

claim lacks novelty or is clearly obvious, leaving two or more claims joined thereby without a common inventive concept. In such a case the International Preliminary Examining Authority may raise the objection of lack of unity of invention.

[52 FR 20049, May 28, 1987, as amended at 58 FR 4346, Jan. 14, 1993; 62 FR 53200, Oct. 10, 1997]

§ 1.489 Protest to lack of unity of invention before the International Preliminary Examining Authority.

(a) If the applicant disagrees with the holding of lack of unity of invention by the International Preliminary Examining Authority, additional fees may be paid under protest, accompanied by a request for refund and a statement setting forth reasons for disagreement or why the required additional fees are considered excessive, or both.

(b) Protest under paragraph (a) of this section will be examined by the Director or the Director's designee. In the event that the applicant's protest is determined to be justified, the additional fees or a portion thereof will be refunded.

(c) An applicant who desires that a copy of the protest and the decision thereon accompany the international preliminary examination report when forwarded to the Elected Offices, may notify the International Preliminary Examining Authority to that effect any time prior to the issuance of the international preliminary examination report. Thereafter, such notification should be directed to the International Bureau.

[52 FR 20050, May 28, 1987]

NATIONAL STAGE

§ 1.491 National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22 (1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees

required by 35 U.S.C. 371(c) within the period set in § 1.495.

[67 FR 523, Jan. 4, 2002]

§ 1.492 National stage fees.

The following fees and charges are established for international applications entering the national stage under 35 U.S.C. 371:

(a) The basic national fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

By a small entity (§ 1.27(a)) ...	\$165.00
By other than a small entity	\$330.00

(b) Search fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

(1) If an international preliminary examination report on the international application prepared by the United States International Preliminary Examining Authority or a written opinion on the international application prepared by the United States International Searching Authority states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all of the claims presented in the application entering the national stage:

By a small entity (§ 1.27(a)) ...	\$0.00
By other than a small entity	\$0.00

(2) If the search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.27(a)) ..	\$50.00
By other than a small entity	\$100.00

(3) If an international search report on the international application has been prepared by an International Searching Authority other than the United States International Searching Authority and is provided, or has been previously communicated by the International Bureau, to the Office:

By a small entity (§ 1.27(a)) ...	\$215.00
By other than a small entity	\$430.00

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(4) In all situations not provided for in paragraphs (b)(1), (b)(2), or (b)(3) of this section:

By a small entity (§1.27(a)) ...	\$270.00
By other than a small entity	\$540.00

(c) The examination fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

(1) If an international preliminary examination report on the international application prepared by the United States International Preliminary Examining Authority or a written opinion on the international application prepared by the United States International Searching Authority states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all of the claims presented in the application entering the national stage:

By a small entity (§1.27(a)) ...	\$0.00
By other than a small entity	\$0.00

(2) In all situations not provided for in paragraph (c)(1) of this section:

By a small entity (§1.27(a)) ...	\$110.00
By other than a small entity	\$220.00

(d) In addition to the basic national fee, for filing or on later presentation at any other time of each claim in independent form in excess of 3:

By a small entity (§1.27(a)) ...	\$110.00
By other than a small entity	\$220.00

(e) In addition to the basic national fee, for filing or on later presentation at any other time of each claim (whether dependent or independent) in excess of 20 (note that §1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):

By a small entity (§1.27(a)) ...	\$26.00
By other than a small entity	\$52.00

(f) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim, per application:

By a small entity (§1.27(a)) ...	\$195.00
By other than a small entity	\$390.00

(g) If the excess claims fees required by paragraphs (d) and (e) of this section

and multiple dependent claim fee required by paragraph (f) of this section are not paid with the basic national fee or on later presentation of the claims for which the excess claims or multiple dependent claim fees are due, the fees required by paragraphs (d), (e), and (f) of this section must be paid or the claims canceled by amendment prior to the expiration of the time period set for reply by the Office in any notice of fee deficiency in order to avoid abandonment.

(h) Surcharge for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage (§1.491(a)) pursuant to §1.495(c):

By a small entity (§1.27(a)) ...	\$65.00
By other than a small entity	\$130.00

(i) For filing an English translation of an international application or of any annexes to an international preliminary examination report later than thirty months after the priority date (§§1.495(c) and (e))—\$130.00.

(j) Application size fee for any international application for which the basic national fee was not paid before December 8, 2004, the specification and drawings of which exceed 100 sheets of paper, for each additional 50 sheets or fraction thereof:

By a small entity (§1.27(a)) ...	\$135.00
By other than a small entity	\$270.00

[70 FR 3892, Jan. 27, 2005, as amended at 70 FR 5054, Feb. 1, 2005; 70 FR 30365, May 26, 2005; 70 FR 35378, June 20, 2005; 72 FR 46902, Aug. 22, 2007; 73 FR 55055, Sept. 28, 2007; 73 FR 47541, Aug. 14, 2008]

§ 1.495 Entering the national stage in the United States of America.

(a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the