

§ 1.480

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]

§ 1.482 International preliminary examination fees.

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

(1) The following preliminary examination fee is due on filing the Demand:

(i) If an international 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:

(A) For an international preliminary examination fee paid on or after January 1, 2014:	
By a micro entity	
(\$1.29)	\$150.00

U.S. Patent and Trademark Office, Commerce

§ 1.484

By a small entity (\$1.27(a))	\$300.00
By other than a small or micro entity	\$600.00
(B) For an international preliminary examination fee paid before January 1, 2014	\$600.00
(ii) If the International Searching Authority for the international applica- tion was an authority other than the United States Patent and Trade- mark Office:	
(A) For an international preliminary examination fee paid on or after Janu- ary 1, 2014:	
By a micro entity (\$1.29)	\$190.00
By a small entity (\$1.27(a))	\$380.00
By other than a small or micro entity	\$760.00
(B) For an international preliminary examination fee paid before January 1, 2014 \$750.00.	
(2) An additional prelimi- nary examination fee when required, per addi- tional invention:	
(i) If the international pre- liminary examination fee set forth in paragraph (a)(1) of this section was paid on or after January 1, 2014:	
By a micro entity (\$1.29)	\$150.00
By a small entity (\$1.27(a))	\$300.00
By other than a small or micro entity	\$600.00
(ii) If the international pre- liminary examination fee set forth in paragraph (a)(1) of this section was paid before January 1, 2014	\$600.00
(b) The handling fee is due on filing the Demand and shall be prescribed in PCT Rule 57.	

**§ 1.484 Conduct of international pre-
liminary examination.**

- (a) An international preliminary examination will be conducted to formulate a non-binding opinion as to whether the claimed invention has novelty, involves an inventive step (is non-obvious) and is industrially applicable.
- (b) International preliminary examination will begin in accordance with PCT Rule 69.1.
- (c) No international preliminary examination will be conducted on inventions not previously searched by an International Searching Authority.
- (d) The International Preliminary Examining Authority will establish a written opinion if any defect exists or if the claimed invention lacks novelty, inventive step or industrial applicability and will set a non-extendable time limit in the written opinion for the applicant to reply.
- (e) The written opinion established by the International Searching Authority under PCT Rule 43*bis*.1 shall be considered to be a written opinion of the United States International Preliminary Examining Authority for the purposes of paragraph (d) of this section.
- (f) The International Preliminary Examining Authority may establish further written opinions under paragraph (d) of this section.
- (g) If no written opinion under paragraph (d) of this section is necessary, or if no further written opinion under paragraph (f) of this section is to be established, or after any written opinion and the reply thereto or the expiration of the time limit for reply to such written opinion, an international preliminary examination report will be established by the International Preliminary Examining Authority. One copy will be submitted to the International Bureau and one copy will be submitted to the applicant.
- (h) An applicant will be permitted a personal or telephone interview with the examiner, which may be requested after the filing of a Demand, and must be conducted during the period between the establishment of the written opinion and the establishment of the international preliminary examination report. Additional interviews may be conducted where the examiner determines that such additional interviews

[78 FR 17107, Mar. 20, 2013]