

Subject: Comments re Notice at Vol.70, No. 20 Fed Register page 5053.

Dear Sir or Ma'am,

Regarding the revision of search and examination fees for Patent Cooperation Treaty Applications entering the national stage in the United States please consider the following comments.

37 CFR 1.492(c)(1) purports to afford a reduced fee where the international preliminary examination report (IPER) satisfies the PCT Article 33(1)-(4) criteria for an application entering the national stage, but the United States Patent and Trademark Office (USPTO) frequently delays issuance of the IPER until after 30 months from the priority date and, in effect, nullifies any benefit of this fee reduction.

Suggestion: Modify 37 CFR 1.492(c)(1) by adding this reduced fee for applications entering the U.S. national stage where the IPER is overdue from the USPTO in accordance with PCT Rule 69.2.

Regarding 37 CFR 1.496(b), 1) it appears to prohibit necessary formal changes, such as, addition of a 35 U.S.C. 120 priority claim to the beginning of the specification, and 2) the statement that "[s]uch national stage applications... will be taken up out of order" improperly permits the USPTO to take no action on such applications (e.g., to delay action indefinitely).

Suggestion: Modify 37 CFR 1.496(b) to 1) permit changes to the application except for the claims, and 2) provide that "[s]uch national stage applications... will be taken up within three months of completion of the requirements of 37 CFR 1.495(b) and (c).

Thank you.
Sincerely,

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