

Crafting Claims in the Life Sciences for an International Application

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“The world is flat,” says Thomas Friedman in his bestseller of the same name, and it’s getting flatter every day. Just a few years ago, no one would ever think of filing a patent application in China or India. Yet today, with manufacturing leaving the United States and foreign markets opening to advanced medical technology, the U.S. remains an important, yet shrinking, part of a global patent portfolio. When drafting applications, U.S. patent practitioners typically draft claims with the U.S. market in mind. While there is continuing discussion about harmonizing patent systems, recent developments in patent law have accentuated the differences between the systems. Although a “foreign” associate can revise the claims to comply with the particular requirements of each jurisdiction, these jurisdictions often have their own particular requirements regarding the disclosure necessary to support claims. This article provides guidance on adequate support and proper claim coverage in jurisdictions outside of the United States. First, the article reviews the requirements for the major jurisdictions, then provides some suggestions for use when drafting applications under the Patent Cooperation Treaty (PCT).