

Article 4 The Request

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|---|--|----------------------------------|
| | <i>[IA must contain request]</i> | Art.3(2) |
| | <i>[applicant]</i> | Art.9 |
| | <i>[national requirements]</i> | Art.27 |
| | <i>[seeking certain kinds of protection]</i> | Art.43 |
| | <i>[seeking two kinds of protection]</i> | Art.44 |
| | <i>[regional patent treaties]</i> | Art.45 |
| | <i>[right to practice before international authorities]</i> | Art.49 |
| | <i>[request for IA: form]</i> | R.3 |
| | <i>[request for IA: contents]</i> | R.4 |
| | <i>[designation of states; kinds of protection; national and regional patents]</i> | R.4.9 |
| | <i>[request for IA: signature]</i> | R.4.15 |
| | <i>[applicant]</i> | R.18 |
| | <i>[competent rO]</i> | R.19 |
| | <i>[IFD]</i> | R.20 |
| | <i>[fees prescribed under Art.4(2): international filing fee (R.15.1) and, where required, late payment fee (R.16bis.2)]</i> | R.27.1(b) |
| | <i>[what are main effects of IA?]</i> | AG-IP 5.003 |
| | <i>[what is contents of request for IA?]</i> | AG-IP 5.016-017 |
| | <i>[when and how must inventor be identified?]</i> | AG-IP 5.035-036 |
| | <i>[how is agent to be appointed?]</i> | AG-IP 5.043 |
| | <i>[what is designation of States?]</i> | AG-IP 5.052 |
| | <i>[is it possible to choose kind of protection other than patent and if so how is it done?]</i> | AG-IP 5.055-056 |
| | <i>[when is office dO?]</i> | AG-NP 2.002-003 |
| | <i>[EPO as dO/eO]</i> | Art.153 EPC |
| | <i>[EPO as dO/eO: invitation to submit data of inventor]</i> | R.163(1) EPC |
| (1) The request shall contain: | | R.3 |
| | | R.4 |
| | | AG-IP 5.016 |
| (i) a petition to the effect that the international application be processed according to this Treaty; | | Art.3(2) |
| | | R.4.2 |
| | | R.4.9 |
| (ii) the designation of the Contracting State or States in which protection for the invention is desired on the basis of the international application (" <u>designated States</u> "); | | AG-IP 5.003 |
| | | AG-IP 5.052 |
| | | AG-IP 5.055-056 |
| | | Art.2(iv) |
| if for any designated State a regional patent is available and the applicant wishes to obtain a regional patent rather than a national patent, the request shall so indicate; | | Art.45(1) |
| | | R.4.9 |
| | | Preamble EPC |
| | | Art.153 EPC |
| | | R.4.9 |
| if, under a treaty concerning a regional patent, the applicant cannot limit his application to certain of the States party to that treaty, designation of one of those States and the indication of the wish to obtain the regional patent shall be treated as designation of all the States party to that treaty; | | <i>[Unitary European Patent]</i> |
| | | <i>[CH & LI]</i> |
| if, under the national law of the designated State, the designation of that State has the effect of an application for a regional patent , the designation of the said State shall be treated as an indication of the wish to obtain the regional patent; | | Art.45(2) |
| | | R.4.9 |
| (iii) the name of and other prescribed data concerning the applicant | | Art.9 |
| | | R.4.1(a)(iii) |
| | | R.4.5, R.4.4 |
| | | R.20.1(b) |
| | | R.26.2bis(a) |
| | | R.18.3 |
| | | R.19.2 |

and the **agent** (if any);

(iv) the **title** of the invention;

(v) the name of and other **prescribed data concerning the inventor**

where the **national law of at least one of the designated States requires that these indications be furnished at the time of filing** a national application. Otherwise, the said indications may be furnished either in the request or in separate notices addressed to each designated Office whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application.

(2) Every designation shall be subject to the payment of the **prescribed fee**

within the **prescribed time limit**.

(3) Unless the applicant asks for any of the **other kinds of protection referred to in Article 43**, designation shall mean that the desired protection consists of the grant of a patent by or for the designated State.

For the purposes of this paragraph, **Article 2(ii)** shall not apply.

(4) Failure to indicate in the request the **name and other prescribed data concerning the inventor**

shall have no consequence in any designated State whose national law requires the furnishing of the said indications but **allows that they be furnished at a time later** than that of the filing of a national application. Failure to furnish the said indications in a separate notice shall have no consequence in any designated State whose national law does not require the furnishing of the said indications.

Article 5 The Description

[IA must contain description]

[description]

[IFD]

[how must description be drafted?]

[disclosure of invention]

The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

Art.49

R.4.7, R.4.4

R.83

R.90

AG-IP 5.043

R.4.1.(a)(ii)

R.4.3

R.37

R.49.5(k)

Art.4(4)

R.4.1(a)(iv)

R.4.6

AG-IP 5.035

Art.27(3)

R.4.1(c)(i)

Art.14(3)

R.4.9

R.27.1(b)

*[payment of
designation fees
abolished]*

[not applicable]

Art.43

Art.44

R.4.9

AG-IP 5.055-056

Art.2(ii)

Art.4(1)(v)

R.4.1(c)(i)

R.163(1) EPC

AG-IP 5.035-036

Art.3(2)

R.5

R.20

AG-IP 5.094-095

Art.83 EPC

Art.83 EPC

Article 6 The Claims

[IA must contain one or more claims]

[claims]

[IFD]

[how must claims be drafted?]

The claim or claims shall define the matter for which protection is sought.
 Claims shall be clear and concise. They shall be fully supported by the description.

Art.3(2)

R.6

R.20

AG-IP 5.112-113

AG-IP 5.112

Art.84 EPC

Article 7 The Drawings

[IA must contain drawings (where required)]

[missing drawings]

[drawings]

[IFD: missing parts]

[what are elements of IA?]

[when is inclusion of drawings required in IA?]

(1) Subject to the provisions of paragraph (2)(ii), drawings shall be required when they are necessary for the understanding of the invention.

(2) Where, without being necessary for the understanding of the invention, the nature of the invention admits of illustration by drawings:

(i) the applicant may include such **drawings** in the international application when filed,

(ii) any designated Office may require that the applicant file such drawings with it within the **prescribed time limit**.

Art.3(2)

Art.14(2)

R.7

R.20.5

AG-IP 5.010

AG-IP 5.128-5.130

AG-IP 5.010

AG-IP 5.128

R.20.5

R.7.2

Article 8 Claiming Priority

| | |
|--|--|
| | Art.2(xi) |
| <i>[definition priority date]</i> | Art.2(xi)(b) |
| <i>[time limits are calculated from earliest priority date]</i> | |
| <i>[interpretation of certain words: priority period]</i> | R.2.4 |
| <i>[request for IA: priority claim]</i> | R.4.1(b)(i) |
| <i>[request for IA: priority claim: Paris Convention country + member WTO]</i> | R.4.10 |
| <i>[priority document]</i> | R.17 |
| <i>[correction/addition priority claim]</i> | R.26bis.1 |
| <i>[defects in priority claims]</i> | R.26bis.2 |
| <i>[restoration of right of priority by rO]</i> | R.26bis.3 |
| <i>[effect of restoration of right of priority]</i> | R.49ter |
| <i>[withdrawal of priority claims]</i> | R.90bis.3 |
| <i>[notice of withdrawal must be signed by (all) applicant(s); deemed common representative not entitled to sign on behalf of other applicants]</i> | R.90bis.5 |
| <i>[IA with IFD is equivalent of "regular national filing" within meaning of PC and may be invoked as basis of priority claim in national, regional or other IA]</i> | AG-IP 5.007 |
| <i>[how may priority of earlier application be claimed?]</i> | AG-IP 5.057 |
| <i>[what does "priority date" mean?]</i> | AG-IP 5.058 |
| <i>[what does "priority period" mean?]</i> | AG-IP 5.059 |
| <i>[what are principles governing right of priority for IAs?]</i> | AG-IP 5.060 |
| <i>[Paris Convention: right of priority]</i> | Art.4 PC |
| <i>[Paris Convention: priority period for patents and utility models = 12 months]</i> | Art.4C(1) PC |
| (1) The international application may contain a declaration, as prescribed in the Regulations, claiming the priority of one or more earlier applications | R.4.1(b)(i) |
| | R.4.10 |
| | AG-IP 5.057-060 |
| | ----- <i>[also WTO members: see R.4.10]</i> |
| (2) (a) Subject to the provisions of subparagraph (b), the conditions for, and the effect of, any priority claim declared under paragraph (1) | R.4.10 |
| shall be as provided in Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property. | AG-IP 5.060 |
| | ----- Art.4 PC |
| (b) The international application for which the priority of one or more earlier applications filed in or for a Contracting State is claimed may contain the designation of that State. | <i>[→ claiming internal priority allowed]</i> |
| Where, in the international application, the priority of one or more national applications filed in or for a designated State is claimed, or where the priority of an international application having designated only one State is claimed, the conditions for, and the effect of, the priority claim in that State shall be governed by the national law of that State. | Art.2(vi) |

Article 9 The Applicant

[request for IA must contain: prescribed particulars of applicant and agent (if any)]

Art.4(1)(iii)

[request for IA: applicant]

R.4.5

[different applicants for different designated States]

R.4.5(d)

[residence and nationality of applicant]

R.18.1

[two or more applicants]

R.18.3

[recording of change applicant in request]

R.92bis.1(a)(i)

[correspondence]

R.92

[who may file IA?]

AG-IP 5.020

[IA: different applicants may be indicated for various designated States]

AG-IP 5.022

[why and how must nationality and residence of applicant be indicated in request?]

AG-IP 5.031

[what is "common representative" of applicants?]

AG-IP 11.005

[what should be done if inventor died before filing IA?]

AG-IP 11.025

(1) Any **resident or national of a Contracting State** may file an international application.

R.18.1

R.18.3

AG-IP 5.020

AG-IP 5.031

[not in use]

(2) The Assembly may decide to allow the residents and the nationals of any country party to the Paris Convention for the Protection of Industrial Property which is not party to this Treaty to file international applications.

(3) The **concepts of residence and nationality**,
and the application of those concepts in cases where there are **several applicants**

R.18.1

R.18.3

R.19.2

AG-IP 5.020

R.4.5(d)

AG-IP 5.022

or where the **applicants are not the same for all the designated States**, are defined in the Regulations.

Article 10 The Receiving Office

[requirements IA]

Art.3

[request for IA]

Art.4

[IFD and effects of IA]

Art.11

[competent rO]

R.19

[IFD]

R.20

[preparation of copies]

R.21

[transmittal of record copy and translation]

R.22

[transmittal of search copy; translation and sequence listing]

R.23

[checking by and correction before rO of certain elements of IA]

R.26

[correspondence]

R.92

[keeping of records and files by rO, IB, ISA, IPEA]

R.93

[access to files held by IB, rO, ISA, SISA, IPEA, dO, eO]

R.94

[where should IA be filed?]

AG-IP 5.008

[what are main procedural steps at rO?]

AG-IP 6.001

[EPO as rO]

EPG/EPO 42-189

The international application shall be filed with the **prescribed receiving Office**, which will **check and process it as provided** in this Treaty and the Regulations.

R.19.1

R.20-23

Article 11 Filing Date and Effects of the International Application

| | | |
|-------|--|-----------------|
| | <i>[requirements IA]</i> | Art.3 |
| | <i>[applicant]</i> | Art.9 |
| | <i>[rO]</i> | Art.10 |
| | <i>[prior art effect of IAs]</i> | Art.64(4) |
| | <i>[languages accepted for filing IA]</i> | R.12.1 |
| | <i>[applicant]</i> | R.18 |
| | <i>[transmittal of IA to IB as rO]</i> | R.19.4 |
| | <i>[IFD]</i> | R.20 |
| | <i>[IFD: determination under Art.11(1)]</i> | R.20.1 |
| | <i>[IFD: positive determination under Art.11(1)]</i> | R.20.2 |
| | <i>[IFD: defects under Art.11(1)]</i> | R.20.3 |
| | <i>[IFD: negative determination under Art.11(1)]</i> | R.20.4 |
| | <i>[IFD: missing parts]</i> | R.20.5 |
| | <i>[IFD: confirmation of incorporation by reference of elements and parts]</i> | R.20.6 |
| | <i>[IFD: time limit to furnish corrections or to confirm incorporation by reference, and to make observations]</i> | R.20.7 |
| | <i>[rectification by dO/eO of errors made by rO or by IB: IFD and priority claim]</i> | R.82ter |
| | <i>[what are main effects of IA?]</i> | AG-IP 5.003 |
| | <i>[IA with IFD is equivalent of "regular national filing" within meaning of PC and may be invoked as basis of priority claim in national, regional or other IA]</i> | AG-IP 5.007 |
| | <i>[what are principles governing right of priority for IAs?]</i> | AG-IP 5.060 |
| | <i>[how must description be drafted?]</i> | AG-IP 5.094-095 |
| | <i>[how must claims be drafted?]</i> | AG-IP 5.112 |
| | <i>[what are main procedural steps at rO?]</i> | AG-IP 6.001 |
| | <i>[what conditions must IA fulfill to be entitled to IFD?]</i> | AG-IP 6.005 |
| | <i>[what date is accorded as IFD?]</i> | AG-IP 6.008 |
| | <i>[does non-payment, incomplete payment or late payment of fees influence IFD?]</i> | AG-IP 6.009 |
| | <i>[how does applicant know whether application has been accorded IFD or that his application is not treated as IA or is considered to have been withdrawn?]</i> | AG-IP 6.011 |
| | <i>[what defects influence IFD?]</i> | AG-IP 6.024-025 |
| | <i>[what happens if all sheets of IA are not received on same day?]</i> | AG-IP 6.026 |
| | <i>[may applicant correct indications of residence and nationality?]</i> | AG-IP 6.036 |
| | <i>[what is national phase?]</i> | AG-NP 2.001 |
| | <i>[Paris Convention: right of priority]</i> | Art.4 PC |
| | <i>[EPO: right to priority: filing date as effective date]</i> | GL/EPO F-VI 1.1 |
| (1) | The receiving Office shall accord as the international filing date the date of receipt of the international application , provided that that Office has found that, at the time of receipt: | R.20.2 |
| | | AG-IP 6.005 |
| | | AG-IP 6.008 |
| (i) | the applicant does not obviously lack, for reasons of residence or nationality , the right to file an international application with the receiving Office, | Art.9 |
| | | Art.10 |
| | | R.18 |
| | | R.19.1 |
| | | AG-IP 6.025 |
| | | AG-IP 6.036 |
| (ii) | the international application is in the prescribed language , | ----- |
| | | Art.3(4)(i) |
| | | R.12.1 |
| | | R.19.4 |
| | | R.20.1(c) |
| | | AG-IP 6.006 |
| | | AG-IP 6.025 |
| | | ----- |
| | | AG-IP 6.006 |
| (iii) | the international application contains at least the following elements: | |
| (a) | an indication that it is intended as an international application , | R.4.2 |
| | | AG-IP 6.025 |
| (b) | the designation of at least one Contracting State , | ----- |
| | | Art.4(1)(ii) |
| | | R.4.9 |
| | | AG-IP 5.052 |
| | | AG-IP 6.025 |
| | | ----- |

| | |
|---|--|
| <p>(c) the name of the applicant, as prescribed,</p> | <p>----- Art.9 R.4.5, R.4.4 R.20.1(b) AG-IP 6.025 -----</p> |
| <p>(d) a part which on the face of it appears to be a description,</p> | <p>Art.3(2) Art.5, R.5 AG-IP 5.094 AG-IP 6.025 -----</p> |
| <p>(e) a part which on the face of it appears to be a claim or claims.</p> | <p>Art.3(2) Art.6, R.6 AG-IP 5.112 AG-IP 6.025</p> |
| <p>(2) (a) If the receiving Office finds that the international application did not, at the time of receipt, fulfill the requirements listed in paragraph (1), it shall, as provided in the Regulations, invite the applicant to file the required correction.</p> | <p>R.20.3-R.20.7 AG-IP 6.001 AG-IP 6.026</p> |
| <p>(b) If the applicant complies with the invitation, as provided in the Regulations, the receiving Office shall accord as the international filing date the date of receipt of the required correction.</p> | <p>R.20.3-R.20.6 AG-IP 6.001 AG-IP 6.008 -----</p> |
| <p>(3) Subject to Article 64(4), any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) and accorded an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.</p> | <p>Art.64(4) AG-IP 5.003 AG-IP 5.060 AG-IP 6.009 AG-NP 2.001</p> |
| <p>(4) Any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) shall be equivalent to a regular national filing within the meaning of the Paris Convention for the Protection of Industrial Property.</p> | <p>Art.4A(2), (3) PC AG-IP 5.007 AG-IP 5.060 AG-IP 6.009</p> |