

Updated Guidelines on Request for Correction of Error (Circular No. 4/2018, dated 18 May 2018)

In the decision of *Novartis (Singapore) Pte Ltd v Bristol-Myers Squibb Pharma Co [2017] SGHC 322*, the Singapore High Court provided legal interpretations for provisions relating to correction of errors. Following from the decision, IPOS would like to clarify the procedure for correcting an error under Section 107 of the Patents Act and Rule 58 and Rule 91 of the Patents Rules.

Purpose and Use of Patents Rule 58 and Rule 91

2 Patents Rule 58 relates to a request for the correction of an error in the Register or in any document filed at the Registry in connection with registration.

3 Patents Rule 91 relates to a request for the correction of an error of translation or transcription or of a clerical error or mistake in

- (i) a specification of a patent,
- (ii) an application for a patent, or
- (iii) any document filed in connection with a patent or such an application.

4 The Singapore High Court has clarified that reference to “documents filed in connection with registration” is concerned with documents filed in relation to an application for registration of transactions such as a mortgage or transmission upon death. The Singapore High Court has also clarified that Patents Form 1 is a document that is required for an application for grant of a patent, and is not a document filed at the Registry in connection with registration. Therefore, Rule 91 will be the applicable rule for the correction of an error in Patents Form 1.

Procedure for Correction of an Error

5 Applicants may seek to correct the (i) entry in the relevant Form and/or (ii) entry in the Register, by selecting “Correction of Register of Patents or Designs” under Part 5 of Form CM4 and indicating that a request to correct the application form is also sought under Part 6 of Form CM4 (refer to **Annex A**). The following details should also be provided –

- (i) Details of the application form to be corrected; and
- (ii) Relevant rule in which the correction is sought (Patents Rule 58 and/or 91).

6 As a guide, the correction type and its relevant patents rule(s) are provided for your reference:

Correction Type (under Part 5 of Form CM4)	Relevant Patents Rule
Correction of Form Lodged ¹	Rule 58 (in any document filed at the Registry in connection with registration ²); or

¹ For correction of pending forms, you will only need to select the option “Correction of Form Lodged” and indicate the respective forms you wish to correct.

² Forms relating to registration will include Form CM6: Application to register amend or terminate a licence, Form CM7: Application to register, amend or terminate a security interest, and Form CM8: Application to register a transfer of ownership.

Correction Type (under Part 5 of Form CM4)	Relevant Patents Rule
	Rule 91 (in an application for a patent or in any document filed in connection with a patent or such an application ³)
Correction of Register of Patents or Designs	Rule 58 (correction of each error in the Register)
Correction of Specification of a Patent or of an Application for a Patent	Rule 91
Correction of any other document relating to a Patent or of an Application for a Patent	Rule 91

Request to Correct Information in a Published Application

7 Requests under Patents Rule 91 to correct declared priority information in a published patent application will only be allowed under exceptional grounds. Applicant may put forth the reason(s) for exceptional grounds in a cover letter, enclosed with the Form CM 4. The question of whether exceptional grounds exist will be determined by IPOS taking into account the following non-exhaustive factors:

- (a) the impact or effect of the error on the rights and interests of third parties;
- (b) the nature of the error, e.g. a clerical error;
- (c) whether the error is obvious or readily apparent on the face of the published application or by reference to other documents in the patent file; and
- (d) the time lapse between publication and the date of the request for correction and the reasons given for such delay.

8 Please note that requests to correct the declared priority date should be sought under Patents Rule 9(3) within the 16 month time period stated therein, and the relevant form to be used is Patents Form 57.

9 The above criteria will apply to all pending and new requests for correction of error as of the date of this circular.

10 If you have any enquiries, please contact Ms. Loh Qiu Li (loh_qiu_li@ipos.gov.sg).

³ Forms relating to application will include forms such as Patents Form 1: Request for the grant of a patent, Patents Form 37: Entry into national Phase, or Patents Form 11: Request for search and examination report.

ANNEX A – PROCEDURE FOR CORRECTION OF AN ERROR

PART 5	
<p>Correction Type*</p> <p>Note: Correction of Form option is not applicable for forms that are Approved, Refused, Treated as Withdrawn or Withdrawn.</p> <p>For correction of name, address or address for service for the same UEN, please file CM2 instead.</p>	<p><input type="radio"/> Correction of Form lodged</p> <p><input checked="" type="radio"/> Correction of Register of Patents or Designs</p> <p><input type="radio"/> Correction of Specification of a Patent or of an Application for a Patent</p> <p><input type="radio"/> Correction of any other document relating to a Patent or an Application for a Patent</p>
PART 6	
<p>Details of Correction*</p>	<p>For Trade Marks, please state the affected class if the correction does not apply to all classes in the application. For Patents, where the request for correction relates to a specification, please also explain why the correction sought is obvious in the sense that it is immediately evident that nothing else would have been intended than what is offered as the correction.</p> <div style="border: 1px solid black; padding: 5px;"><p>To correct the title of invention from "Device fo analyzing signals" to "Device for analyzing signals" -</p><p>(i) under Part 3 of Patents Form 1 (Patents Rule 91), and</p><p>(ii) in the Patents Register (Patents Rule 58)</p></div>