Patent Law Treaty (PLT)

- Minimal application filing date requirements
- Reference filing
- Restoration of patent rights
- Restoration of priority rights
- Minimum 2 month reply periods for most situations

Patent Law Treaties Implementation Act of 2012 (PLTIA)
The Patent Law Treaty (PLT) harmonizes and streamlines formal procedures pertaining to the filing and processing of patent applications. The PLT does not concern substantive conditions of patentability.

Title II of the Patent Law Treaties Implementation Act of 2012 (PLTIA) amends the U.S. patent laws for consistency with the requirements of the PLT. The notable changes to the U.S. patent laws resulting from the PLT and PLTIA pertain to:

1. the filing date requirements for a patent application;
2. the restoration of the right of priority to a foreign application in an application filed after the expiration of the priority period; and
3. the restoration of patent rights via the revival of abandoned applications and acceptance of delayed maintenance fee payments.

**BEST PRACTICE TIP:**

The drafting of claims and preparation of drawings at the time an application (provisional or nonprovisional) is prepared for any claimed invention for which patent protection is desired and nonprovisional) is prepared for help ensure that the application will contain an adequate disclosure under 35 U.S.C. 112 and drawings under 35 U.S.C. 113.

The filing date of a design application is the date on which the USPTO receives the specification as filed with or without claims. If no claims at filing, Office notice and late filing surcharge to avoid abandonment.

Claims or drawings filed after Filing Date must be supported by 35 USC 112(a) in application as filed.

Any drawings necessary to understand invention will be required during examination.

The filing date of a design application is the date on which the USPTO receives a specification and drawings from the previously filed application.

**REFERENCE FILING**

- **PREVIOUS APPLICATION**
  - Application Number
  - Filing Date
  - IP or Country filed
  - Specification
  - Drawings

- **NEW APPLICATION**
  - Application Number
  - Filing Date
  - IP or Country filed
  - Specification
  - Drawings

Unless the previously filed application is a US or PCT application, an application by reference must also file a certified copy of any previously filed application within the later of four months from the filing date of the application or sixteen months from the filing date of the previously filed application.

- **RESTORATION OF PRIORITY RIGHTS**

Applications filed after expiration of the 12 month (6 month for designs) period for filing an application claiming the benefit of a prior foreign application can have the right of priority restored if the delay in filing the subsequent application was unintentional.

Applications filed after expiration of the 12 month period for filing an application claiming the benefit of a prior provisional application can have the right of priority restored if the delay in filing the subsequent application was unintentional.

The subsequent application must be filed within 2 months of the expiration of the 12 month period.

A petition including the foreign priority claim or specific reference to the provisional application, petition fee and a statement that the delay was unintentional is required.

A nonprovisional application may be filed by a reference in the ADS (or PLT Model International Request Form) to a previously filed application (foreign, international, provisional, or nonprovisional).

- **BEST PRACTICE TIP:**

Reference filing is not considered a best practice and should be used only when a copy of the specification and drawings of the previously filed application are not available.

- **RESTORATION OF PATENT RIGHTS**

Eliminates “unavoidable” delay standard as a basis for reviving an abandoned application, accepting a delayed patent owner response in reexamination, or accepting an unintentionally delayed maintenance fee payment.

A single standard (unintentional delay) and petition fee for reviving an application, accepting a delayed patent owner response in reexamination, or accepting a delayed maintenance fee payment.

Eliminates 24 month time period requirement for petitions to accept an unintentionally delayed maintenance fee payment.