

**§ 1.477 Protest to lack of unity of invention before the International Searching Authority.**

(a) If the applicant disagrees with the holding of lack of unity of invention by the International Searching 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 (PCT Rule 40.2(c)).

(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 search report when forwarded to the Designated Offices, may notify the International Searching Authority to that effect any time prior to the issuance of the international search report. Thereafter, such notification should be directed to the International Bureau (PCT Rule 40.2(c)).

[43 FR 20466, May 11, 1978. Redesignated and amended at 52 FR 20048, May 28, 1987]

INTERNATIONAL PRELIMINARY EXAMINATION

**§ 1.480 Demand for international preliminary examination.**

(a) On the filing of a proper Demand in an application for which the United States International Preliminary Examining Authority is competent and for which the fees have been paid, the international application shall be the subject of an international preliminary examination. The preliminary examination fee (§ 1.482(a)(1)) and the handling fee (§ 1.482(b)) shall be due within the applicable time limit set forth in PCT Rule 57.3.

(b) The Demand shall be made on a standardized form (PCT Rule 53). Copies of the printed Demand forms are available from the United States Patent and Trademark Office. Letters requesting printed Demand forms should be marked "Mail Stop PCT."

(c) Withdrawal of a proper Demand prior to the start of the international

preliminary examination will entitle applicant to a refund of the preliminary examination fee minus the amount of the transmittal fee set forth in § 1.445(a)(1).

(d) The filing of a Demand shall constitute the election of all Contracting States which are designated and are bound by Chapter II of the Treaty on the international filing date (PCT Rule 53.7).

(e) Any Demand filed after the expiration of the applicable time limit set forth in PCT Rule 54bis.1(a) shall be considered as if it had not been submitted (PCT Rule 54bis.1(b)).

[52 FR 20048, May 28, 1987, as amended at 53 FR 47810, Nov. 28, 1988; 58 FR 4346, Jan. 14, 1993; 63 FR 29619, June 1, 1998; 67 FR 523, Jan. 4, 2002; 68 FR 14337, Mar. 25, 2003; 68 FR 59888, Oct. 20, 2003]

**§ 1.481 Payment of international preliminary examination fees.**

(a) The handling and preliminary examination fees shall be paid within the time period set in PCT Rule 57.3. The handling fee or preliminary examination fee payable is the handling fee or preliminary examination fee in effect on the date of payment.

(1) If the handling and preliminary examination fees are not paid within the time period set in PCT Rule 57.3, applicant will be notified and given one month within which to pay the deficient fees plus a late payment fee equal to the greater of:

(i) Fifty percent of the amount of the deficient fees, but not exceeding an amount equal to double the handling fee; or

(ii) An amount equal to the handling fee (PCT Rule 58bis.2).

(2) The one-month time limit set in this paragraph to pay deficient fees may not be extended.

(b) If the payment needed to cover the handling and preliminary examination fees, pursuant to paragraph (a) of this section, is not timely made in accordance with PCT Rule 58bis.1(d), the United States International Preliminary Examination Authority will declare the Demand to be considered as if it had not been submitted.

[63 FR 29619, June 1, 1998, as amended at 68 FR 59888, Oct. 20, 2003]