



UNITED STATES PATENT AND TRADEMARK OFFICE

Timing of Electronic Retrieval by the USPTO of Foreign Priority Applications Under the Priority Document Exchange Program and the Digital Access Service

March 2013

Pursuant to 37 CFR 1.55(h), electronic retrieval of foreign priority applications by the USPTO via the Priority Document Exchange (PDX) program, including the World Intellectual Property Organization Digital Access Service (WIPO DAS), will be attempted based on several factors. In general, an attempt to retrieve an eligible foreign application to which priority is claimed in a U.S. application will be made by the USPTO at approximately 19 months from the filing date of that foreign application. However, an electronic retrieval attempt by the USPTO will be initiated earlier than 19 months in the following situations: applications granted accelerated examination status; applications in which a petition has been granted under the Patent Prosecution Highway program; and, when an Office action by the examiner is mailed prior to 19 months from the foreign priority date. In any case the USPTO will not attempt electronic retrieval until the Office of Patent Application Processing has completed its review of the application. Applicants are encouraged to check the Patent Application and Information Retrieval (PAIR) to determine whether the foreign priority application has been successfully retrieved. A successful request to retrieve an electronic foreign priority application takes approximately 1 week to complete.

Applicants continue to bear the ultimate responsibility for ensuring that the priority document is filed by the time limit set forth in 37 CFR 1.55.

For applications filed prior to September 16, 2012, applicants are reminded that successful retrieval of a foreign priority application requires proper identification of the priority application on the Oath or Declaration, or the Application Data Sheet (ADS). Whereas for applications filed on or after September 16, 2012, proper identification of the priority claim must be on the ADS.

Proper citation of a priority application filed with a participating foreign intellectual property office is discussed in "[Identifying a Foreign Priority Application and Avoiding PDX Retrieval Failure.](#)"

Information about implementation by the USPTO of the WIPO DAS 2.0 new Access Code Procedure on March 18, 2013, see "[WIPO DAS 2.0 new Access Code Procedure.](#)"

Applicants are reminded that the USPTO will not attempt to retrieve foreign applications to which priority is claimed in U.S. design applications. Further, the USPTO will not attempt to retrieve PCT international applications to which foreign priority is claimed in U.S. nonprovisional applications, except PCT international applications filed with the RO/IB, the RO/DK, the RO/FI, and the RO/SE.

Any questions about Priority Document Exchange, including the WIPO DAS and the Access Code Procedure should be directed to the Patents Electronic Business Center by telephone at (571) 272-4100 or by e-mail at PDX@uspto.gov.