§ 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 under paragraph (a) of this section must be filed not later than two months from the expiration of the priority period and must include:

(1) A notice under PCT Rule 26bis.1(a) adding the priority claim, if the priority claim in respect of the earlier application is not contained in the international application;

(2) The fee set forth in §1.17(t); and

(3) A statement that the delay in filing the international application within the priority period was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(c) If the applicant makes a request for early publication under PCT Article 21(2)(b), any requirement under paragraph (b) of this section filed after the technical preparations for international publication have been completed by the International Bureau shall be considered as not having been submitted in time.

(d) Restoration of a right of priority to a prior application by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26bis.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored.

[72 FR 51563, Sept. 10, 2007]

§ 1.455 Representation in international applications.

(a) Applicants of international applications may be represented by attorneys or agents registered to practice before the United States Patent and Trademark Office or by an applicant appointed as a common representative (PCT Art. 49, Rules 4.8 and 90 and §11.9). If applicants have not appointed an attorney or agent or one of the applicants to represent them, and there is more than one applicant, the applicant first named in the request and who is entitled to file in the U.S. Receiving Office may represent the other applicants, provided the filing is done before the expiration of the priority period.