

K oznámeniu č. 97/2005 Z. z.

**AMENDMENTS OF THE REGULATIONS UNDER THE PCT
(to enter into force on April 1, 2005)**

Rule 3

The Request (Form)

3.1 and 3.2 [No change]

3.3 Check List

(a) The request shall contain a list indicating:

(i) [No change]

(ii) where applicable, that the international application as filed is accompanied by a power of attorney (i.e., a document appointing an agent or a common representative), a copy of a general power of attorney, a priority document, a sequence listing in electronic form, a document relating to the payment of fees, or any other document (to be specified in the check list);

(iii) [No change]

(b) [No change]

3.4 [No change]

Rule 4

The Request (Contents)

4.1 to 4.5 [No change]

4.6 The Inventor

(a) Where Rule 4.1(a)(iv) or (c)(i) applies, the request shall indicate the name and address of the inventor or, if there are several inventors, of each of them.

(b) and (c) [No change]

4.7 to 4.18 [No change]

Rule 13ter

Nucleotide and/or Amino Acid Sequence Listings

13ter.1 Procedure Before the International Searching Authority

(a) Where the international application contains disclosure of one or more nucleotide and/or amino acid sequences, the International Searching Authority may invite the applicant to furnish to it, for the purposes of the international search, a sequence listing in electronic form complying with the standard provided for in the Administrative Instructions, unless such listing in electronic form is already available to it in a form and manner acceptable to it, and to pay to it, where applicable, the late furnishing fee referred to in paragraph (c), within a time limit fixed in the invitation.

(b) Where at least part of the international application is filed on paper and the International Searching Authority finds that the description does not comply with Rule 5.2(a), it may invite the applicant to furnish, for the purposes of the international search, a sequence listing in paper form complying with the standard provided for in the Administrative Instructions, unless such listing in paper form is already available to it in a form and manner acceptable to it, whether or not the furnishing of a sequence listing in electronic form is invited under paragraph (a), and to pay, where applicable, the late furnishing fee referred to in paragraph (c), within a time limit fixed in the invitation.

(c) The furnishing of a sequence listing in response to an invitation under paragraph (a) or (b) may be subjected by the International Searching Authority to the payment to it, for its own benefit, of a late furnishing fee whose amount shall be determined by the International Searching Authority but shall not exceed 25 % of the international filing fee referred to in item 1 of the Schedule of Fees, not taking into account any fee for each sheet of the international application in excess of 30 sheets, provided that a late furnishing fee may be required under either paragraph (a) or (b) but not both.

(d) If the applicant does not, within the time limit fixed in the invitation under paragraph (a) or (b), furnish the required sequence listing and pay any required late furnishing fee, the International Searching Authority shall only be required to search the international application to the extent that a meaningful search can be carried out without the sequence listing.

(e) Any sequence listing not contained in the international application as filed, whether furnished in response to an invitation under paragraph (a) or (b) or otherwise, shall not form part of the international application, but this paragraph shall not prevent the applicant from amending the description in relation to a sequence listing pursuant to Article 34(2)(b).

(f) Where the International Searching Authority finds that the description does not comply with Rule 5.2(b), it shall invite the applicant to submit the required correction. Rule 26.4 shall apply *mutatis mutandis* to any correction offered by the applicant. The International Searching Authority shall transmit the correction to the

receiving Office and to the International Bureau.

13ter.2 Procedure Before the International Preliminary Examining Authority

Rule 13ter.1 shall apply *mutatis mutandis* to the procedure before the International Preliminary Examining Authority.

13ter.3 Sequence Listing for Designated Office

No designated Office shall require the applicant to furnish to it a sequence listing other than a sequence listing complying with the standard provided for in the Administrative Instructions.

Rule 16bis

Extension of Time Limits for Payment of Fees

16bis.1 Invitation by the Receiving Office

(a) Where, by the time they are due under Rules 14.1(c), 15.4 and 16.1(f), the receiving Office finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the transmittal fee, the international filing fee and the search fee, the receiving Office shall, subject to paragraph (d), invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 16bis.2, within a time limit of one month from the date of the invitation.

(b) [Remains deleted]

(c) Where the receiving Office has sent to the applicant an invitation under paragraph (a) and the applicant has not, within the time limit referred to in that paragraph, paid in full the amount due, including, where applicable, the late payment fee under Rule 16bis.2, the receiving Office shall, subject to paragraph (e):

(i) and (ii) [No change]

(d) and (e) [No change]

16bis.2 [No change]

Rule 23

Transmittal of the Search Copy, Translation and Sequence Listing

23.1 Procedure

(a) and (b) [No change]

(c) Any sequence listing in electronic form which is furnished for the purposes of Rule 13ter but submitted to the receiving Office instead of the International Searching Authority shall be promptly transmitted by that Office to that Authority.

Rule 40

Lack of Unity of Invention (International Search)

40.1 Invitation to Pay Additional Fees; Time Limit

The invitation to pay additional fees provided for in Article 17(3)(a) shall:

- (i) specify the reasons for which the international application is not considered as complying with the requirement of unity of invention;
- (ii) invite the applicant to pay the additional fees within one month from the date of the invitation, and indicate the amount of those fees to be paid; and
- (iii) invite the applicant to pay, where applicable, the protest fee referred to in Rule 40.2(e) within one month from the date of the invitation, and indicate the amount to be paid.

40.2 Additional Fees

- (a) The amount of the additional fees due for searching under Article 17(3)(a) shall be determined by the competent International Searching Authority.
- (b) The additional fees due for searching under Article 17(3)(a) shall be payable direct to the International Searching Authority.
- (c) Any applicant may pay the additional fees under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive. Such protest shall be examined by a review body constituted in the framework of the International Searching Authority, which, to the extent that it finds the protest justified, shall order the total or partial reimbursement to the applicant of the additional fees. On the request of the applicant, the text of both the protest and the decision thereon shall be notified to the designated Offices together with the international search report. The applicant shall submit any translation thereof with the furnishing of the translation of the international application required under Article 22.
- (d) The membership of the review body referred to in paragraph (c) may include, but shall not be limited to, the person who made the decision which is the subject of the protest.
- (e) The examination of a protest referred to in paragraph (c) may be subjected by the International Searching Authority to the payment to it, for its own benefit, of a protest fee. Where the applicant has not, within the time limit under Rule 40.1(iii), paid any required protest fee, the protest shall be considered not to have been made and the International Searching Authority shall so declare. The protest fee shall be refunded to the applicant where the review body referred to in paragraph (c) finds that the protest was entirely justified.

40.3 [Deleted]

Rule 43bis

Written Opinion of the International Searching Authority

43bis.1 Written Opinion

- (a) Subject to Rule 69.1(b-bis), the International

Searching Authority shall, at the same time as it establishes the international search report or the declaration referred to in Article 17(2)(a), establish a written opinion as to:

(i) and (ii) [No change]

The written opinion shall also be accompanied by such other observations as these Regulations provide for.

(b) and (c) [No change]

Rule 44

Transmittal of the International Search Report, Written Opinion, Etc.

44.1 Copies of Report or Declaration and Written Opinion

The International Searching Authority shall, on the same day, transmit one copy of the international search report or of the declaration referred to in Article 17(2)(a), and one copy of the written opinion established under Rule 43bis.1 to the International Bureau and one copy to the applicant.

44.2 and 44.3 [No change]

Rule 53

The Demand

53.1 to 53.8 [No change]

53.9 Statement Concerning Amendments

(a) [No change]

(b) If no amendments under Article 19 have been made and the time limit for filing such amendments has not expired, the statement may indicate that, should the International Preliminary Examining Authority wish to start the international preliminary examination at the same time as the international search in accordance with Rule 69.1(b), the applicant wishes the start of the international preliminary examination to be postponed in accordance with Rule 69.1(d).

(c) [No change]

Rule 68

Lack of Unity of Invention (International Preliminary Examination)

68.1 [No change]

68.2 Invitation to Restrict or Pay

Where the International Preliminary Examining Authority finds that the requirement of unity of invention is not complied with and chooses to invite the applicant, at his option, to restrict the claims or to pay additional fees, the invitation shall:

- (i) specify at least one possibility of restriction which, in the opinion of the International Preliminary Examining Authority, would be in compliance with the applicable requirement;
- (ii) specify the reasons for which the international

- nal application is not considered as complying with the requirement of unity of invention;
- (iii) invite the applicant to comply with the invitation within one month from the date of the invitation;
- (iv) indicate the amount of the required additional fees to be paid in case the applicant so chooses; and
- (v) invite the applicant to pay, where applicable, the protest fee referred to in Rule 68.3(e) within one month from the date of the invitation, and indicate the amount to be paid.

68.3 Additional Fees

- (a) The amount of the additional fees due for international preliminary examination under Article 34(3)(a) shall be determined by the competent International Preliminary Examining Authority.
- (b) The additional fees due for international preliminary examination under Article 34(3)(a) shall be payable direct to the International Preliminary Examining Authority.
- (c) Any applicant may pay the additional fees under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive. Such protest shall be examined by a review body constituted in the framework of the International Preliminary Examining Authority which, to the extent that it finds the protest justified, shall order the total or partial reimbursement to the applicant of the additional fees. On the request of the applicant, the text of both the protest and the decision thereon shall be notified to the elected Offices as an annex to the international preliminary examination report.
- (d) The membership of the review body referred to in paragraph (c) may include, but shall not be limited to, the person who made the decision which is the subject of the protest.
- (e) The examination of a protest referred to in paragraph (c) may be subjected by the International Preliminary Examining Authority to the payment to it, for its own benefit, of a protest fee. Where the applicant has not, within the time limit under Rule 68.2(v), paid any required protest fee, the protest shall be considered not to have been made and the International Preliminary Examining Authority shall so declare. The protest fee shall be refunded to the applicant where the review body referred to in paragraph (c) finds that the protest was entirely justified.

68.4 and 68.5 [No change]

Rule 69

Start of and Time Limit for International Preliminary Examination

69.1 Start of International Preliminary Examination

(a) Subject to paragraphs (b) to (e), the International Preliminary Examining Authority shall start the international preliminary examination when it is in possession of all of the following:

(i) and (ii) [No change]

(iii) either the international search report or the declaration by the International Searching Authority under Article 17(2)(a) that no international search report will be established, and the written opinion established under Rule 43bis.1;

provided that the International Preliminary Examining Authority shall not start the international preliminary examination before the expiration of the applicable time limit under Rule 54bis.1(a) unless the applicant expressly requests an earlier start.

(b) and (c) [No change]

(d) Where the statement concerning amendments contains an indication that the start of the international preliminary examination is to be postponed (Rule 53.9(b)), the International

Preliminary Examining Authority shall not start the international preliminary examination before whichever of the following occurs first:

(i) and (ii) [No change]

(iii) the expiration of the applicable time limit under Rule 46.1.

(e) [No change]

69.2 [No change]

Rule 76

Translation of Priority Document; Application of Certain Rules to Procedures Before Elected Offices

76.1, 76.2 and 76.3 [Remain deleted]

76.4 [No change]

76.5 Application of Certain Rules to Procedures Before Elected Offices

Rules 13ter.3, 22.1(g), 47.1, 49, 49bis and 51bis shall apply, provided that:

(i) to (v) [No change]