

## **United Kingdom**

In response to Circular PCT 1081 dated 19 June 2006, the United Kingdom Patent Office provides information on the legal provisions and Business Continuity Plan that would apply in the event of disaster.

On 4 January 2002 we supplied similar information (see attached copy).

Paragraph 2 still applies in general terms, although discretion available to the Comptroller to extend statutorily defined time limits is subject to limits set by legislation.

Paragraph 3 still applies which relates to Patents Rule 111. This was applied following the London bombings on 7 July 2005. This date was certified as an interrupted day under this rule and time limits were extended accordingly.

We have now implemented the WIPO Patent Law Treaty as mentioned in Paragraph 4, so further relief is now available under patent law. This includes as-of-right extensions of time to certain limits, restoration of priority rights, reinstatement, missing parts etc.

We are also able to apply the relevant PCT provisions for example Rule 80, 82 etc. when relevant.

We also have a Business Continuity Plan which is divided into four phases following any emergency. Phase 1 consists of the first 24 hours following a disaster, Phase 2 – Days 2 to 21, Phase 3 – Week 4 to Week 26, and finally Phase 4 which is Week 27 onwards.

I have attached those portions relating to the United Kingdom Patent Office as a Patent Co-operation Treaty Receiving Office which start at Phase Two and continue through Phase Three to Phase Four. By Phase Four it is anticipated that we will have resumed normal functioning. In addition, we have a Corporate Risk that covers the unexpected loss of significant numbers of staff and an action plan is being developed to deal with this specific situation. It will cover things like communicating the plan to staff, training to cover key posts, and testing the operation of the plan.

31 August 2006

## **Response from the United Kingdom on relief, in response to SCP/6/7.**

1. Business in the USA and its communications with the United Kingdom were disrupted by the terrorist attacks of 11 September 2001, and the UK Patent Office promised to take whatever reasonable measures it could to assist those whose filings of patent, trade mark or designs applications or other documents had been affected. We would take the same approach for any *force majeure* circumstances which occurred either in the UK or abroad and we would, wherever possible, help with reconstituting files or records which have been damaged or destroyed.
2. In such circumstances, requests for extensions of time are considered sympathetically on a case-by-case basis, and we are free to exercise considerable discretion in respect of non-statutory time limits (for example, the time period for response to an examination report on a patent application). In respect of statutorily-defined time limits, however, we are constrained by national and international legislation and can only exercise the discretion that gives us. That said, many of the statutorily-defined time limits are extensible, either as of right or at the discretion of the comptroller - the period for getting a patent application in order for grant is one such example. Nevertheless, there are a few such time periods which cannot be extended; for example, the relevant periods for claiming priority under the Paris Convention are not extensible, and for trade marks, neither is the period for filing an opposition.
3. However, in the event of *force majeure* circumstances which generally interrupt either the normal operation of the Patent Office or the postal services in the UK, our legislation allows for any such day on which this occurs to be declared an "excluded day", and all statutorily-defined time periods are then automatically extended until the day on which the Office or the UK postal system is once again operating normally.
4. Implementation of the WIPO Patent Law Treaty will, of course, alter the relief available under patent law, particularly in respect of extension of the priority year. Preparations are currently being made to deregulate, by means of a Regulatory Reform Order, many of the formal procedures associated with patent applications and patents, and the deregulations include (but are not solely restricted to) changes needed to achieve international harmonization of formalities requirements under the PLT. Both primary and secondary legislation (the Patents Act 1977 and the Patents Rules 1995) will require amendment. The Order is currently aimed at the 2002-2003 Parliamentary session.

## PHASE TWO

PHASE TWO						
Work Area	Work Priorities	IT / Accommodation requirements		Staff Requirements		
	<p><b>High</b></p> <ul style="list-style-type: none"> <li>▪ All PCT applications to be Article 11 checked (to ensure they constitute a PCT application) and given a filing date.</li> <li>▪ Deal immediately with withdrawal letters if approaching publication date.</li> </ul>	T	<p><b>Essential</b></p> <ul style="list-style-type: none"> <li>▪ PINT</li> <li>▪ 1 x telephone</li> <li>▪ There must be access to a fax machine somewhere</li> <li>▪ 1 x Internet enabled PC</li> <li>▪ Space for 1 staff</li> </ul>	T	<p><b>High Priority</b></p> <ul style="list-style-type: none"> <li>▪ 1 x B1</li> </ul>	T
	<p><b>Medium</b></p> <ul style="list-style-type: none"> <li>▪ Forward Demand forms to the IB &amp; EPO promptly.</li> </ul>	T	<p><b>Desirable</b></p> <ul style="list-style-type: none"> <li>▪ E-Filing set up consisting of Scanner, CD Writer, PC, Printer, &amp; supply of CDRs</li> <li>▪ Photocopier</li> <li>▪ Space for 4 staff</li> </ul>	T	<p><b>Medium Priority</b></p> <ul style="list-style-type: none"> <li>▪ 1 x A2 to deal with post and record PCT applications</li> </ul>	T
	<p><b>Low</b></p> <ul style="list-style-type: none"> <li>▪ All applications (including e-filed) need to be given a Formalities check and sent to the International Bureau etc (via security section) within 30 days of receipt or 13 months from the earliest priority date.</li> <li>▪ GB priority documents where the Agents have not crossed the box on the RO/101 form to be prepared and forwarded to the IB within 16 months of the earliest priority date.</li> <li>▪ Contact Agents to request another copy of foreign priority documents to be sent to the IB.</li> </ul>	T		T	<p><b>Low</b></p> <ul style="list-style-type: none"> <li>▪ 2 x A3 to examine &amp; forward PCT application documents to the IB etc</li> </ul>	T
<b>PIU – PCT Section</b>						

PD - PHASE THREE						
Work Area	Work Priorities	IT / Accommodation requirements	Staff Requirements			
International Units	High	<ul style="list-style-type: none"> <li>As UK "Receiving Office" for patent applications filed under the PCT to process patent applications entering the international phase to ensure that they are forwarded to the International Bureau (IB) at WIPO etc within the statutory 30 days from receipt in the Office or 13 months from the earliest priority date.</li> </ul>	Essential <ul style="list-style-type: none"> <li>IT: PCT</li> <li>PINT</li> <li>MS Office</li> <li>5 x telephones</li> <li>Access to a Fax machine somewhere</li> <li>Full E-Filing set up (Scanner, PC, CD Writer, Printer &amp; Supply of CDRs</li> <li>Space for 9 staff</li> </ul>	High Priority <ul style="list-style-type: none"> <li>PCT</li> <li>6 x A3s to process new PCT applications</li> <li>1 x A1 to record new applications, deal with post &amp; filing etc</li> </ul>	T	
	Medium	<ul style="list-style-type: none"> <li>No entries</li> </ul>	Desirable <ul style="list-style-type: none"> <li>9 x Telephones</li> </ul>	Medium Priority <ul style="list-style-type: none"> <li>3 x A3</li> </ul>	T	
	Low	<ul style="list-style-type: none"> <li>No entries</li> </ul>				T

