

# PATENT COOPERATION TREATY

From the RECEIVING OFFICE

# PCT

## INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY

(PCT Rules 4.10, 26bis.1, 26bis.2(a) and (b), 26bis.3)

To:
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Date of mailing (day/month/year)
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Applicant's or agent's file reference
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<b>REPLY DUE</b> See items 1 and 2
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International application No.
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International filing date (day/month/year)
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Priority date (day/month/year)
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Applicant
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1.  The applicant is hereby **invited** to correct, by a notice submitted to the receiving Office, within the time limit indicated below, defects in the priority claim as indicated in Annex A.

**Time limit to respond to this Invitation (Rule 26bis.1(a)):**

- within 16 months from the (earliest) priority date; or
  - if the (earliest) priority date is changed as a result of the correction or addition of the (earliest) priority claim, within 16 months from that (earliest) priority date so changed,
- whichever expires first, provided that such a notice may, in any event, be submitted until the expiration of four months from the international filing date.

**Failure to respond** to this Invitation within the prescribed time limit may result in the priority claim concerned to be considered void for the purposes of the procedure under the PCT (Rule 26bis.2(b)).

2.  The international filing date of the international application is later than the date on which the priority period (Rule 2.4) expired but is within two months from that date. The applicant is hereby **notified** of the possibility of submitting to the receiving Office, within the time limit indicated below, a request to restore the right of priority as indicated in Annex B.

**Time limit to request the restoration of the right of priority (Rule 26bis.3(e)):**

- within two months from the date on which the priority period expired.

3.  In the case where **multiple priorities** have been claimed, this notice relates to the following priority claim:

A copy of this Invitation/Notification is being sent to the International Bureau.

Name and mailing address of the receiving Office
Facsimile No.

Authorized officer
Telephone No.

This receiving Office has found the following defects in the priority claim(s):

**1. Failure to Comply with the Requirements of Rule 4.10**

- a.  **National** application
- Missing indication of the filing date of the earlier application.
  - Filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.<sup>1</sup>
  - Missing indication of the number of the earlier application.<sup>2</sup>
  - Missing indication of the country party to the Paris Convention for the Protection of Industrial Property, or of the Member of the World Trade Organization that is not party to that Convention, in which the earlier national application was filed.
  - The country indicated is neither a party to the Paris Convention for the Protection of Industrial Property nor a Member of the World Trade Organization.
- b.  **Regional** application
- Missing indication of the filing date of the earlier application.
  - Filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.<sup>1</sup>
  - Missing indication of the number of the earlier application.<sup>2</sup>
  - Missing indication of the authority entrusted with the granting of regional patents under the applicable regional patent treaty.
  - The authority indicated as the authority entrusted with the granting of regional patents does not grant regional patents.
  - The priority claim in relation to the ARIPO application does not indicate either at least one country party to the Paris Convention for the Protection of Industrial Property, or at least one Member of the World Trade Organization, for which the earlier application was filed.
- c.  **International** application
- Missing indication of the filing date of the earlier application.
  - Filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.<sup>1</sup>
  - Missing indication of the number of the earlier application.<sup>2</sup>
  - Missing indication of the receiving Office with which it was filed.

**2. Inconsistency with the Corresponding Indications in the Priority Document<sup>2</sup>**

- a.  Inconsistency with regard to the filing date of the earlier application:  
The request indicates:  
The priority document indicates:
- b.  Inconsistency with regard to the number of the earlier application:  
The request indicates:  
The priority document indicates:
- c.  Inconsistency with regard to the country party to the Paris Convention for the Protection of Industrial Property or the Member of the World Trade Organization in which the **national** application was filed:  
The request indicates:  
The priority document indicates:
- d.  Inconsistency with regard to the authority entrusted with the granting of *regional patents* under the applicable regional patent treaty:  
The request indicates:  
The priority document indicates:
- e.  Inconsistency with regard to the receiving Office with which the **international** application was filed:  
The request indicates:  
The priority document indicates:

<sup>1</sup> If the international filing date is later than the date on which the priority period expired, but is within two months from that date, the priority claim will not be considered void (Rule 26bis.2(c)(iii)).

<sup>2</sup> Even if this defect is not corrected in response to this Invitation, the priority claim concerned will not be considered void (Rule 26bis.2(c)(i) and (ii)).

**NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY**

(Rule 26bis.3)

The international filing date of the international application is later than the date on which the priority period (Rule 2.4) expired but is within two months from that date. If the filing date of the earlier application has been indicated correctly and no request for correction of that filing date is submitted under Rule 26bis.1(a), the applicant may submit to the receiving Office, within the time limit indicated below, a request to restore the right of priority.

**REQUEST TO RESTORE THE RIGHT OF PRIORITY**

The **request to restore the right of priority** must be filed **within two months** from the date on which the priority period expired provided that, where the applicant makes a request for early publication under Article 21(2)(b), the request must be submitted before technical preparations for international publication have been completed (Rule 26bis.3(e)).

The **request to restore the right of priority** must state the reasons for the failure to file the international application within the priority period. This receiving Office will restore the right of priority if it finds that the following criterion or one of the following criteria for restoration is satisfied, namely that the failure to file the international application within the priority period:

occurred in spite of due care required by the circumstances having been taken

and/or

was unintentional

This receiving Office may invite the applicant to furnish a declaration or other evidence in support of the statement of reasons (Rule 26bis.3(f)). Preferably, such declaration or other evidence should already be furnished together with the request for restoration of the right of priority.

**FEE PAYMENT**

The submission of the request to restore the right of priority is subject to **the payment of a fee**, payable **within two months**<sup>3</sup> from the date on which the priority period expired, in the amount of:

\_\_\_\_\_ (amount/currency) for restoration based on the criterion of due care;

or

\_\_\_\_\_ (amount/currency) for restoration based on the criterion of unintentional.

No fee payment is required.

<sup>3</sup> The receiving Office may extend the time limit for payment of the fee for a period of up to two months from the expiration of this time limit.