

Rule # 179/2017

Subject: To improve the procedures for the national phase entry of international patent applications filed under the Patent Cooperation Treaty (PCT), before the BRPTO, as the designated or elected office.

THE PRESIDENT OF THE BRAZILIAN PATENT AND TRADEMARK OFFICE – BRPTO in the exercise of its attributions provided by Decree # 8,854 of September 22, 2016 and by Ordinance # 11 of January 27, 2017.

DETERMINES:

Article 1. To improve the procedures for the national phase entry of international patent applications filed under the Patent Cooperation Treaty (PCT), before the BRPTO, as the designated or elected office..

Article 2. If the interested party or applicant designated on the national phase entry petition differs from the applicant of the the early application, whose priority is being claimed, a copy of the correspondent assignment of priority rights document or a declaration of assignment or an equivalent document, hereinafter document, shall be presented together with its simple translation, the notarization/consular legalization at the origin country being dismissed.

Paragraph 1. The document to be presented shall contain the identifying data of the early application, which originates the the priority right; and identifying data of the assignor and the assignee.

Paragraph 2. The document shall be filed within 60 days, counted from the entry date of the National Phase regardless of notification or office action.

Paragraph 3. The assignment document may be replaced by the declaration submitted together with the the PCT international application request form [PCT/RO/101 – Box VIII (iii)], under Rule 4.17 (iii), as set forth by Rule 51 *bis* 1 a (iii) of the regulations under the PCT.

Article 3. If there was an assignment of rights over the PCT international application, within the international phase, and it has not been regularized with the PCT's International Bureau (IB), still in its international phase, the interested party of the Brazilian national phase entry petition shall present the assignment document, a declaration of assignment, or an equivalent document, together with its simple translation,. the notarization/consular legalization at the origin country being dismissed.

Paragraph 1. The interested party of the national phase entry petition shall include both the assignor(s) and the assignee(s) in case of partial assignment; and include only the assignee(s) in case of a full assignment.

Paragraph 2. The assignment document must contain the identifying data of the PCT international application; and the identifying data of the assignor(s) and the assignee(s).

Article 4. The right to file and the right to claim priority are presumed to be assigned to the applicant when the applicant is the employer or contractor of the inventor, provided that a document proving the labor relations is presented.

Article 5. If the national phase entry petition does not meet the provisions set forth by Article 3 of this Rule, the BRPTO will issue an office action so the applicant can solve the irregularities within 60 (sixty) days. If the irregularities are not solved within the deadline, the PCT international application will be withdrawn from the Brazilian national phase.

Article 6. If the assignment of rights related to the PCT international application occurs after the national phase entry petition is filed, the interested party of the national phase entry petition must be applicant who filed the PCT international application.

Sole Paragraph. The assignment of rights shall be requested on a specific form accompanied by the proof of payment of the official fee (GRU) relative to the ownershiptransfer/name change request.

Article 7. The provisions of this Rule shall be applied to ongoing applications.

Article 8. The Articles 28 and 32 of Rule # 77 of March 18, 2013 are hereby revoked.

Article 9. | The Article 13 of Normative Instruction # 31 of December 4, 2013 is hereby revoked.

Article 10. The Rule # 174 of December 6, 2016, is hereby revoked.

Article 11. This rule becomes effective on the present date and of it will published in the Industrial property gazette.

Rio de Janeiro, February 21, 2017.

LUIZ OTÁVIO PIMENTEL
President