

Instructions for Transmittal Form PTO-1390 (January 2025)
For National Stage Applications submitted under 35 U.S.C. 371

Introduction – The PTO-1390 form may be used to accompany any submission to the USPTO in a national stage application (a.k.a. “371 application”), but is especially useful for the initial submission to enter the national stage to both identify the submission as a national stage application under 35 U.S.C. 371 and to provide additional information relevant to the processing of the application. The following instructions are intended to address potential questions that might arise when completing the form. If questions persist, please call or email the PCT Help Desk for assistance (571-272-4300; PCTHelp@uspto.gov).

General guidance

The non-DOCX surcharge under 37 CFR 1.16(u) does not apply to national stage applications.

Guidance by item number

Item 1: Checking this box for making an express request enables the USPTO, as a designated/elected office, to begin processing the application prior to 30 months from the priority date, provided that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) are satisfied.

Item 2: See page 4 of the PTO-1390 form for acceptable payment methods.

Item 3: Publication of the international application by the International Bureau (IB) is considered to satisfy the requirement for a copy of the international application under 35 U.S.C. 371(c)(2). Accordingly, if the international application is published, it is appropriate to check box 3.a. and not attach a copy of the international application.

Item 4: An accurate translation of the international application into English is required for any application filed in another language and not published in English. If the application contains a sequence listing that does not include an English language value for each language-dependent free text qualifier, a translated sequence listing must be provided. See item 6.b.

The translation must be a translation of the international application as filed or with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. A translation of less than all of the international application (*e.g.*, a translation that fails to include a translation of text contained in the drawings or a translation that includes a translation of claims amended under PCT Article 19 or 34 but does not include a translation of the original claims) is unacceptable. In addition, a translation that includes modifications other than changes that have been properly accepted under PCT Rule 26 or 91 (*e.g.*, a translation that includes headings that were not present in the international application as originally filed) is unacceptable. See MPEP 1893.01(d) for further information about the translation requirement.

Item 5: Where a compliant inventor’s declaration under PCT Rule 4.17(iv) was timely filed during international phase, the IB provides a copy to the USPTO.

Item 6: Where a sequence listing is part of the description of an international application, the IB communicates it to the USPTO, as a designated/elected office, with the copy of the international application. A sequence listing part of the description is typically one that was filed by applicant on the international filing date; it is published by the IB with the international application and recorded at the end of the cover sheet of the publication as *part of the description* (Rule 5.2(a)). Only if publication has not occurred at the time of entry into national phase should applicant provide the sequence listing part of the description (item 6.a.).

A sequence listing filed by applicant during national stage supersedes the sequence listing part of the description of the international application, if any. A translation of the sequence listing part of the description (item 6.b.) must be provided by applicant if the sequence listing part of the description is missing English language values for any language-dependent free text qualifiers; where only the invention title and/or applicant name is non-English, a translated

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sequence listing is not required. Since submission of a translated sequence listing is not an amendment of the application, an incorporation by reference statement (under 37 CFR 1.77(b)) is not required for the translated sequence listing. An amendment of the sequence listing part of the description, or translation thereof, is subject to the requirements specified under 37 CFR 1.825(b) or 1.835(b), depending upon the international filing date, which include providing a substitute specification that comprises an incorporation by reference statement. Please note that providing an amended sequence listing for the sole purpose of updating the general information (*e.g.*, the application number and filing date) in a sequence listing part of the description of the international application is not necessary; the USPTO will update this information at entry into national stage. Where the international application does not contain a sequence listing part of the description, the national application must be amended to contain a sequence listing as prescribed by 37 CFR 1.825(a) or 1.835(a), depending upon the international filing date.

Items 7-9: If the claims were amended under Article 19 during international phase, a copy (as stamped and published) can optionally be filed in the national stage application. If Article 19 and/or Article 34 amendments are not in English, a translation will need to be provided; otherwise, they are considered canceled. See MPEP 1893.01(a)(2) and (a)(3) for details.

Item 10: If it is not desired to have Article 19 and/or Article 34 amendments entered into the U.S. national stage application, applicant should provide clear instructions to cancel such amendment(s). Item 10 is provided for this purpose.

Item 11: MPEP 1893.01(a)(4) provides details and examples regarding claim amendment in accordance with 37 CFR 1.121. Note, in particular, the proper use of claim status identifiers in a preliminary amendment of the claims, with respect to claims that were amended and/or canceled under Article 19 and/or Article 34.

Items 15-16: Where an applicant's name is to be corrected or updated under 37 CFR 1.46(c)(1), or there is a change in the applicant under 37 CFR 1.46(c)(2), the ADS does not need to be marked up to show the correction, update or change if the ADS is included in the initial submission under 35 U.S.C. 371.

Item 23: "All other situations" includes where the International Search Report was or will be prepared by an ISA other than the US, has not been published by the IB, and is not being filed with this Office.

Item 24: If the international application is published, the application size fee is determined based on the publication. MPEP 1893.01(c) provides further details.