

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Page 1 of 4

Mail to: **Mail Stop Petition**

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
 Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact the Office of Petitions at (571) 272-3282.

Patent No. \_\_\_\_\_ Application Number \_\_\_\_\_

Issue Date \_\_\_\_\_ Filing Date \_\_\_\_\_

CAUTION: Maintenance fee payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable.

The above-identified patent

is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_

original application number \_\_\_\_\_

original filing date \_\_\_\_\_.

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application \_\_\_\_\_

filed on \_\_\_\_\_.

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Maintenance fee; and
- (3) Statement that the delay in payment of the maintenance fee was unintentional.

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (\* along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or being transmitted to the USPTO by the USPTO patent electronic filing system, or by facsimile to (571) 273-8300, on the date shown below.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995, unless the information collection has a currently valid OMB Control Number. The OMB Control Number for this information collection is 0651-0016. Public burden for this form is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 or email InformationCollection@uspto.gov. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))

Page 2 of 4

**1. SMALL ENTITY**

Patentee asserts, or has previously asserted, small entity status. See 37 CFR 1.27.

**2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS**

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

**3. MICRO ENTITY**

Patentee certifies, or has previously certified, micro entity status. See 37 CFR 1.29  
 Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.

**4. LOSS OF ENTITLEMENT TO MICRO ENTITY STATUS**

Patentee is no longer entitled to micro entity status. See 37 CFR 1.29(i).

**5. MAINTENANCE FEE (37 CFR 1.20(e)-(g))**

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

Undiscounted			Small Entity			Micro Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3½ yr fee	(2551)	<input type="checkbox"/> \$ _____	3½ yr fee	(3551)
<input type="checkbox"/> \$ _____	7½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7½ yr fee	(2552)	<input type="checkbox"/> \$ _____	7½ yr fee	(3552)
<input type="checkbox"/> \$ _____	11½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11½ yr fee	(2553)	<input type="checkbox"/> \$ _____	11½ yr fee	(3553)

MAINTENANCE FEE BEING SUBMITTED \$ \_\_\_\_\_

**6. PETITION FEE**

The petition fee required by 37 CFR 1.17(m) of:

\$ \_\_\_\_\_ Undiscounted (Fee Code 1558); or

\$ \_\_\_\_\_ Small Entity (Fee Code 2558); or

\$ \_\_\_\_\_ Micro Entity (Fee Code 3558)

must be paid as a condition of accepting an unintentionally delayed payment of a maintenance fee.

PETITION FEE BEING SUBMITTED \$ \_\_\_\_\_

**7. MANNER OF PAYMENT**

Enclosed is a check for the sum of \$ \_\_\_\_\_

Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

Payment by credit card. Form PTO-2038 is attached.

Payment made via USPTO patent electronic filing system.

**8. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY**

The Director is hereby authorized to charge any maintenance fee or petition deficiency to Deposit Account No. \_\_\_\_\_

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT  
OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Page 3 of 4

**9. OVERPAYMENT**

As to any overpayment made, please

Credit to Deposit Account No. \_\_\_\_\_

**OR**

Send refund check

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information, such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form (PTO-2038) submitted for payment purposes), is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioner/applicant should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms (PTO-2038) submitted for payment purposes are not retained in the application file and therefore are not publicly available.

**10. STATEMENT**

The delay in payment of the maintenance fee for this patent was unintentional.

Petitioner is reminded that a delay resulting from a deliberately chosen course of action or a change in circumstance is not an unintentional delay.

Petitioner is further reminded that a person seeking reinstatement of an expired patent should not make a statement that the delay in payment of the maintenance fee was unintentional unless the entire delay was unintentional, including the period from discovery that the maintenance fee was not timely paid until payment of the maintenance fee. For example, a statement that the delay in payment of the maintenance fee was unintentional would not be proper when the patentee becomes aware of an unintentional failure to timely pay the maintenance fee and then intentionally delays filing a petition for reinstatement of the patent under 37 CFR 1.378. See MPEP 2590.

NOTE: Where the petition under 37 CFR 1.378 is filed more than two years after the date the patent expired for nonpayment of the maintenance fee, the United States Patent and Trademark Office requires an additional explanation of the circumstances surrounding the delay that establishes the entire delay was unintentional. This requirement is in addition to the requirement to provide a statement that the entire delay was unintentional. See *Clarification of the Practice for Requiring Additional Information in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay*, 85 FR 12222 (March 2, 2020). See MPEP 711.03(c)(II)(C)-(F) for additional guidance on the information required to establish that the entire delay was unintentional.

Because this petition under 37 CFR 1.378 is being filed more than two years after the date the patent expired for nonpayment of the maintenance fee, additional explanation of the circumstances surrounding the delay that establishes the entire delay was unintentional is enclosed herewith.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT  
OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Page 4 of 4

**11. PETITIONER REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT BE REINSTATED.**

_____	_____
Date	Signature(s) of Petitioner
_____	_____
Registration Number, if applicable	Typed or Printed Name
_____	
Telephone Number	

\_\_\_\_\_

Address

\_\_\_\_\_

Address

37 CFR 1.378(c) states: "Any petition under this section must be signed in compliance with § 1.33(b)."

**12. ENCLOSURES**

- Maintenance Fee Payment
  - Petition fee under 37 CFR 1.17(m) (fee for filing the maintenance fee petition)
  - Additional sheet(s) containing statement establishing unintentional delay
  - Other: \_\_\_\_\_
- \_\_\_\_\_

## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. The United States Patent and Trademark Office (USPTO) collects the information in this record under authority of 35 U.S.C. 2. The USPTO's system of records is used to manage all applicant and owner information including name, citizenship, residence, post office address, and other information with respect to inventors and their legal representatives pertaining to the applicant's/owner's activities in connection with the invention for which a patent is sought or has been granted. The applicable Privacy Act System of Records Notice for the information collected in this form is COMMERCE/PAT-TM-7 Patent Application Files, available in the Federal Register at 78 FR 19243 (March 29, 2013). <https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>

Routine uses of the information in this record may include disclosure to:

- 1) law enforcement, in the event that the system of records indicates a violation or potential violation of law;
- 2) a federal, state, local, or international agency, in response to its request;
- 3) a contractor of the USPTO having need for the information in order to perform a contract;
- 4) the Department of Justice for determination of whether the Freedom of Information Act (FOIA) requires disclosure of the record;
- 5) a Member of Congress submitting a request involving an individual to whom the record pertains, when the individual has requested the Member's assistance with respect to the subject matter of the record;
- 6) a court, magistrate, or administrative tribunal, in the course of presenting evidence, including disclosures to opposing counsel in the course of settlement negotiations;
- 7) the Administrator, General Services Administration (GSA), or their designee, during an inspection of records conducted by GSA under authority of 44 U.S.C. 2904 and 2906, in accordance with the GSA regulations and any other relevant (i.e., GSA or Commerce) directive, where such disclosure shall not be used to make determinations about individuals;
- 8) another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c));
- 9) the Office of Personnel Management (OPM) for personnel research purposes; and
- 10) the Office of Management and Budget (OMB) for legislative coordination and clearance.

If you do not furnish the information requested on this form, the USPTO may not be able to process and/or examine your submission, which may result in termination of proceedings, abandonment of the application, and/or expiration of the patent.