminary examination is made, on the basis of the international search report, according to internationally accepted criteria for 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 an applicant, you may participate actively in the international preliminary examination, submitting amendments and arguments. 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 may 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* and the *PCT Newsletter*).

## **(11) 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; copies are also sent by the International Bureau to the Offices concerned. The report consists of an opinion on the compliance with the international criteria mentioned above (see (10)) 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 prosecute your application before the national and regional patent Offices. The decision on the granting of a patent remains the responsibility 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.

## **(12) Access by third parties to documents contained in the file 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 and, as a consequence, no access by third parties is permitted. Upon international publication, third parties can request copies of documents contained in the file of the international application; such requests may be made either to the International Bureau or the national or regional Offices, depending on the document concerned.

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

When an international patent application has been filed, the national procedures in relation to the majority of the designated Offices are delayed until the end of the 30th month from the priority date (there are some exceptions; for details, see the *PCT Newsletter* and the *PCT Applicant's Guide*—even longer delays are available before some Offices). The delay normally gives you 18 months more before you have to fulfill the national requirements (see (14), below) than if you do not use the PCT. This additional time can be very useful for evaluating the chances of obtaining patents and of exploiting your invention commercially in the various designated countries, and for assessing both the technical value of your invention as well as the continued need for protection in those countries.

In making such an evaluation, you have the benefit of the international search report and if you so requested, also the international preliminary examination report.

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

It is only after you have decided whether, and in respect of 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, in relation to the majority of PCT designated Offices, before the end of the 30th month from the priority date (see (13), above). There may also be other requirements in connection with the national phase—for example, the appointment of local agents.

#### **(15) 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 the claims in the application even before the national or regional procedure starts (see (8), above). It is facilitated even more by the international preliminary examination procedure 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 generally not repeated before each designated Office (for example, you submit only one copy of the priority document instead of having to submit several copies).

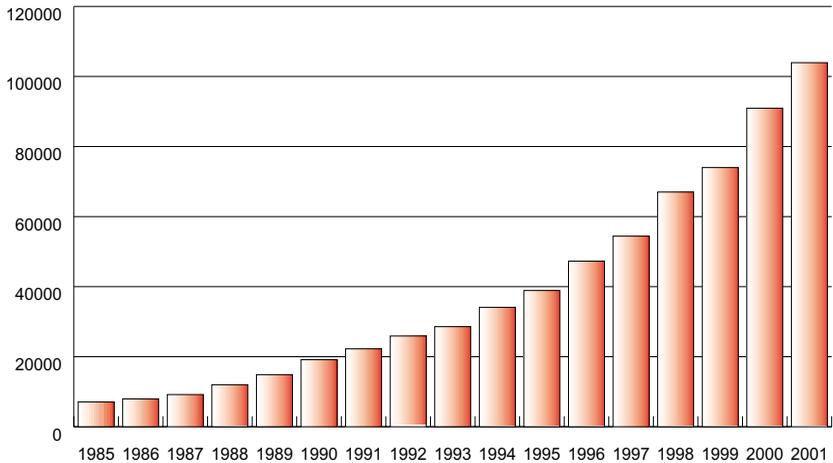
#### **(16) Basic facts about the PCT itself**

The PCT was concluded in 1970, amended in 1979 and modified in 1984 and 2001. It is open to States party to the Paris Convention for the Protection of Industrial Property. Instruments of ratification or accession must be deposited with the Director General of WIPO. The PCT created a Union. The Union has an Assembly. Every State party to the PCT is a member of the Assembly.

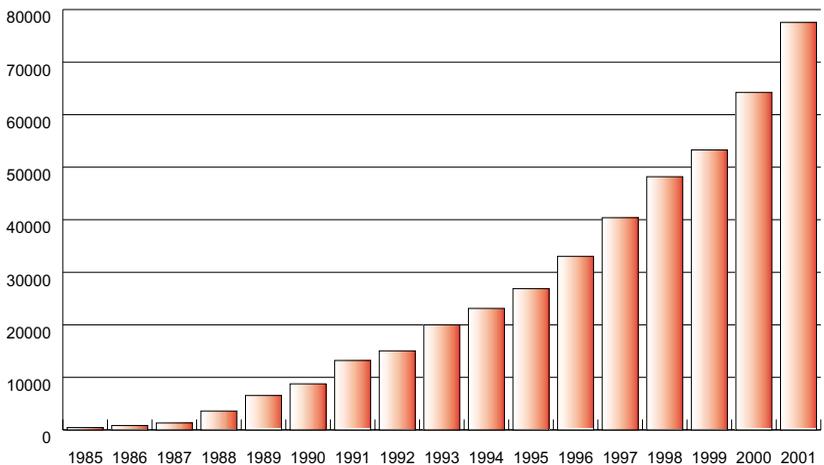
## (17) Statistics

The following charts illustrate the growth of the PCT in terms of Contracting States and its increasing use by applicants. 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: 115 on April 1, 2002)\***

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

\* This list includes all States that have acceded 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 accessions by any further States.

## **Further information**

If, after having familiarized yourself with these basic facts, you are considering filing an international patent application or would like to have more detailed information, you should consult the PCT website ([www.wipo.int/pct/en/](http://www.wipo.int/pct/en/)), in particular the *PCT Newsletter* and the *PCT Applicant's Guide* which provide extensive information on the PCT procedure as well as a complete set of instructions for filing international patent applications, consult 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 in various electronic formats from the PCT website, and in paper form from the International Bureau and 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-1211 Geneva 20, Switzerland

Telephone: (41-22) 338 93 52

Fax: (41-22) 910 06 10

E-mail: [ro.ib@wipo.int](mailto:ro.ib@wipo.int)

## To order publications

All PCT and WIPO publications may be obtained from the Marketing and Distribution Section:

WIPO  
Marketing and Distribution Section  
34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland

Telephone:  
(41 22) 338 91 11

Fax:  
(41 22) 740 18 12

E-mail:  
publications.mail@wipo.int

or you may order online at: [www.wipo.int/ebookshop](http://www.wipo.int/ebookshop)

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For more information contact the  
**World Intellectual Property Organization:**

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34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland

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41 22 338 91 11

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wipo.mail@wipo.int

or its New York Coordination Office at:

Address:  
2, United Nations Plaza  
Suite 2525  
New York, N.Y. 10017  
United States of America

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