# South African Patent Online Manual

May 2025

(law firms)





#### **South African Patent Manual**

South African patents are easily filed online through the GlobalIPCo.com online filing system.

#### **Rights**

A South African patent prevents others from:

- making, importing, using, disposing of (e.g. selling) or offering to dispose of (e.g. marketing) a product that falls within the scope of one of the patent claims; or
- exercising a method that falls within the scope of the patent claim, within South Africa.

#### **Validity requirements**

The South African patent must include claims that are:

- novel (i.e. new / not publicly available worldwide); and
- inventive (i.e. not obvious to a person skilled in the field), and have application in industry.

#### **Exclusions:**

- Discovery, scientific theory, mathematical method (except for practical application of such discovery, scientific theory of mathematical method);
- Literary, dramatic, musical or artistic work or other aesthetic creation, as these are protected by copyright or design registrations;
- Scheme, rule or method for performing a mental act, playing a game or doing business, albeit that the game board and game pieces may be patented;
- Computer program (similar to EU rules regarding computer programs);
- Presentation of information, as this is protected by copyright;
- Variety of animal or plant or any essentially biological process for the production of animals or plants, not being a microbiological process or the product of such a process, as this (in the case of plants) falls under the ambit of plant breeders' rights; and
- Method of treatment of the human or animal body by surgery, therapy or diagnosis practised on the human or animal body, but excluding method steps performed outside of the body.

#### **Claim flexibility**

South African patent law permits:

- multi-dependent claims;
- multiple independent claims (albeit that South Africa does require unity of invention); and
- reference numerals in claims.

#### **Priority**

A South African patent may claim priority from a patent application filed during the previous:

- 12 months; or
- 15 months (if the priority application is a South African patent application and a request for extension to claim priority is submitted).

Even where condonation for late filing (i.e. more than 12 months from the priority date) has been obtained from WIPO during the PCT phase, a request for extension to claim priority must be submitted when filing the South African national phase patent (irrespective whether the priority application is a South African or foreign patent application).

#### Documents to be lodged:

Where priority is claimed by a South African national phase patent and the priority document was lodged with WIPO:

 no priority document or English translation thereof needs to be lodged with the South African Patent Office.

Where the priority document was not lodged with WIPO or the South African patent application is a convention patent application:

- a certified copy of the priority document (in electronic format); and
- if the priority document is not in English: (i) an English translation of the priority document; and (ii) a notice from the translator confirming that the English translation is "true and correct",

should be lodged with the South African Patent Office.

#### Template translator's notice:

I, [translator's nam	e], confirm that	the English	h translatio	on of [patent i	no.] is true and
correct.					

#### **Correction:**

Signature

The priority claim may be corrected within 2 months of filing.

#### Filing a South African national phase patent application

A South African national phase patent may be filed within 31 months from the earliest priority date (or the PCT filing date, if no priority is claimed), extendable to 34 months. Where required, the GlobalIPCo system automatically submits a request for extension of time to 34 months (without cost).

Upon filing, the South African national phase patent must mirror the PCT patent on file at WIPO. If:

- assignment of the patent to a new applicant;
- a change in the applicant's name or address;
- a correction to the inventor's name(s); or
- a correction or amendment of the PCT patent specification,

is required, these recordals, changes, corrections or amendments may only be made to the South African patent application after filing.

#### Requirements:

- PCT number;
- WO number (if the PCT patent has been (PCT shed);
- Title of the invention;
- PCT / international filing date;
- Classification (only the main class, e.g. "B65D" is required);
- Abstract;
- Abstract image (if any);
- Applicant's name and physical address;
- Each inventor's name and country of residence;
- Priority number, date and country (if any);
- Signed Form P3, Form P26, Confirmatory Deed of Assignment and Power of Attorney\* (electronic copies. No commissioning required); and
- PCT specification (with article 19 and article 34 amendments, if any).

If the priority document was not lodged with WIPO:

- Certified copy of priority document (electronic copy); and
- If the priority document is not in English: (i) an English translation of the priority document; and (ii) a notice from the translator confirming that the English translation is "true and correct".

#### Filing before the PCT patent is published:

It is preferable to file a South African national phase patent after publication of the PCT patent. However, if the South African national phase patent is filed earlier:

- The GlobalIPCo system requires the PCT filing receipt (PCT Form 105) and the PCT specification to be uploaded;
- PCT Form 304 should be uploaded as the priority document (if claimed).
   Alternatively, the priority document and translation thereof (with translator's notice) are required; and
- The published PCT patent must be lodged with the South African Patent Office, upon publication.

#### Late lodging:

Outstanding document may be lodged within 6 months of filing, extendable on payment of a penalty.

<sup>\*</sup> Pre-populated forms are downloaded from the GlobaliPCo system.

The GlobalIPCo system late-lodges documents during the 6-month period (without cost).

#### **GlobalIPCo pricing:**

Filing:	\$199 (inclusive of R590 official fee)
(optional) Review:	\$49
Acceptance and publication:	\$70
(optional) Courier of	\$110 per parcel (up to 4 patents may be included in
certificate:	a single parcel)

If 4 patents are included in a single parcel, the total cost is \$296.50 per patent.

Pricing is fixed, irrespective of the number of priority claims, claims, pages, etc.

**Note:** Courier of the patent certificate is optional. Upon receipt of the certificate, a colour scanned copy (including accompanying forms and patent specification) will be emailed to you without charge.

#### Filing a South African convention / direct complete patent application

South African convention patent applications must be filed within 12 months of the priority date.

#### **Requirements:**

- Title of the invention;
- Classification (only the main class, e.g. "B65D" is required);
- Abstract;
- Abstract image (if any);
- Applicant's name and physical address;
- Each inventor's name and country of residence;
- Priority number, date and country (if any);
- Signed Form P3, Form P26, Confirmatory Deed of Assignment and Power of Attorney\* (electronic copies. No commissioning required);
- Patent specification (description, claims and drawings (if any));

#### If priority is claimed:

- Certified copy of priority document (electronic copy);
- If the priority document is not in English: (i) an English translation of the priority document; and (ii) a notice from the translator confirming that the English translation is "true and correct".

### Differences between the South African convention patent and the priority document:

• The South African convention patent specification need not mirror the priority document. However, in order to retain the priority date, the features in claim 1 of

<sup>\*</sup> Pre-populated forms are downloaded from the GlobaliPCo system.

the South African convention patent specification must be described in the priority document.

- The list of inventors in the South African convention patent application may be different from the list of inventors in the priority document, provided that at least one inventor is common.
- The applicant in the South African convention patent application may be different from the applicant in the priority document, provided that a cession of right to claim priority is lodged with the South African Patent Office.

Template cession of priority rights document:

#### **CONFIRMATORY CESSION OF PRIORITY RIGHTS**

Priority application: [Enter]
Cedent: [Enter]
Cessionary: [Enter]

The Cedent confirm having ceded to the Cessionary the right to claim priority from the above Priority application within South Africa. Insofar as may be necessary in law, the Cedent hereby cedes to the Cessionary such right to claim priority within Nigeria.

Ceder	nt		
Date:			

These changes can be made on filing the South African convention patent.

#### **Late lodging:**

Outstanding document may be lodged within 6 months of filing, extendable on payment of a penalty.

The GlobalIPCo system late-lodges documents during the 6-month period (without cost).

#### GlobalIPCo pricing:

Filing:	\$199 (inclusive of R590 official fee)		
(optional) Review:	\$49		
Acceptance and publication:	\$70		
(optional) Courier of	\$110 per parcel (up to 4 patents may be included in		
certificate:	a single parcel)		

If 4 patents are included in a single parcel, the total cost is \$296.50 per patent.

Pricing is fixed, irrespective of the number of priority claims, claims, pages, etc.

**Note:** Courier of the patent certificate is optional. Upon receipt of the certificate, a colour scanned copy (including accompanying forms and patent specification) will be emailed to you without charge.

#### **Process**

The South African Patent Office conducts formal examination of patents, but not substantive examination. However, the South African Patent Office does check for "duplicate patents" (i.e. South African patents that are copies of earlier published patents from which priority is not claimed).

#### Timelines:

Acceptance: 6 months of filing

Publication: within 3 months of acceptance (the journal publishes on the last

Wednesday of each month (other than December))
Issuance of certificate: within 2-3 months of publication

The date of publication of a South African patent is deemed to be the date of grant.

#### **Expedited acceptance:**

If a positive examination report has been issued in respect of a corresponding patent application (e.g. IPER), a request for expedited acceptance may be submitted, which reduces the time from tiling to acceptance to about 3 months. A "positive examination report" is one where at least one claim was found to be novel and inventive.

#### **Delay of acceptance**

To effect claim amendments pre-grant, applicants may wish to delay acceptance (which normally occurs 9 months after filing).

If the patent application has already been accepted, acceptance may be withdrawn and delayed.

Acceptance may be delayed until:

- In respect of South African convention / direct complete patent applications: 21 months from the South African patent filing date; or
- In respect of South African national phase patents: 15 months from the South African patent filing date.

Further delay may be requested on "good cause shown".

	Official fee	
Withdraw acceptance	R26	
Delay acceptance until 12 months of filing date (PCT		
national phase patent application) / 18 months of filing		
date (convention / direct patent application)	R50	
Additional 3 month delay (after 12/18 month period)	R150	
Each additional 1 month delay (after 3 month period)		
("on good cause shown")	R145 / mont	:h

Total GlobalIPCo cost (inclusive of official fees):

(Withdraw acceptance +) Delay acceptance until 12	
months of filing date (PCT national phase patent	
application) / 18 months of filing date (convention /	
direct patent application)	US\$150
(Withdraw acceptance +) Delay acceptance until 15	
months of filing date (PCT national phase patent	
application) / 21 months of filing date (convention /	
direct patent application)	US\$175
(Withdraw acceptance +) Delay acceptance until 27	
months of filing date (PCT national phase patent	
application) / 33 months of filing date (convention /	
direct patent application)	US\$275

#### **Corrections**

#### Correction of:

- applicant's or inventors' names or addresses;
- forms, and
- clerical errors in the patent specification, may be made on Form P4.

#### Cost:

GlobalIPCo processes:

- corrections (other than the correction of clerical errors in the patent specification),
   where the instructor made an error on filing without charge; and
- corrections of clerical error in the forms for \$150 (inclusive of R90 official fee).
- corrections of clerical error in the patent specification for \$250 (inclusive of R90 official fee).

#### **Requirements:**

To correct clerical errors in a patent specification, the Form P4 must include:

- a version of the patent specification showing corrections made in tracked format;
- a certificate confirming that the document showing corrections in tracked format is based on the original patent specification; and

• a clean version of the specification (i.e. with tracked changes accepted), stamped in the footer "Corrected sheet dated ..."

#### Time:

A correction takes about 4 weeks to be effected.

**Note:** The GlobalIPCo system must be updated when a correction is submitted.

#### **Amendment**

#### Pre-grant

Prior to grant, any amendments may be made to the patent claims on Form P12, provided that the amendments are "fairly based" (i.e. were described or disclosed in the original patent specification). A portion or all of the claims may be substituted to broaden or narrow their scope.

It is preferable not to amend the Description or the drawings.

#### Cost:

GlobalIPCo processes pre-grant amendments for \$250 (inclusive of R70 official fee).

#### Requirements:

An application to amend a patent application pre-grant must include:

- a form P12 that provides full reasons for all amendments made;
- a version of the patent specification showing amendments made in tracked format;
- a certificate confirming that the document showing amendments in tracked format is based on the original patent specification; and
- a clean version of the specification (i.e. with tracked changes accepted), stamped in the footer "Amended sheet dated ..."

Pre-grant amendments are not published.

#### Time:

A pre-grant amendment takes about 4 weeks to be effected.

Note: The GlobalIPCo system must be updated when an amendment is submitted.

#### Suggested "reasons" for amendments:

- To insert new claim ..., thereby to provide more comprehensive protection for the invention.
- To amend original claim ..., thereby to distinguish the invention more fully over [cite relevant prior art].
- To amend original claim ..., thereby to broaden the scope of the claim.
- To amend original claim ..., thereby to define the scope of the claim more clearly.

- To clarify claim ... by deleting the preferred feature and making the feature the subject of a new dependent claim.
- To clarify the wording of claim ....
- To delete original claim ... following incorporation of this claim into claim ....
- To delete original claim ..., thereby to disclaim an embodiment of the invention.
- To ensure consistency in terminology used in the claims.
- To establish proper antecedent basis for "[enter]" in claim ....
- To convert non-metric units with metric units.
- To introduce a "Swiss-type" claim that correspond to claim ..., thereby to obtain more comprehensive protection for the invention.
- To make consequential changes to the numbering and dependencies of the claims in light of the above amendments.

#### Post-grant (i.e. filed after publication of the patent)

After grant / publication of the patent, an amendment may be made to the patent claims on Form P13, provided that the amendment:

- does not increase the scope of the claims (e.g. the amendment should not delete words from an independent claim); and
- is "fairly based" (i.e. the amendment was described or disclosed in the original patent specification).

It is preferable not to amend the Description or the drawings.

#### Cost:

GlobalIPCo processes post-grant amendments for \$300 (inclusive of R242 official fee).

#### Requirements:

An application to amend a patent application post-grant must include:

- a form P13 that provides full reasons for all amendments made;
- a version of the patent specification showing amendments made in tracked format;
- a certificate confirming that the document showing amendments in tracked format is based on the original patent specification; and
- a clean version of the specification (i.e. with tracked changes accepted), stamped in the footer "Amended sheet dated ..."

Once accepted by the Patent Office, the amendment will be published in the Patent Journal and lie open to opposition for a period of 2 months.

#### Time:

A post-grant amendment takes about 4 months to be effected.

#### **Sequence listing**

South Africa does not dictate a specific format for submission of sequence listings. We suggest uploading a PDF version of the sequence listing to the GlobalIPCo system on filing.

If the sequence listing was lodged with WIPO, a copy need not be lodged with the South African Patent Office.

#### Renewal

A South African patent must be renewed on the third anniversary of the:

- PCT / international filings date (in respect of South African national phase patents); or
- South African filing date (in respect of convention or direct complete patents), and annually thereafter.

A total of 17 renewals are payable for South African patents.

#### **Delay until grant:**

Where a South African national phase patent is granted (i.e. published) more than 33 months from the PCT / international filing date, the first renewal may be delayed until the sixth month following grant / publication. However, delaying payment of renewals until grant of the South African patent is not recommended and is not supported by our PayAnnuity renewal system.

Years	Official fee	Total PayAnnuity fee (inclusive of official fee)
4, 5 and 6	R130 each	\$40 each
7 and 8	R85 each	\$37 each
9 and 10	R100 each	\$38 each
11 and 12	R120 each	\$39 each
13 and 14	R145 each	\$41 each
15 and 16	R164 each	\$42 each
17 and 18	R181 each	\$43 each
19 and 20	R206 each	\$44 each
Total:	R2,392	

<sup>\*</sup> Additional \$25 is charged if the renewal is not processed online

#### **Pre-payment:**

All 17 renewals may be paid upfront via the GlobalIPCo system for:

- Where GlobalIPCo / S&Z filed the patent: \$285
- Where GlobalIPCo / S&Z did not file the patent: \$385

#### Late-payment:

Renewals may be paid during the 6 month grace period on payment of a penalty (R90 for the first month and R50 for each subsequent month, i.e. maximum R340). The

PayAnnuity renewal system charges: (i) the manual renewal fee; and (ii) \$25 in professional fees for paying the late payment penalty.

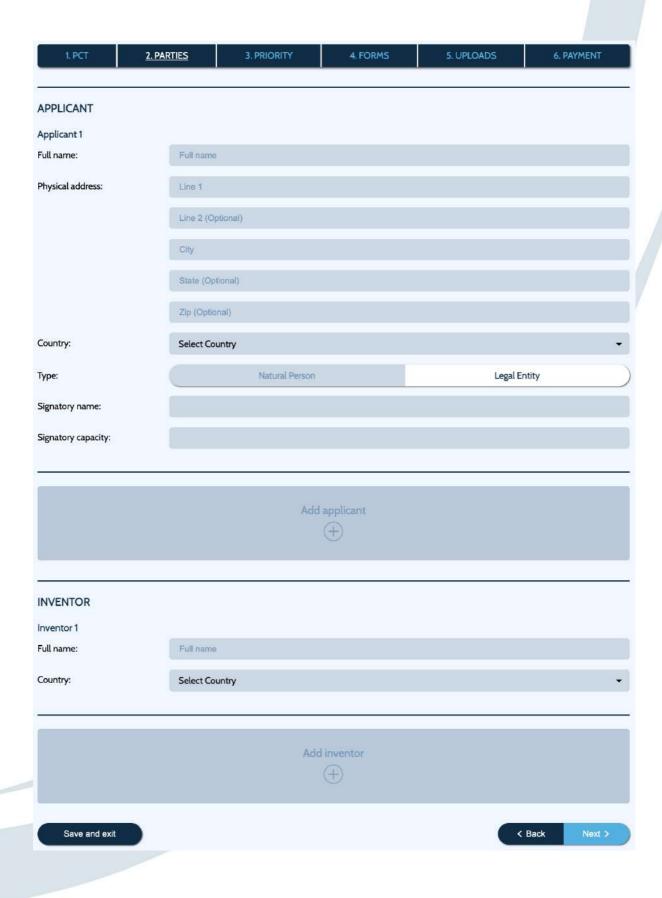
#### Patent infringement – Procedure

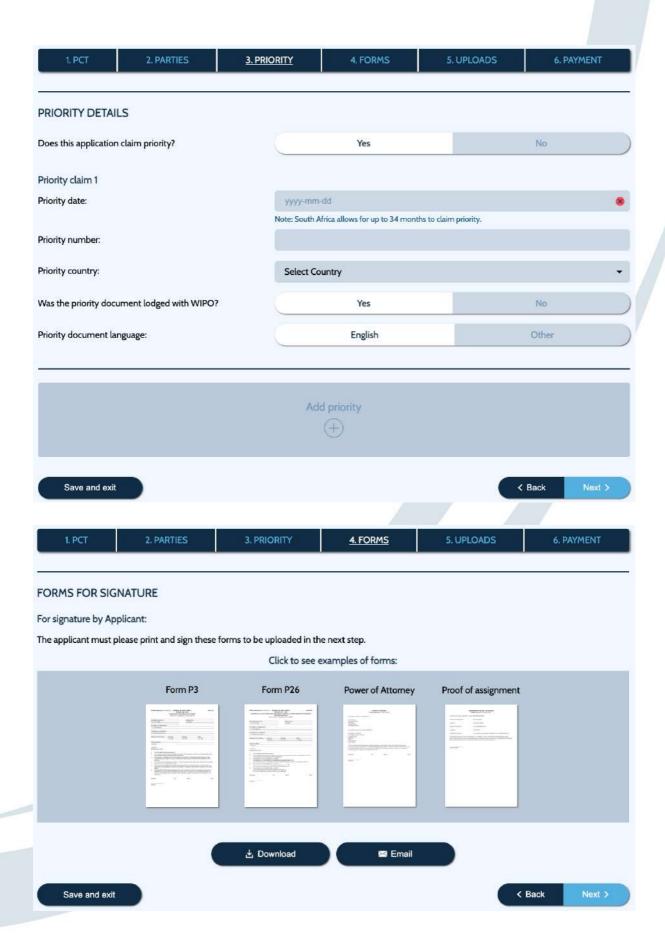
- 1. The applicant obtains evidence of infringement.
- 2. The applicant typically effects a post-grant amendment of the South African patent claims to align them with granted claims in other examining jurisdictions.
- 3. The applicant sends a letter to the infringer, notifying the infringer of the patent.
- 4. The patent attorneys on both sides attempt to resolve the dispute.
- 5. If the dispute cannot be resolved by the attorneys, infringement proceedings are instituted in the Commissioner of Patents Court (a part of the South African High Court system that is specifically set up to hear patent disputes).
- 6. As a defence, the infringer typically counterclaims invalidity of the patent.
- 7. The applicant amends the claims and/or submits responses to the counterclaim, with disputes regarding the amendments / invalidity decided by the Commissioner of Patents.
- 8. After the counterclaim of patent validity is settled by the Commissioner of Patents, the issue of infringement is heard and decided by the Commissioner of Patents.
- 9. Decisions of the Commissioner of Patents may be appealed to the full bench of the High Court or to the Supreme Court of appeals.

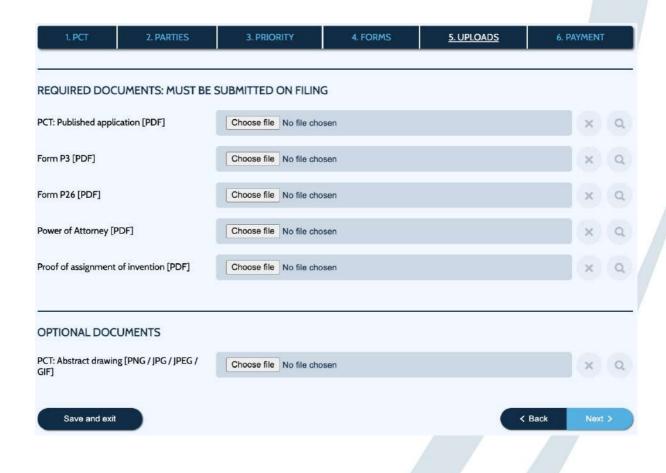
#### How to file: South African national phase patent

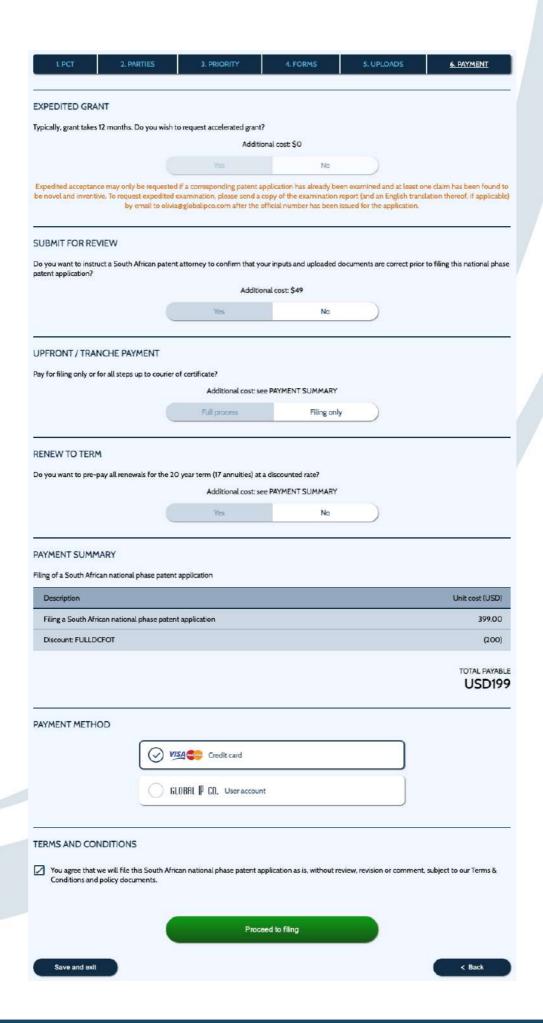
- 1. Register on GlobalIPCo.com (there is no subscription / license fee. You are only charged for actions instructed)
- 2. Receive a discount code that reduces pricing for law firms and add this to your profile; and
- 3. Complete the South African patent (national phase) application form all information required is extracted from the WIPO website (https://patentscope.wipo.int/search/en/search.jsf):

New South African National Phase Patent				
<u>1. PCT</u> 2. F	ARTIES 3. PRIORITY	4. FORMS	5. UPLOADS	6. PAYMENT
PCT DETAILS				
Your reference:	Enter a reference			
Application title (English):	E.g.: High strength steel sh	eet		
PCT application number:	E.g.: PCT/IB2016/000024			
PCT publication number:	E.g.: WO2017/125773			
PCT filing date:	yyyy-mm-dd			8
PCT publication language:	Englis	sh	Othe	r )
Classification: Abstract (English):	E.g. B65D Only enter main classes, e.g. B65D + Add	and C22C		Characters left: 4000
SEQUENCE LISTING				ſī.
Add a sequence listing?	Yes		No	
PCT AMENDMENTS	Where required, sequence listings select "No"; if not lodged with WIP	should have been lodged wit O, select "Yes".	th WIPO during the international p	nase. If lodged with WIPO,
Was an Article 19 amendment r	ecorded with WIPO during the PCT phase?	Yes		No
Was an Article 34 amendment	recorded with WIPO during the PCT phase?	Yes		No
Save and exit				Next >



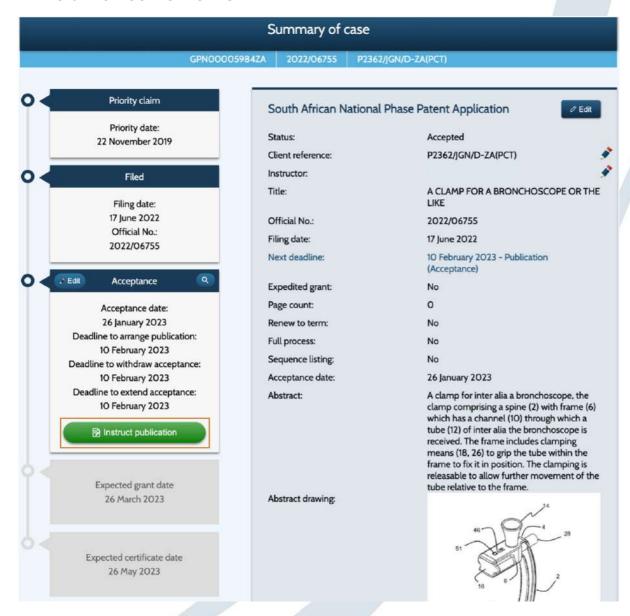






#### How to arrange publication

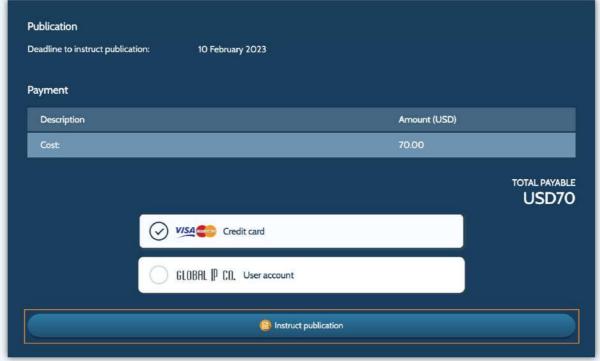
1. Click INSTRUCT PUBLICATION



#### 2. Click INSTRUCT PUBLICATION

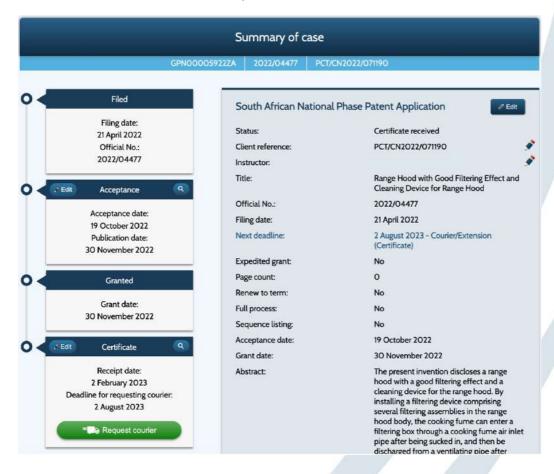
#### Acceptance Processing - PT\_CP\_ZA00001903





#### How to arrange courier

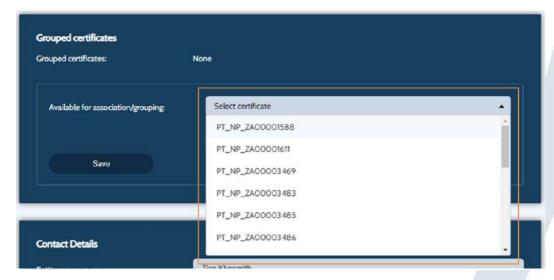
1. Select a record and click REQUEST COURIER



2. Click GROUP OTHERS WITH THIS CERTIFICATE



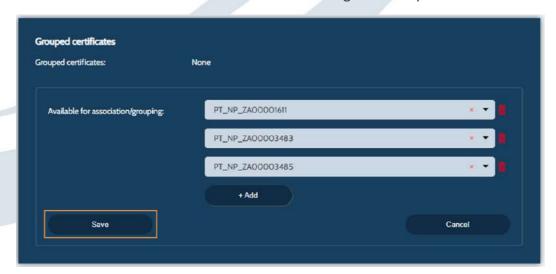
3. Select other case to be grouped in the courier parcel



4. Add other cases until the parcel includes 4 patents (i.e. the original case plus the 3 added cases)



5. Click SAVE to courier all 4 certificates in a single courier parcel



#### Tariff of fees (2025) – South African Patents

	Official fee	Total fee
File South African direct / convention / national phase	R590	\$199
patent (using GlobalIPCo system)		
Review of patent application before filing (formalities)		\$49
(optional)		
Acceptance (using GlobalIPCo system)		\$70
(Withdraw acceptance +) Delay acceptance until 12	R76	\$150
months of filing date (PCT national phase patent		
application) / 18 months of filing date (convention / direct		
patent application)		
(Withdraw acceptance +) Delay acceptance until 15	R226	\$175
months of filing date (PCT national phase patent		
application) / 21 months of filing date (convention / direct	/	
patent application)	D4 000	0075
(Withdraw acceptance +) Delay acceptance until 27	R1,966	\$275
months of filing date (PCT national phase patent		
application) / 33 months of filing date (convention / direct		
patent application)	DOO	<b>C1EO</b>
Correct clerical error (forms)	R90 R90	\$150
Correct clerical error (specification)		\$250 \$250
Amendment (pre-grant)	R70 R242	\$300
Amendment (post-grant)	R242	
Courier (using GlobalIPCo system)		\$110 per courier parcel - up to 4
		patents may be
		included in a
	/	courier parcel
Renewal		ocurior parcor
- Pay all 17 renewals for 20-year period (where: the	R2,392	\$285
patent was filed by GloballPCo; and the renewal is	,60	4=00
processed on the GlobalIPCo system)		
- Years 4, 5 or 6	R130 each	\$40 each
- Years 7 or 8	R85 each	\$37 each
- Years 9 or 10	R100 each	\$38 each
- Years 11 or 12	R120 each	\$39 each
- Years 13 or 14	R145 each	\$41 each
- Years 15 or 16	R164 each	\$42 each
- Years 17 or 18	R181 each	\$43 each
- Years 19 or 20	R206 each	\$44 each
Surcharge if not processed through PayAnnuity		\$25
Late payment penalty	B00	Φ05
- First month	R90	\$25 plus official
- Each month 2 to 6	R50	fee
Assignment Change of applicant's page applicant's address of	R70	\$150
Change of: applicant's name; applicant's address; or	R26	\$150
address for service		

## GLOBAL | P & CONSULTING FZ LLE

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