

§ 1.491

37 CFR Ch. I (7-1-02 Edition)

(b) Protest under paragraph (a) of this section will be examined by the Commissioner or the Commissioner'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 preliminary examination report when forwarded to the Elected Offices, may notify the International Preliminary Examining Authority to that effect any time prior to the issuance of the international preliminary examination report. Thereafter, such notification should be directed to the International Bureau.

[52 FR 20050, May 28, 1987]

NATIONAL STAGE

§ 1.491 National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22 (1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

[67 FR 523, Jan. 4, 2002]

§ 1.492 National stage fees.

The following fees and charges are established for international applications entering the national stage under 35 U.S.C. 371:

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a))—\$355.00
By other than a small entity—\$710.00

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but 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:

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no 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:

By a small entity (§ 1.27(a))—\$520.00
By other than a small entity—\$1,040.00

(4) Where the international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office and the international preliminary examination report states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all the claims presented in the application entering the national stage (see § 1.496(b)):

By a small entity (§ 1.27(a)) \$50.00
By other than a small entity \$100.00

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office:

By a small entity (§ 1.27(a))—\$445.00
By other than a small entity—\$890.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a))—\$42.00
By other than a small entity—\$84.00

(c) In addition to the basic national fee, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.):

By a small entity (§ 1.27(a)) \$9.00
By other than a small entity \$18.00

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a))—\$140.00