

been filed before the application is in condition for allowance.

(4) If the excess claims fees required by § 1.16(h) and (i) and multiple dependent claim fee required by § 1.16(j) are not paid on filing or on later presentation of the claims for which the excess claims or multiple dependent claim fees are due, the fees required by § 1.16(h), (i), and (j) 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. If the application size fee required by § 1.16(s) (if any) is not paid on filing or on later presentation of the amendment necessitating a fee or additional fee under § 1.16(s), the fee required by § 1.16(s) must be paid 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.

(5) This paragraph applies to continuation or divisional applications under paragraphs (b) or (d) of this section and to continuation-in-part applications under paragraph (b) of this section. See § 1.63(d) concerning the submission of a copy of the inventor's oath or declaration from the prior application for a continuing application under paragraph (b) of this section.

(6) If applicant does not pay the basic filing fee during the pendency of the application, the Office may dispose of the application.

(g) *Completion of application subsequent to filing—Provisional application.*

(1) If a provisional application which has been accorded a filing date pursuant to paragraph (c) of this section does not include the cover sheet required by § 1.51(c)(1) or the basic filing fee (§ 1.16(d)), and applicant has provided a correspondence address (§ 1.33(a)), applicant will be notified and given a period of time within which to pay the basic filing fee, file a cover sheet (§ 1.51(c)(1)), and pay the surcharge required by § 1.16(g) to avoid abandonment.

(2) If a provisional application which has been accorded a filing date pursuant to paragraph (c) of this section does not include the cover sheet required by § 1.51(c)(1) or the basic filing fee (§ 1.16(d)), and applicant has not provided a correspondence address

(§ 1.33(a)), applicant has two months from the filing date of the application within which to pay the basic filing fee, file a cover sheet (§ 1.51(c)(1)), and pay the surcharge required by § 1.16(g) to avoid abandonment.

(3) If the application size fee required by § 1.16(s) (if any) is not paid on filing, the fee required by § 1.16(s) must be paid 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.

(4) If applicant does not pay the basic filing fee during the pendency of the application, the Office may dispose of the application.

(h) *Subsequent treatment of application—Nonprovisional (including continued prosecution) application.* An application for a patent filed under paragraphs (b) or (d) of this section will not be placed on the files for examination until all its required parts, complying with the rules relating thereto, are received, except that the inventor's oath or declaration may be filed when the application is otherwise in condition for allowance pursuant to paragraph (f)(3) of this section and minor informalities may be waived subject to subsequent correction whenever required.

(i) *Subsequent treatment of application—Provisional application.* A provisional application for a patent filed under paragraph (c) of this section will not be placed on the files for examination and will become abandoned no later than twelve months after its filing date pursuant to 35 U.S.C. 111(b)(1).

[62 FR 53186, Oct. 10, 1997, as amended at 63 FR 5734, Feb. 4, 1998; 65 FR 14871, Mar. 20, 2000; 65 FR 50104, Aug. 16, 2000; 65 FR 54665, Sept. 8, 2000; 65 FR 78960, Dec. 18, 2000; 68 FR 14336, Mar. 25, 2003; 68 FR 32380, May 30, 2003; 69 FR 29878, May 26, 2004; 69 FR 56539, Sept. 21, 2004; 70 FR 3890, Jan. 27, 2005; 70 FR 30365, May 26, 2005; 72 FR 46836, Aug. 21, 2007; 74 FR 52688, Oct. 14, 2009; 77 FR 48817, Aug. 14, 2012; 78 FR 11053, Feb. 14, 2013; 78 FR 62398, Oct. 21, 2013; 79 FR 12386, Mar. 5, 2014]

#### § 1.54 Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise, a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53

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(f) and (g) with regard to completion of an application.

(b) Applicant will be informed of the application number and filing date by a filing receipt, unless the application is an application filed under § 1.53(d). A letter limited to a request for a filing receipt may be signed by a juristic applicant or patent owner.

[62 FR 53188, Oct. 10, 1997, as amended at 78 FR 62399, Oct. 21, 2013]

### § 1.55 Claim for foreign priority.

(a) *In general.* An applicant in a non-provisional application may claim priority to one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b) and this section.

(b) *Time for filing subsequent application.* The nonprovisional application must be filed not later than twelve months (six months in the case of a design application) after the date on which the foreign application was filed, or be entitled to claim the benefit under 35 U.S.C. 120, 121, or 365(c) of an application that was filed not later than twelve months (six months in the case of a design application) after the date on which the foreign application was filed, except as provided in paragraph (c) of this section. The twelve-month period is subject to 35 U.S.C. 21(b) (and § 1.7(a)) and PCT Rule 80.5, and the six-month period is subject to 35 U.S.C. 21(b) (and § 1.7(a)).

(c) *Delayed filing of subsequent application.* If the subsequent application has a filing date which is after the expiration of the period set forth in paragraph (b) of this section, but within two months from the expiration of the period set forth in paragraph (b) of this section, the right of priority in the subsequent application may be restored under PCT Rule 26bis.3 for an international application, or upon petition pursuant to this paragraph, if the delay in filing the subsequent application within the period set forth in paragraph (b) of this section was unintentional. A petition to restore the right of priority under this paragraph filed in the subsequent application must include:

(1) The priority claim under 35 U.S.C. 119(a) through (d) or (f), or 365(a) or (b)

in an application data sheet (§ 1.76(b)(6)), identifying the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing, unless previously submitted;

(2) The petition fee as set forth in § 1.17(m); and

(3) A statement that the delay in filing the subsequent application within the period set forth in paragraph (b) of this section was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(d) *Time for filing priority claim—(1) Application under 35 U.S.C. 111(a).* The claim for priority must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application in an original application filed under 35 U.S.C. 111(a), except as provided in paragraph (e) of this section. The claim for priority must be presented in an application data sheet (§ 1.76(b)(6)), and must identify the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time period in this paragraph does not apply in a design application.

(2) *Application under 35 U.S.C. 371.* The claim for priority must be made within the time limit set forth in the PCT and the Regulations under the PCT in an international application entering the national stage under 35 U.S.C. 371, except as provided in paragraph (e) of this section.

(e) *Delayed priority claim.* Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a) through (d) or (f), or 365(a) or (b) not presented in the manner required by paragraph (d) of this section within the time period provided by paragraph (d) of this section is considered to have been waived. If a claim for priority is presented after the time period provided by paragraph (d) of this section, the claim may be accepted if the priority claim was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)