

Patent Strategy 101

How to use a priority claim for filing a patent application abroad

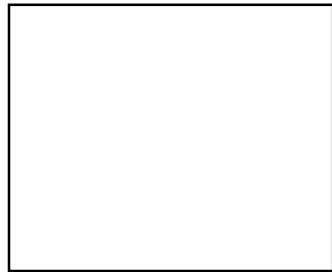
How to use a priority claim for filing a patent application abroad

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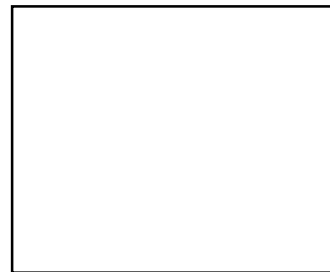
01.10.2014



Country 1



Country 2



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- The subsequent patent applications for the same invention in the different countries are taken to have the same date of filing as the first patent application if they are linked by a 'priority claim'. See Article 4, Paris Convention Treaty, which became national law in almost all countries of the world.

Paris Convention Treaty (of 1883)

found at www.wipo.int/treaties/en/ip/paris/

Art. 4 A (1) says:

„Any person who has duly filed an application for a patent ... in one of the countries of the Union ... shall enjoy, for the purpose of filing in the other countries, a right of priority during the periods hereinafter fixed.”

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- The conditions for exercising the priority claim is that
 - a) the countries involved must be signatories of the Paris Convention Treaty or members of the World Trade Organisation (WTO), and
 - b) the new patent filing with the priority claim must be made within 12 months from the date of filing the first patent application (Art. 4C(1) Paris Convention Treaty).

How to file a new patent application in another country, claiming the priority of a first patent application (step 1 of 4)

01.10.2014



Protection status

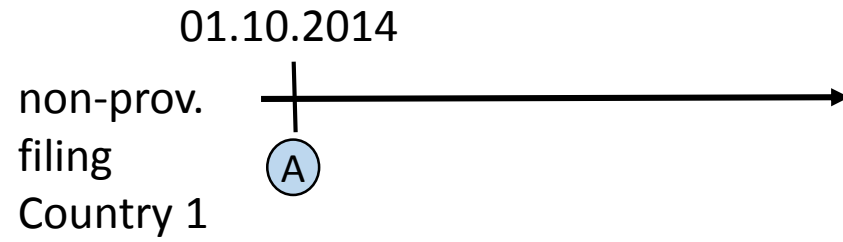
Country 1



Country 2



How to file a new patent application in another country, claiming the priority of a first patent application (step 2 of 4)

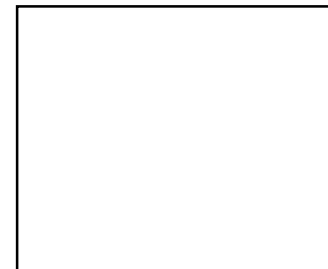


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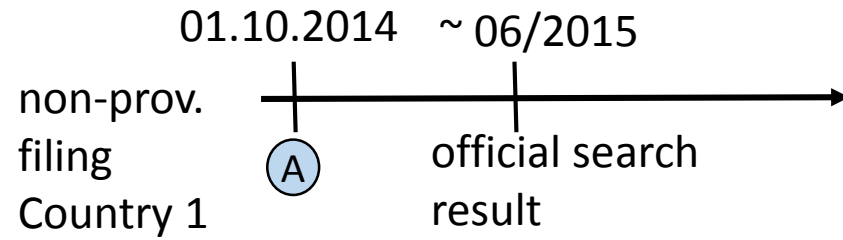
Country 1



Country 2



How to file a new patent application in another country, claiming the priority of a first patent application (step 3 of 4)

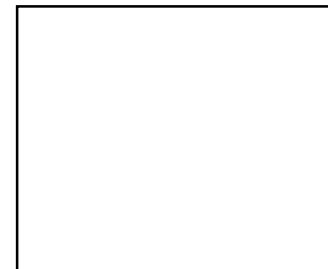


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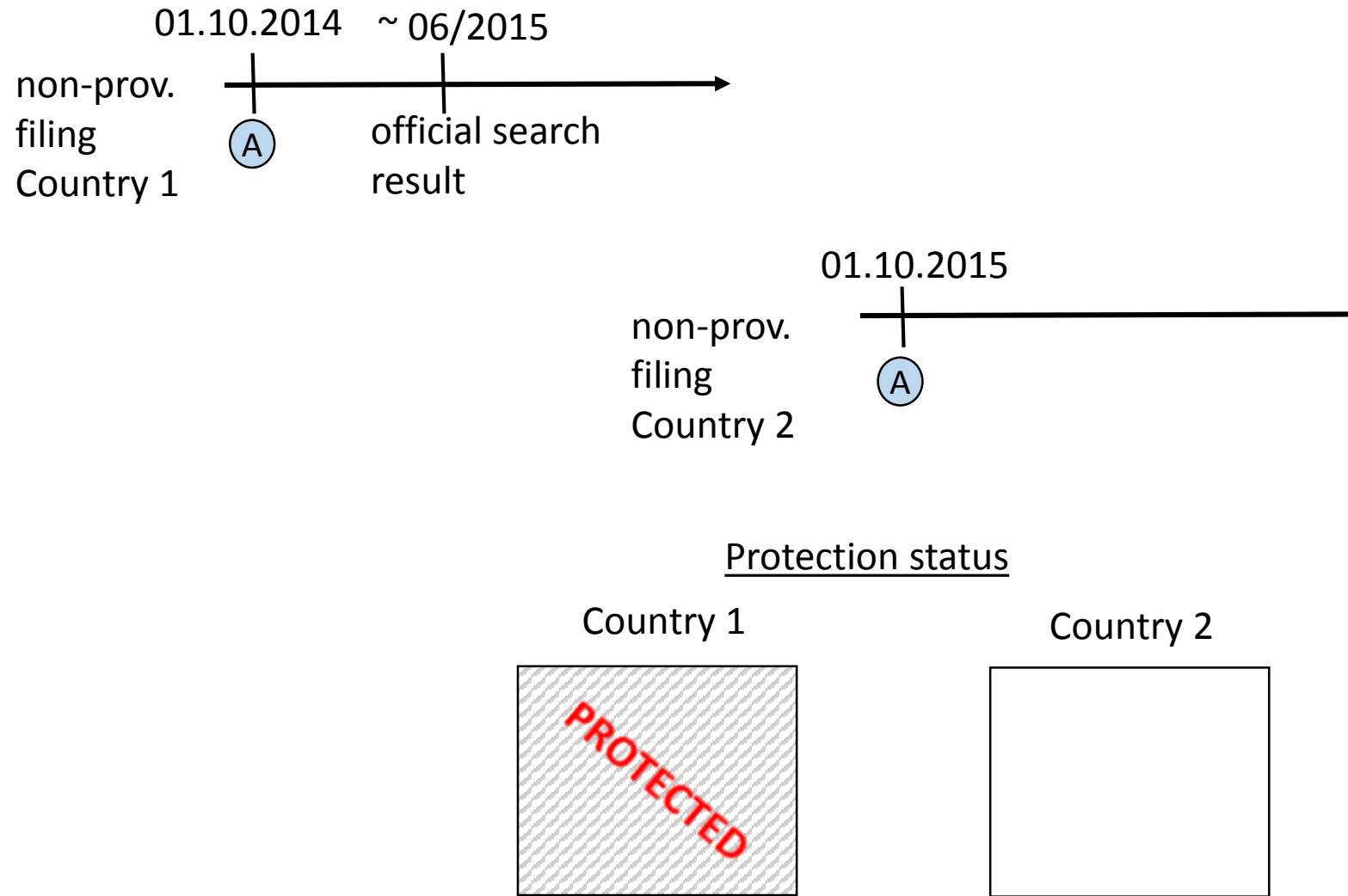
Country 1



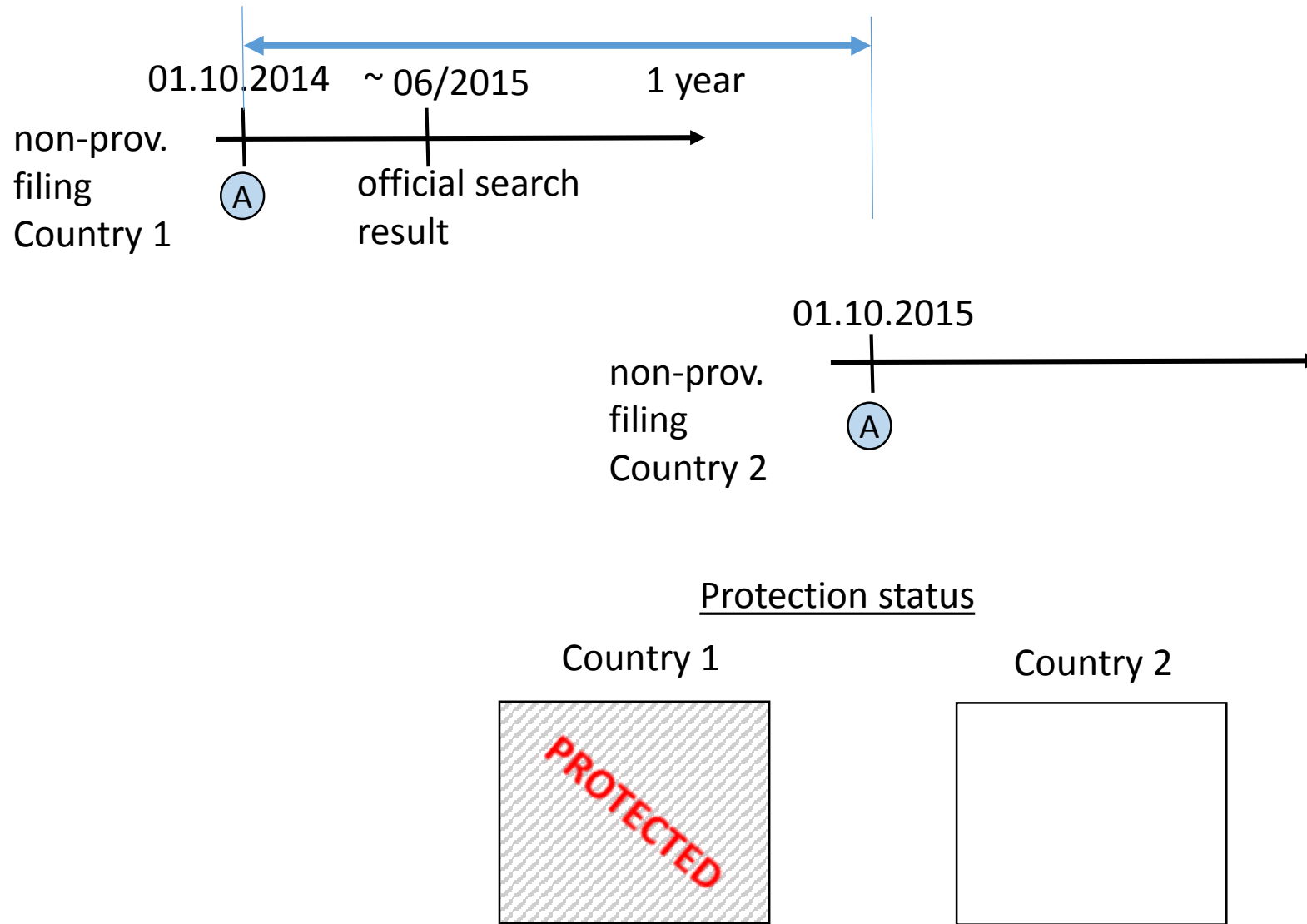
Country 2



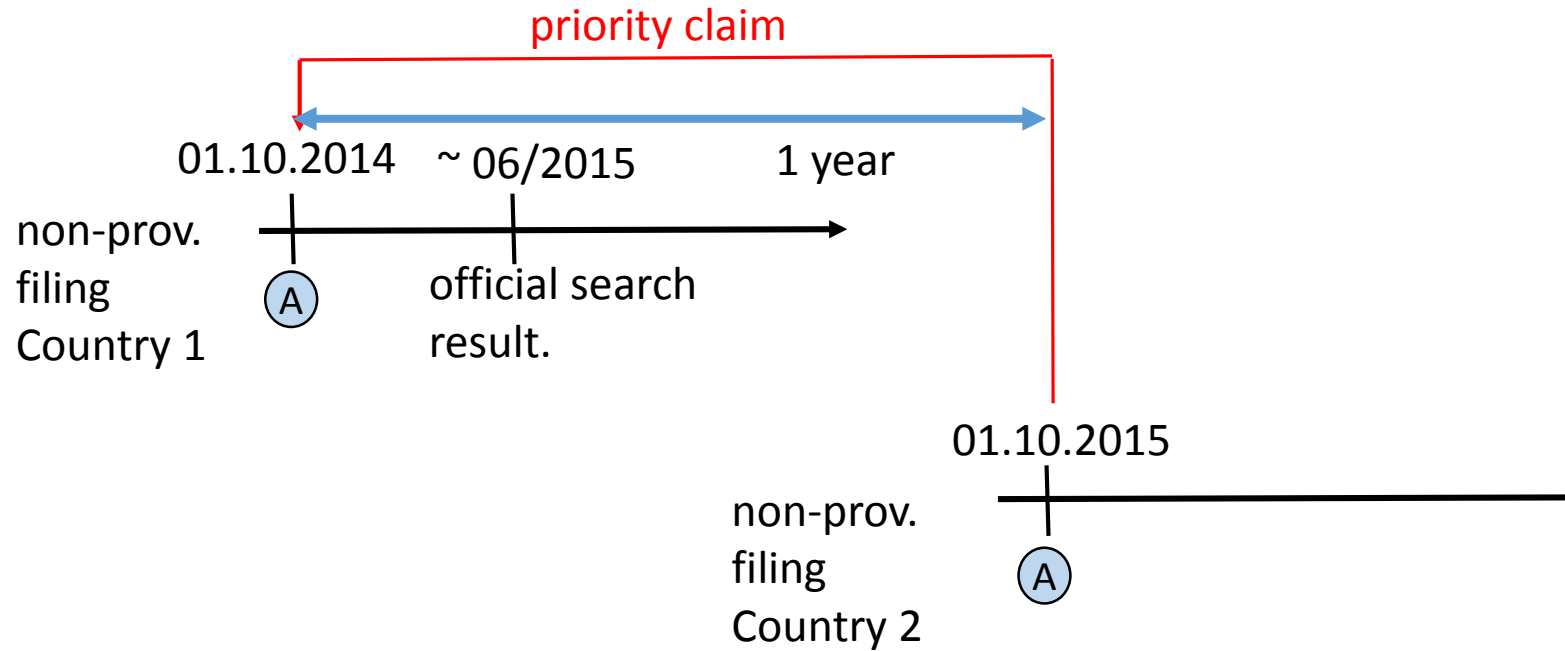
How to file a new patent application in another country, claiming the priority of a first patent application (step 4a of 4)



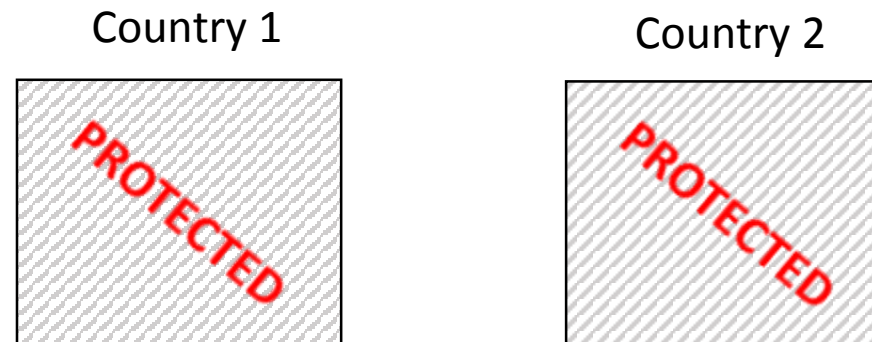
How to file a new patent application in another country, claiming the priority of a first patent application (step 4a of 4)



How to file a new patent application in another country, claiming the priority of a first patent application (step 4b of 4)



Protection status



One more important thing.

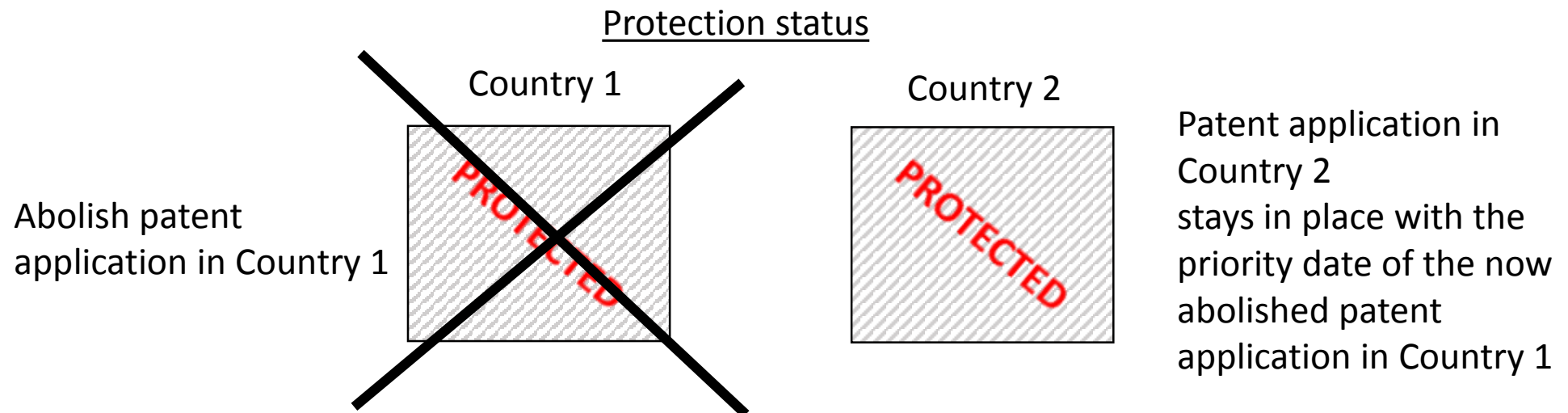
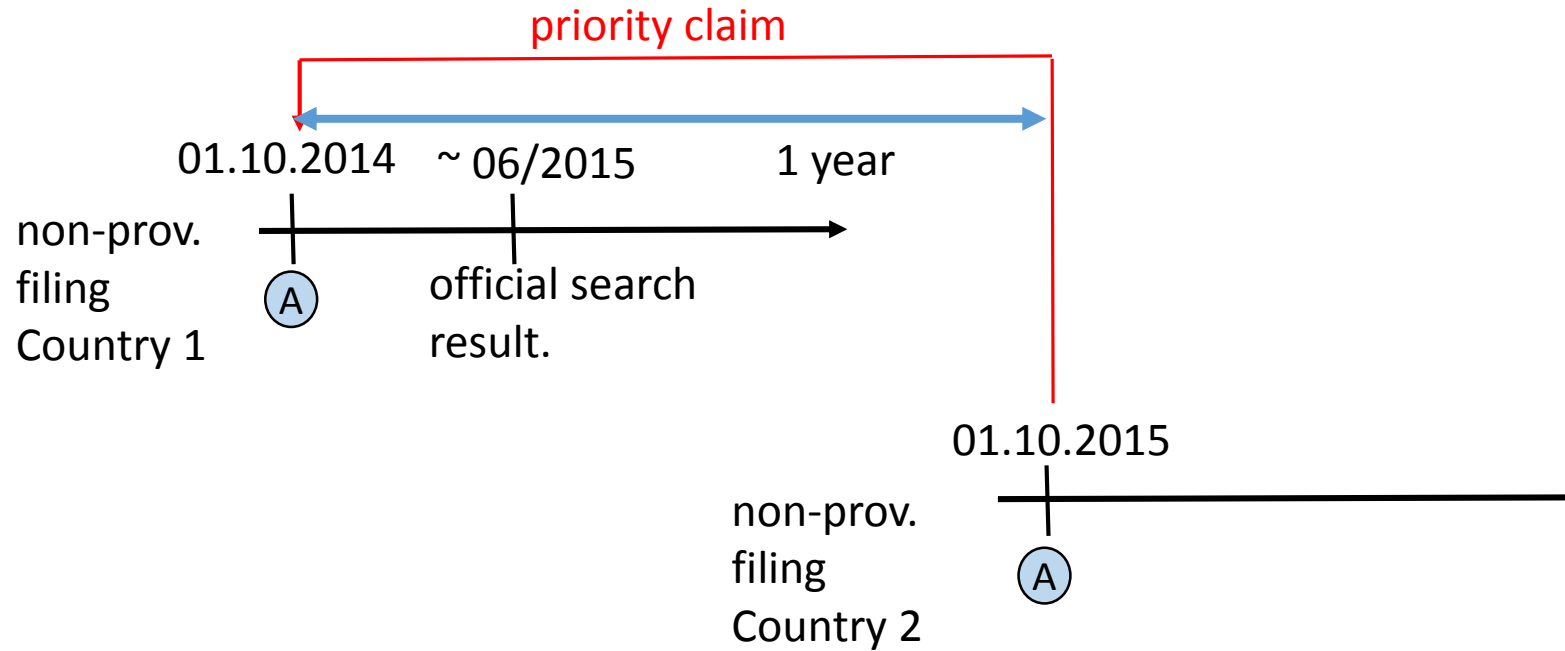
This is about the mother of all patent strategies.

What happens to the claimed priority in country 2 if the patent application in country 1 is withdrawn?

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 - b) the new patent filing with the priority claim must be made within 12 months from the date of filing the first patent application (Art. 4C(1)).
- The right of priority is triggered by the valid filing of the first patent application; the subsequent fate of this first patent application does not affect this right of priority. (see Article 4A(3), Paris Convention Treaty)

How to file a new patent application in another country, claiming the priority of a first patent application (step 4c of 4)



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- The new patent filing with the priority claim must be made within 12 months from the date of filing the first patent application.
- The subsequent fate of the first patent application does not affect the right of priority claimed in the new patent application.