

U.S. Patent and Trademark Office, Commerce

§ 1.446

§ 1.438 The abstract.

(a) Requirements as to the content and form of the abstract are set forth in PCT Rule 8, and shall be adhered to.

(b) Lack of an abstract upon filing of an international application will not affect the granting of a filing date. However, failure to furnish an abstract within one month from the date of the notification by the Receiving Office will result in the international application being declared withdrawn.

FEES

§ 1.445 International application filing, processing and search fees.

(a) The following fees and charges for international applications are established by law or by the Director under the authority of 35 U.S.C. 376:

(1) A transmittal fee (*see* 35 U.S.C. 361(d) and PCT Rule 14) consisting of:

- (i) A basic portion:
 - (A) For an international application having a receipt date that is on or after January 1, 2014:
 - By a micro entity (\$1.29) \$60.00
 - By a small entity (\$1.27(a)) \$120.00
 - By other than a small or micro entity \$240.00
 - (B) For an international application having a receipt date that is before January 1, 2014 \$240.00
- (ii) A non-electronic filing fee portion for any international application designating the United States of America that is filed on or after November 15, 2011, other than by the Office electronic filing system, except for a plant application:
 - By a small entity (\$1.27(a)) \$200.00
 - By other than a small entity \$400.00

(2) A search fee (*see* 35 U.S.C. 361(d) and PCT Rule 16):

- (i) For an international application having a receipt date that is on or after January 1, 2014:

- By a micro entity (\$1.29) \$520.00
- By a small entity (\$1.27(a)) \$1,040.00
- By other than a small or micro entity \$2,080.00
- (ii) For an international application having a receipt date that is before January 1, 2014 \$2,080.00
- (3) A supplemental search fee when required, per additional invention:
 - (i) For an international application having a receipt date that is on or after January 1, 2014:
 - By a micro entity (\$1.29) \$520.00
 - By a small entity (\$1.27(a)) \$1,040.00
 - By other than a small or micro entity \$2,080.00
 - (ii) For an international application having a receipt date that is before January 1, 2014 \$2,080.00

(4) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section that would apply if the USPTO was the Receiving Office for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office (PCT Rule 19.4).

(b) The international filing fee shall be as prescribed in PCT Rule 15.

[78 FR 17107, Mar. 20, 2013]

§ 1.446 Refund of international application filing and processing fees.

(a) Money paid for international application fees, where paid by actual mistake or in excess, such as a payment not required by law or treaty and its regulations, may be refunded. A mere change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested and will not notify the payor of such amounts. If the payor or party requesting a refund does not provide the banking information necessary for making refunds by electronic funds

transfer, the Office may use the banking information provided on the payment instrument to make any refund by electronic funds transfer.

(b) Any request for refund under paragraph (a) of this section must be filed within two years from the date the fee was paid. If the Office charges a deposit account by an amount other than an amount specifically indicated in an authorization under § 1.25(b), any request for refund based upon such charge must be filed within two years from the date of the deposit account statement indicating such charge and include a copy of that deposit account statement. The time periods set forth in this paragraph are not extendable.

(c) Refund of the supplemental search fees will be made if such refund is determined to be warranted by the Director or the Director's designee acting under PCT Rule 40.2(c).

(d) The international and search fees will be refunded if no international filing date is accorded or if the application is withdrawn before transmittal of the record copy to the International Bureau (PCT Rules 15.6 and 16.2). The search fee will be refunded if the application is withdrawn before transmittal of the search copy to the International Searching Authority. The transmittal fee will not be refunded.

(e) The handling fee (§ 1.482(b)) will be refunded (PCT Rule 57.6) only if:

(1) The Demand is withdrawn before the Demand has been sent by the International Preliminary Examining Authority to the International Bureau, or

(2) The Demand is considered not to have been submitted (PCT Rule 54.4(a)).

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[43 FR 20466, May 11, 1978, as amended at 50 FR 9384, Mar. 7, 1985; 50 FR 31826, Aug. 6, 1985; 58 FR 4345, Jan. 14, 1993; 65 FR 54677, Sept. 8, 2000]

PRIORITY

§ 1.451 The priority claim and priority document in an international application.

(a) The claim for priority must, subject to paragraph (d) of this section, be made on the Request (PCT Rule 4.10) in a manner complying with sections 110 and 115 of the Administrative Instructions.

(b) Whenever the priority of an earlier United States national application or international application filed with the United States Receiving Office is claimed in an international application, the applicant may request in the Request or in a letter of transmittal accompanying the international application upon filing with the United States Receiving Office or in a separate letter filed in the United States Receiving Office not later than 16 months after the priority date, that the United States Patent and Trademark Office prepare a certified copy of the prior application for transmittal to the International Bureau (PCT Article 8 and PCT Rule 17). The fee for preparing a certified copy is set forth in § 1.19(b)(1).

(c) If a certified copy of the priority document is not submitted together with the international application on filing, or, if the priority application was filed in the United States and a request and appropriate payment for preparation of such a certified copy do not accompany the international application on filing or are not filed within 16 months of the priority date, the certified copy of the priority document must be furnished by the applicant to the International Bureau or to the United States Receiving Office within the time limit specified in PCT Rule 17.1(a).

(d) The applicant may correct or add a priority claim in accordance with PCT Rule 26bis.1.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[43 FR 20466, May 11, 1978, as amended at 50 FR 9384, Mar. 7, 1985; 50 FR 11366, Mar. 21, 1985; 54 FR 6903, Feb. 15, 1989; 58 FR 4345, Jan. 14, 1993; 63 FR 29619, June 1, 1998; 66 FR 16006, Mar. 22, 2001]

§ 1.452 Restoration of right of priority.

(a) If the international application has an international filing date which is later than the expiration of the priority period as defined by PCT Rule 2.4 but within two months from the expiration of the priority period, the right of priority in the international application may be restored upon request if the delay in filing the international application within the priority period was unintentional.

(b) A request to restore the right of priority in an international application