

A document or part thereof does not "obviously serve the purpose of informing the public about the international application" if it is clearly irrelevant for the disclosure or assessment of the international application as such. Making a document or a part thereof available to the public would "clearly prejudice the personal or economic interests of a person" if it would be harmful to that person's specific and concrete personal or economic interests. A merely abstract prejudice to hypothetical personal or economic interests is generally not sufficient.

R. 49ter.1
PCT AG I 5.069

A decision by the EPO as RO to restore the right of priority will be effective before the EPO as designated Office and, as a general rule, in all designated Offices, unless the respective designated Office has submitted a notification of incompatibility under Rule 49ter.1(g).

R. 49ter.1
R. 49ter.2

If no request for restoration of the right of priority has been filed by the applicant in the procedure before the EPO as RO or if the request for restoration has been rejected by the EPO as RO, the applicant may file a (new) request in the national phase, i.e. in the procedures before the EPO as designated Office and any other designated Office that has not made a reservation as to the applicability of Rule 49ter.1 and Rule 49ter.2. For the procedure before the EPO as designated Office, see GL/EPO E-VIII, 3.

Art. 8(2)(a)
Art. 4A(1) Paris
Convention
PCT AG National
Phase – National
Chapter – EP.29

1.6 Applicant's entitlement to claim priority

The applicant claiming the priority of an earlier application must be the applicant of the latter or the successor in title. The question of whether the applicant is actually entitled to claim the priority of an earlier application is not examined during the international phase. Proof of entitlement on the international filing date must be submitted in the proceedings before the EPO (only) if the validity of the priority right claimed becomes relevant. However, for a successor in title to enjoy a priority right in proceedings before the EPO, the earlier application or the priority right must have been transferred before the filing date of the international application (Box No. VIII (iii) PCT request form) and the transfer must be valid under the applicable national provisions. Any deficiencies cannot be remedied after that, and in particular not in the European phase.

Applicants claiming the priority of an earlier application and planning to enter the European phase are therefore strongly advised to ensure that, as at the international filing date, all applicants who filed the earlier application are either mentioned as applicants in the international application or have validly transferred their rights to the applicant, or one of the applicants, in the international application. For example:

- The earlier application from which priority is claimed names X as applicant. The international application names company A as applicant. For A to enjoy a priority right in proceedings before the EPO as designated Office, X must have validly transferred the earlier application or the priority right to A before the filing date of the international application.

Where joint applicants file an international application and claim the priority of an earlier application, it is sufficient that one of them is the applicant who