

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Using petitions effectively in patent prosecution

Fenn Mathew
Office of Petitions
January 28, 2022

UNITED STATES
PATENT AND TRADEMARK OFFICE



Office of Petitions

- Centralized office for deciding most petitions, including those signed by the Commissioner for Patents or other top USPTO officials
- Reviews and decides:
 - Over 40 types of petitions (see MPEP 1002.02(b))
 - Approximately 40,000 petitions per year
- Petitions Help Desk



Petition to the Director – 37 CFR 1.181

- Petition may be taken to the Director:
 - From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Patent Trial and Appeal Board or to the court;
 - In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
 - To invoke the supervisory authority of the Director in appropriate circumstances.

Office of Petitions website

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Application process

- Search for patents
- Learn about patent classification
- Filing online
- Checking application status
- Responding to Office actions
- Petitions**
- Patent Trial and Appeal Board

Petitions

Petitions regarding the filing of patent applications, revival of abandoned applications, reinstatement of expired patents, withdrawal of patent applications from issue, small entity entitlement, review of previous decisions of the Technology Centers, suspension of regulations, questions not specifically provided for by regulations, and other petitionable matters are administered by the Office of Petitions within the [Office of Patent Examination Policy](#).

To learn more about the organization and operation of the Office of Petitions, please see the [Office of Petitions](#) page.

- [Patents Petitions Timeline](#)
- [Resource information and reference materials](#)
- [Frequently asked questions \(FAQs\)](#)
- [Announcements and upcoming events](#)
- [Contact us](#)

Patents Petitions Timeline

Access the [Patents Petitions Timeline](#) page to determine what types of petitions can be filed with the Office during each stage of the patent prosecution. The Patents Petitions Timeline provides applicants access to petitions that can be submitted during each stage of patent prosecution process and information related to each specific petition and deciding office. Also, the timeline provides information on both the historical grant rates and the probability of deciding petition.



Office of Petitions website (cont.)

Resource information and reference materials

- [Requirements of a petition](#)
- [Where to file petitions, requests, and related inquiries](#)
- [ePetition Resource Page](#)
- [Petitions data on Patents Dashboard](#)
- [Manual of Patent Examination Procedure \(MPEP\)](#)
- [Electronic Business Center](#)
- [Forms](#)

Videos:

- [Office of Petitions – overview and helpful tips](#)
- [Using petitions effectively in patent prosecution](#)
- [ePetition Computer Based Training \(CBT\)](#)

Types of petitions handled by the Office of Petitions:

- [03 - Withdrawal from issue before payment of the issue fee](#)
- [04 - Withdrawal from issue after payment of the issue fee](#)
- [05 - Express abandonment after payment of the issue fee](#)
- [06 - Withdrawal of abandonment based on failure to receive an office action](#)
- [07 - Withdrawal of abandonment based on evidence that a reply was timely mailed or filed](#)
- [09 - Revival based on unintentional delay](#)
- [10 - Revival based on failure to notify the office of a foreign filing after submission of a non-publication request](#)
- [11 - Waiver or suspension of rules](#)
- [12 - Unintentionally delayed foreign priority claims](#)
- [13 - Unintentionally delayed domestic benefit claims](#)
- [14 - Deferment of issuance of patents](#)
- [15 - Attorney or agent withdrawals](#)
- [16 - Matters not specifically provided for](#)
- [17 - Acceptance of maintenance fee payments based on a refusal to accept and record maintenance fee payment filed prior to the expiration of the patent](#)
- [19 - Acceptance of delayed payment of a maintenance fee after expiration of the patent based on unintentional delay](#)
- [20 - General supervisory review by the Director of USPTO of a decision by a director of the technology center](#)
- [21 - Filing dates of patent applications](#)
- [22 - Converting patent applications](#)
- [23 - Make special - age or health](#)
- [24 - Expungement of papers](#)
- [25 - Prioritized Examination \(Track One\)](#)
- [26 - Patent Prosecution Highway \(PPH\)](#)
- [27 - Petition for retroactive foreign filing license](#)
- [28 - Petitions for correction of patent application publications under 37 CFR 1.221 \(b\)](#)
- [29 - Petition requesting reconsideration of the patent term adjustment before issuance of the patent](#)
- [30 - Petition requesting reconsideration of the patent term adjustment after issuance of the patent](#)



Office of Petitions website (cont.)

Frequently asked questions (FAQs)

- **What is a petition?**

A petition is a signed, written request presented to the Office.

- **Are all matters relating to a patent application petitionable?**

No. Ordinarily, an objection is petitionable, and a rejection is appealable, but when the objection is "determinative of the rejection" the matter may be addressed by the Patent Trial and Appeal Board. See MPEP § [1201](#) for additional information.

- **Are all petitions handled by the Office of Petitions?**

No. Petitions are decided in accordance with the delegation of authority as indicated in MPEP § [1002](#). The [Patents Petitions Timeline](#) provides applicants access to petitions that can be submitted during each stage of patent prosecution process and information related to each specific petition and deciding office.

- **What are the ways available to file petitions?**

See [Where to file petitions, requests, and related inquiries](#).

- **How long will it take before my petition is decided?**

The [Patents Petitions Timeline](#) provides information on both the historical grant rates and the pendency of decided petitions.

- **What is an ePetition?**

An [e-Petition](#) is an electronically filed petition, submitted via EFS-Web that automates the petition process and allows petitioners to directly input the requisite information into a secure Web interface and immediately receive an ePetition decision if all requirements are met.

For more information about ePetitions, please see [ePetition Resource Page](#).

- **What information should be included in a petition that is not filed electronically?**

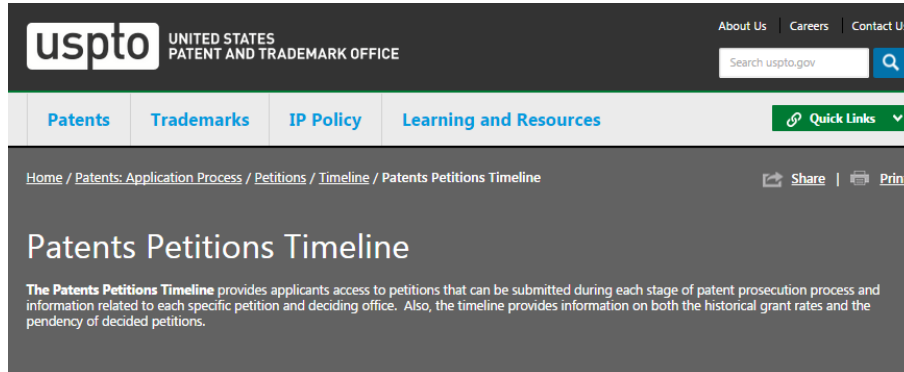
See [Requirements of a petition](#).

- **Does filing a petition pause/stop the time period for a reply required in an application?**

Except for a petition filed under [37 CFR 41.40](#) to designate a new ground of rejection in an examiner's answer, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. See [37 CFR 1.181\(f\)](#).



Patents petitions timeline



The screenshot shows the USPTO website header with the logo and navigation links. Below the header is a search bar and a navigation menu. The main content area is titled 'Patents Petitions Timeline' and includes a brief description of the timeline's purpose.

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Patents Petitions Timeline

The **Patents Petitions Timeline** provides applicants access to petitions that can be submitted during each stage of patent prosecution process and information related to each specific petition and deciding office. Also, the timeline provides information on both the historical grant rates and the pendency of decided petitions.

- 1 PRIOR TO EXAMINATION
- 2 DURING EXAMINATION
- 3 AFTER CLOSE OF PROSECUTION
- 4 ALLOWANCE/AFTER PAYMENT OF ISSUE FEE
- 5 POST ISSUANCE

PRIOR TO EXAMINATION

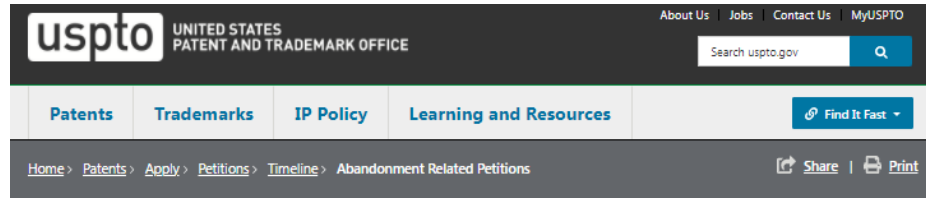
- Abandonment Related
- Access
- Advancement of Examination
- Application Publications
- Assignee Related
- Conversion of Applications
- Correction of Inventorship
- Entity Status
- Expunging Papers
- Extensions of Time
- Filing Date Related
- Foreign Priority or Domestic Benefit Related
- General and Misc
- Public Use Related
- Retroactive Foreign Filing Licenses
- Specifically Related To International Applications
- Suspension or Waiver of Rules (not provided for in any Statute)
- Withdrawal of Attorney Related

DURING EXAMINATION

- Abandonment Related
- Access
- Advancement of Examination







Patents petitions timeline (cont.)



Abandonment Related Petitions

[IPLA – International Patent Legal Administration](#)
[ODM – Office of Data Management](#)
[OPET – Office of Petitions](#)
[TC – Technology Center](#)

Generally Available

Petition Type	Avg. Days Pending of Decided Petitions	Grant Rate Percentage	Deciding Office	ePetition Option
502 - To Revoke an Abandoned Application-Unintentional Delay (37 CFR 1.137(a))	72	66%	OPET	
510 - To Accept Late Payment of Issue Fee - Unintentional Late Payment (37 CFR 1.137(a))	54	68%	OPET	
525 - To Withdraw a Holding of Abandonment (37 CFR 1.181) - Failure to receive an Office Action	94	61%	OPET	
525 - To Withdraw a Holding of Abandonment (37 CFR 1.181) - Reply Timely Filed				
536 - Under 37 CFR 1.137(f)	121	66%*	OPET	
561 - Revoke Abandoned Application, Continuity Purposes Only	71	88%*	OPET	
650 - For Express Abandonment under 37 CFR 1.138(c)			ODM	
651 - For Express Abandonment under Rule 37 CFR 1.138(d)			ODM	



Patents petitions timeline (cont.)

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09 - Revival based on unintentional delay

[Submit this petition online](#)


GET IMMEDIATE DECISIONS

Deciding Office: **Office of Petitions**

Selected types of these petitions can also be filed as [ePetitions](#) (PDF).

The criteria for a **petition requesting revival based on unintentional delay** are set forth in 37 [CFR](#) 1.137(b), MPEP § [711.03\(c\)](#).

In general, these are the steps for filing a petition requesting revival based on unintentional delay:

- A petition requesting revival based on unintentional delay under 37 [CFR](#) 1.137 (a) must be accompanied by:
 - (1) the required reply, unless previously filed;
 - (2) the petition fee as set forth in 37 [CFR](#) 1.17(m);
 - (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 [CFR](#) 1.137 (a) was unintentional; and
 - (4) any terminal disclaimer (and fee as set forth in 37 [CFR](#) 1.20(d)) required by 37 [CFR](#) 1.137(d).

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 [CFR](#) 1.137 was unintentional, the Director may require additional information.

Terminal disclaimers are required with utility/plant application filed before June 8, 1995, and with any design application regardless of its filing date.

Fees:

For the proper petition fee required for a petition requesting revival based on unintentional delay, please consult the current [USPTO Fee Schedule](#) for code 1453/2453/3453 (Large Entity/Small Entity/Micro Entity) under the Patent Petition Fees.

How to file:

Selected types of these petitions can be filed as [ePetitions](#) (PDF).

If not being filed as an ePetition, this petition may be filed using any of these [delivery methods](#).

For the relevant patent laws and rules applicable to revival based on unintentional delay, please see:

- 37 [CFR](#) 1.17, Patent application and reexamination processing fees;
- 37 [CFR](#) 1.137, Revival of abandoned application, or terminated or limited reexamination prosecution;
- 37 [CFR](#) 1.321, Statutory disclaimers, including terminal disclaimers;
- MPEP § [711.03](#), Petitions relating to abandonment; and
- MPEP § [1490](#), Disclaimers.

Forms:

The following forms are available: Petition Form [PTO/SB/64](#), and Terminal Disclaimer Form [PTO/AIA/63](#).

For further assistance, please contact the [Petitions Help Desk](#) between 8:30 AM - 5 PM (EDT).



ePetitions

The logo for ePetitions, featuring a stylized 'e' in a blue circle followed by the word 'Petitions' in a sans-serif font, all contained within a blue rectangular box.

ePetitions

GET IMMEDIATE DECISIONS

Overview

An ePetition is filed and immediately processed online through EFS-Web if all filing requirements are met. The USPTO offers 12 web-based ePetitions

ePetitions benefits

ePetitions Benefits



Save Time

Faster Petition Processing

Filing an ePetition allows petitioners to directly input the requisite filing information into a secure Web interface and immediately receive an ePetition grant. Petitioners save time by avoiding delays associated with manually-processed petitions.

Auto-Granting

Immediate Petition Grant upon Submission

Submitted ePetitions are auto-processed and immediately granted upon submission if all requirements are met. The auto-granting of submitted ePetitions is advantageous for time sensitive petitions.


Instant Feedback

Instant Feedback on Requirements

Feedback is immediately provided throughout the ePetition filing process to assist petitioners in meeting all filing requirements necessary for compliance with petition rules and to assure that fees will not be collected by the Office until the petition is acceptable for submission and grant.

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ePetitions resource page

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Filing online

EFS-Web Announcements

FAQS

First Action Interview

New Users

ePetitions


eTerminal Disclaimer

ePetition Resource Page

The ePetitions Resource Page provides useful information and guidance regarding the submission, automatic processing, and immediate grant of ePetitions.



- **Secure Filing with Auto-Grant.** Filing an ePetition via EFS-Web automates the petition process and allows petitioners to directly input the requisite information into a secure Web interface and immediately receive an ePetition decision.
- **Saves Time when Immediate Petition Decisions are Important.** Time savings using ePetitions is especially advantageous for critical petitions where an automatic petition grant would reduce delays in restoration of patent rights, expedite withdrawal from representation and redirect Office correspondence to the new correspondence address, and initiate the revival of an abandoned application to save patent term adjustment time.
- **Increased accuracy** by providing immediate feedback to petitioners on the necessary filing requirements.
- **Current statistics** regarding the pendency and grant rate comparisons between filing an ePetition and non-ePetition are available on our [Dashboard](#).

For questions regarding Patent e-Filing, or to suggest improvements to the online system, please send an email to ebc@uspto.gov  or call the Patent Electronic Business Center at **1-866-217-9197** (toll free) or **571-272-4100** from 6 a.m. to 12 Midnight Eastern Time, Monday - Friday.



ePetitions Computer Based Training (CBT)

The CBT provides an overview of ePetitions and includes a step-by-step demonstration that illustrates how quick and easy it is to submit the Request for Withdrawal as Attorney or Agent of Record (37 CFR 1.36) via ePetition.

ePetitions resource page (cont.)

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Web-based ePetitions

The ePetition information can be entered directly into EFS-Web screens.

- Request for Withdrawal as Attorney or Agent of Record ([37 CFR 1.36](#))
- Petition to Withdraw from Issue after Payment of the Issue Fee ([37 CFR 1.313](#)(c)(1) or (2))
- Petition to Withdraw from Issue after Payment of the Issue Fee ([37 CFR 1.313](#) (c)(3))
- Petition to Withdraw from Issue after Payment of the Issue Fee ([37 CFR 1.313](#) (c)(1) or (2) with Assigned Patent Number)
- Petition to Withdraw from Issue after Payment of the Issue Fee ([37 CFR 1.313](#) (c)(3) with Assigned Patent Number)
- Petition to Accept Late Payment of Issue Fee - Unintentional Late Payment ([37 CFR 1.137](#)(a))
- Petition for Revival of an Application based on Failure to Notify the Office of a Foreign or International Filing ([37 CFR 1.137](#) (f))
- Petition for Revival of an Application for Continuity Purposes Only (([37 CFR 1.137](#) (a))
- Petition for Revival of an Abandoned Patent Application Abandoned Unintentionally([37 CFR 1.137](#) (a))(For Cases Abandoned After 1st Action and Prior to Notice of Allowance)
- Petition to Correct Assignee After Payment of Issue Fee ([37 CFR 3.81](#)(b))
- Petition to Make Special Based on Age ([37 CFR 1.102](#))
- Petition to Accept Unintentional Delayed Payment of the Maintenance Fee ([37 CFR 1.378](#)(b))

[Filing online](#)[EFS-Web Announcements](#)[FAQs](#)[First Action Interview](#)[New Users](#)[ePetitions](#)[eTerminal Disclaimer](#)

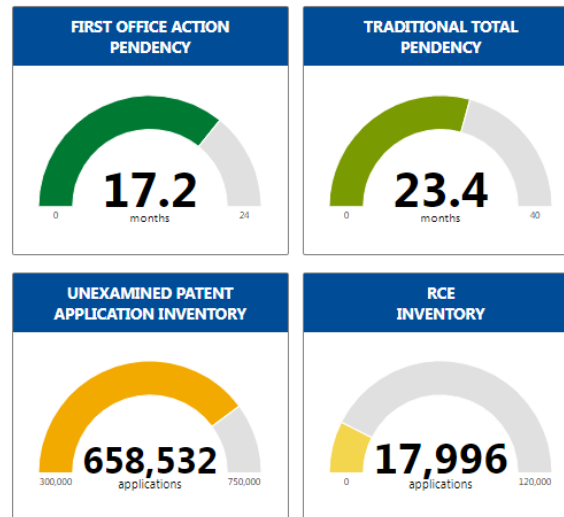
Data Visualization Center

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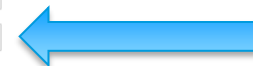
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Patents Data, at a Glance November 2021

In response to public comment, we have redesigned the Patents Data Visualization Center. We hope you find the dashboard useful. If you have any questions, comments, or feedback, [please click here to send an email to the Dashboard Administrator](#).



Pendency Data	After Final Response Data
Design Data	Central Reexamination Unit Data
Production, Unexamined Inventory and Filing Data	Patent Term Adjustment Data
Amendment Turnaround Data	Petition Data
Special Program Data	



Frequently filed petitions

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Petition Data November 2021

Frequently Filed Petitions in the Office of Petitions

Petition Type	Avg Days Pending of Decided Petitions in the Past 12 Months	Grant Rate Percent of Total Petitions Decided in the Past 12 Months
To Make Entity Status Large from Small	118	79%
To Join Track One (Prioritized Examination)	60	94%
To Join Patent Prosecution Highway (PPH)	45	79%
To Make Application Special on Grounds of Age or Health	40	93%
Revival Based on Unintentional Delay in Abandoned Application	71	66%
To Accept Unintentionally Delayed Claim for Priority	121	53%
Withdrawal of Attorney From Application	27	44%
Issue Patent in the Name of Assignee After the Issue fee is Paid	123	78%
To Accept Unintentional Delayed Payment of the Maintenance Fee	106	54%
Patent Term Adjustment After Patent Issued	215	65%

The patent term adjustment petitions were delayed due to the Federal Circuit deciding Novartis AG v. Lee and these petitions are currently being processed.

November 2021



ePetitions and non-ePetitions data

E-Petitions and Non-E-Petitions Data

Petition Type	Total E-Petitions Decided/Filed in Past 12 Months	Average Days Pending of E-Petitions	Grant Rate Percent of Total E-Petitions Decided in the Past 12 Months	Total Non-E-Petitions Decided in the Past 12 Months	Average Days Pending of Non-E-Petitions Decided in the Past 12 Months	Grant Rate Percent of Total Non-E-Petitions Decided in the Past 12 Months
To Make Application Special on Grounds of Age or Health	2390	0	100%	1,724	40	93%
Revival based on Unintentional delay in abandoned application	892	0	100%	4,987	71	66%
Revive Abandoned Application for Failure to Notify the USPTO of Foreign Filing	119	0	100%	53	119	66%
Revive a Patent Application for Continuity Purposes Only When Abandoned Unintentionally	65	0	100%	70	74	89%
Withdrawal of Attorney From Application	982	0	100%	582	27	44%
Withdraw Application From Issue After Issue Fee is Paid	2286	0	100%	210	42	87%
Revive Patent Application for Unintentional Late Payment of the Issue Fee	794	0	100%	2087	54	67%
Withdraw From Issue Patent Application With Patent Number Assigned	4185	0	100%	182	4	89%
Withdraw Patent Application From Issue to Expressly Abandon	15	0	100%	5	4	100%
Issue Patent in the Name of Assignee After the Issue Fee is Paid	107	0	100%	372	123	78%
To Accept Unintentional Delayed Payment of the Maintenance Fee	2278	0	100%	848	106	54%



Petitions-related updates

- Clarification of practice for petitions based on unintentional delay
 - Additional information about delay will be required if:
 - A petition to revive is filed more than two years after abandonment;
 - A petition to accept delayed maintenance fee is filed more than two years after patent expiration; or
 - A petition for delayed priority/benefit claim is filed more than two years after the priority/benefit claim was due.

12222 Federal Register / Vol. 85, No. 41 / Monday, March 2, 2020 / Rules and Regulations	
<p>only when notice and comment are required by the APA or other law, are not applicable. These amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995. See 5 CFR 1320.3. Further, because the amendments impose no new burdens on private parties, the Commission does not believe that the amendments will have any impact on competition for purposes of Section 236(a)(2) of the Securities Exchange Act of 1934. 15 U.S.C. 78w(a)(2).</p> <p>III. Statutory Authority</p> <p>This rule is adopted pursuant to statutory authority granted to the Commission, including Section 19 of the Securities Act of 1933, 15 U.S.C. 77a; Sections 4A, 4B, and 23 of the Exchange Act, 15 U.S.C. 78d-1, 78d-2, and 78w; Section 36 of the Investment Company Act of 1940, 15 U.S.C. 80a-37; Section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b-11; and Section 3 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7202.</p> <p>List of Subjects in 17 CFR Part 200</p> <p>Administrative practice and procedure, Authority delegations (Government agencies).</p> <p>For the reasons set out in the preamble, the Commission is amending Title 17, Chapter II of the Code of Federal Regulations as follows:</p> <p>PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS</p> <p>Subpart A—Organization and Program Management</p> <p>■ 1. The general authority citation for part 200, subpart A continues to read in part as follows:</p> <p>Authority: 15 U.S.C. 77c, 77e, 77f, 77g, 77h-3, 77i, 78d, 78d-1, 78d-2, 78o-4, 78w, 78j(d), 78mm, 80a-37, 80b-11, 7202, and 7211 et seq., unless otherwise noted.</p> <p>■ 2. Amend § 200.30-14 by:</p> <p>■ a. Redesignating paragraphs (f) through (i) as paragraphs (g) through (j); and</p> <p>■ b. Adding new paragraph (f).</p> <p>The addition reads as follows.</p> <p>§ 200.30-14 Delegation of authority to the General Counsel.</p>	<p>in contravention of Section 524(e) of the Bankruptcy Code or applicable law:</p> <p>(1) Object to approval of disclosure statements, including on the basis that the disclosure statement lacks adequate information under Section 1125(b) to support such release provisions;</p> <p>(2) Object to confirmation of bankruptcy plans; or</p> <p>(3) Object to approval of settlements.</p> <p>* * * * *</p> <p>By the Commission, Dated: February 19, 2020. Vanesa A. Countryman, Secretary. [FR Doc. 2020-03705 Filed 2-28-20; 8:45 am] BILLING CODE 8011-01-P</p> <p>DEPARTMENT OF COMMERCE</p> <p>Patent and Trademark Office</p> <p>37 CFR Part 1</p> <p>[Docket No. PTO-P-2019-0035]</p> <p>Clarification of the Practice for Requiring Additional Information in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay</p> <p>AGENCY: United States Patent and Trademark Office, Department of Commerce.</p> <p>ACTION: Clarification.</p> <p>SUMMARY: The United States Patent and Trademark Office (USPTO) is clarifying its practice as to situations that will require additional information about whether a delay in seeking the revival of an abandoned application, acceptance of a delayed maintenance fee payment, or acceptance of a delayed priority or benefit claim was unintentional.</p> <p>DATES: The clarification of practice set forth is applicable to any petition decided on or after March 2, 2020.</p> <p>FOR FURTHER INFORMATION CONTACT: Christina Tartera Donnell, Attorney Advisor, Office of Petitions, by telephone at 571-272-3211; or Douglas I. Wood, Attorney Advisor, Office of Petitions, by telephone at 571-272-3231; or by mail addressed to: Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22304-4450.</p> <p>U.S.C. 27, which expressly provides that the director of the USPTO may establish procedures to revive an unintentionally abandoned application for patent or accept an unintentionally delayed issue fee payment, upon petition by the applicant for patent or patent owner. See Public Law 112-211, 2010(B)(1), 126 Stat. at 1534. Section 202(b)(1)(B) of the PLTIA amended 35 U.S.C. 41(c)(1) to provide that the director may accept the payment of any maintenance fee required by 35 U.S.C. 41(b) after the six-month grace period if the delay is shown to the satisfaction of the director to have been unintentional. See Sec. 202(b)(1)(B), Public Law 112-211, 126 Stat. at 1535-36. The 18-month publication provisions of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119 and 120 to provide that a priority claim for a foreign or international application and a benefit claim to an earlier domestic provisional or nonprovisional application must be filed within the period required by the USPTO, but that the USPTO may establish procedures to accept an unintentionally delayed priority or benefit claim. See Public Law 106-113, 113 Stat. 1501, 1501A-563 through 1501A-564 (1999).</p> <p>The USPTO revised the rules of practice to implement the 18-month publication provisions of section 4503 of the AIPA in September 2000. This included revising the rules of practice pertaining to foreign priority and domestic benefit claims (37 CFR 1.55 and 1.78) to set a time period within which such priority and benefit claims must be filed, and to provide for the acceptance of unintentionally delayed priority or benefit claims. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57024-25, 57030-31, 57035-55 (September 20, 2000). The USPTO revised the rules of practice for consistency with the PLT and Title II of the PLTIA in October 2013. This included revising the rules of practice pertaining to the revival of abandoned applications (37 CFR 1.137) and acceptance of delayed maintenance fee payments (37 CFR 1.378) to provide for the revival of abandoned applications and acceptance of delayed maintenance fee payments solely on the basis of “unintentional” delay, as well as revisions to the rules of practice.</p>

Additional information available at: www.govinfo.gov/content/pkg/FR-2020-03-02/pdf/2020-03715.pdf

Petitions-related updates (cont.)

- COVID-19 Prioritized Examination Pilot Program:
 - Prioritized examination is available for certain patent applications without payment of certain prioritized examination fees.
 - Applications must cover a product or process related to COVID-19, and such product or process must be subject to an applicable FDA approval for COVID-19 use.
 - Available for small and micro entity applicants
 - Requests will be accepted until midnight on March 31, 2022.

28932 Federal Register / Vol. 85, No. 94 / Thursday, May 14, 2020 / Notices

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.¹⁾

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: May 8, 2020.

James Mader,
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.
[FR Doc. 2020-10350 Filed 5-13-20; 8:45 am]
BILLING CODE 3510-05-P

DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Open Meeting of the Information Security and Privacy Advisory Board
AGENCY: National Institute of Standards and Technology, Department of Commerce.
ACTION: Notice of open meeting.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAIB) will meet Wednesday, June 24, 2020 from 9:00 a.m. until 5:00 p.m., Eastern Time, and Thursday, June 25, 2020 from 9:00 a.m. until 4:30 p.m., Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, June 24, 2020, from 9:00

Standards and Technology, Telephone: (301) 975-2489, Email address: jeffrey.brewer@nist.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ISPAIB will hold an open meeting Wednesday, June 24, 2020 from 9:00 a.m. until 5:00 p.m., Eastern Time, and Thursday, June 25, 2020 from 9:00 a.m. until 4:30 p.m., Eastern Time. All sessions will be open to the public. The ISPAIB is authorized by 15 U.S.C. 278g-4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including through review of proposed standards and guidelines developed by NIST. Details regarding the ISPAIB's activities are available at <https://csrc.nist.gov/projects/ispaib>.

The agenda is expected to include the following items:

- Discussion of the United States Methods of Product Testing and Standards Conformance,
- Presentation from the United States Government Testing Programs,
- Discussion of International Testing requirements and conformance regimes,
- Discussion of Executive Order 13905—Strengthening National Resilience Through Use of Positioning, Navigation, and Timing (PNT) Services,
- Discussion on telework cybersecurity and privacy, and potential lessons learned

Note that agenda items may change without notice. The final agenda will be posted on the ISPAIB event page at: <https://csrc.nist.gov/Events/2020/ispaib-june-meeting>.

Public Participation: Written questions or comments from the public are invited and may be submitted electronically by email to Jeff Brewer at jeffrey.brewer@nist.gov.

statements, those who had wished to submit a question or comment but could not be accommodated on the agenda, and those who were unable to attend the meeting via webinar are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAIB at any time. All written statements should be directed to the ISPAIB Secretariat, Information Technology Laboratory by email to: jeffrey.brewer@nist.gov.

Admittance Instructions: All participants will be attending via webinar and must register on ISPAIB's event page at: <https://csrc.nist.gov/Events/2020/ispaib-june-meeting> by 5 p.m. Eastern Time, June 22, 2020.

Kevin A. Kimball,
Chief of Staff.
[FR Doc. 2020-10375 Filed 5-13-20; 8:45 am]
BILLING CODE 3510-15-P

DEPARTMENT OF COMMERCE
Patent and Trademark Office
[Docket No.: PTO-P-2020-0026]
COVID-19 Prioritized Examination Pilot Program
AGENCY: United States Patent and Trademark Office, Department of Commerce.
ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is implementing a pilot program to provide prioritized examination of certain patent applications. To qualify, the claim(s) of an application must cover a product or process related to COVID-19, and such product or process must be subject to an applicable FDA approval for COVID-19 use.

Under this pilot program, the USPTO will grant qualified requests for prioritized examination without payment of certain fees associated with prioritized examination for applicants

Accessible via the COVID-19 Response Resource Center, available at www.uspto.gov/coronavirus/uspto-covid-19-response-resource-center

Helpful petitions practice tips

Helpful tips: Document codes

- Petitions that are filed without the proper document code can result in delays in processing the petition.
 - Use of “letter” or “miscellaneous” codes can cause delays unless someone reviews and identifies these papers as a petition and notifies the appropriate office of the petition.
 - “PET.OP” is the most frequently used document code for most petitions handled by the Office of Petitions.



Helpful tips: Petitions are NOT a response

- Reminder: Petitions are not a response to an Office action.
- Petitions do not stop the time running against an applicant for filing a response to an Office action.
- Even if applicant is asking for review of the decision by the Office of Petitions, a response must be filed before the period for reply expires or the application will become abandoned.



Helpful tips: To avoid abandonment

- **Terminal disclaimers including eTerminal disclaimers:**
 - If the only remaining rejection in an Office action is an obviousness-type rejection, a complete response is either a reply by the applicant showing that the claims subject to the rejection are patentably distinct from the reference claims or filing of a terminal disclaimer in accordance with 37 CFR 1.321 in the pending application(s) with a reply to the Office action.
 - Filing a terminal disclaimer by itself does not obviate the need to respond under 37 CFR 1.111.
- **Notice of Allowance:**
 - Should be reviewed carefully to ensure there are no outstanding requirements
 - For example, if the box is checked on the Notice of Allowance form indicating that corrected drawings (as “replacement sheets”) must be submitted, the applicant needs to send in a response.
- **Request for Continued Examination (RCE) in National Stage applications:**
 - An RCE filed in a National Stage (35 U.S.C. 371) application is improper if a compliant oath or declaration for each originally named inventor has not been filed.




Helpful tips: To avoid abandonment (cont.)


- Interview summaries:
 - All business with the U.S. Patent and Trademark Office should be transacted in writing under 37 CFR 1.2.
 - Verbal agreements do not constitute a formal response.
 - For example, if an examiner indicates a new Office action will be mailed out or that the replacement drawings satisfy a previously raised objection in an interview, this needs to be indicated in writing in the record.
- Notice to File Missing Parts:
 - Common mistakes that lead to Notice to File Missing Parts:
 - Specification Format - 37 CFR 1.52, 37 CFR 1.71-1.75, 1.77, and 1.121(b) & (c)
 - Drawing Format - 37 CFR 1.84 and 1.121(d)
 - Application Data Sheet (ADS) - 37 CFR 1.76
 - Signatures - 37 CFR 1.4
 - Micro Entity Certification - 37 CFR 1.29



Helpful tips: Notice to File Missing Parts

 UNITED STATES PATENT AND TRADEMARK OFFICE			
UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov			
APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE

CONFIRMATION NO. .
FORMALITIES LETTER



Mail date → Date Mailed: 01/28/2015

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

Response period → FILED UNDER 37 CFR 1.53(b)
Filing Date Granted

Items Required To Avoid Abandonment.

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

uspto

Helpful tips: Last-minute filings

- Oath/declaration
 - Applicant can now defer filing oath/declaration until the Notice of Allowance is issued. However, an application is abandoned by law if an oath/declaration is not filed by the time the issue fee is paid.
 - It may become difficult to obtain all the necessary signatures (e.g., inventor may refuse to sign).
 - May need to file a substitute statement
 - An RCE filed in a National Stage (35 U.S.C. 371) application is improper if a compliant oath or declaration for each originally named inventor has not been filed.




Helpful tips: Last-minute filings (cont.)

- Benefit/priority claims:
 - Ensure benefit/priority information is properly listed in the application data sheet (ADS).
 - Using web-based/corrected web-based ADS can help ensure that benefit/priority information is correctly entered into the ADS and changes are properly marked-up.
 - Promptly review the filing receipt to verify accuracy of benefit/priority information.
 - Avoid petitions for unintentionally delayed benefit/priority claims, which can be costly and can cause prosecution delays.



Helpful tips: Filing receipt example


APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY DOCKET NO	TOT CLAIMS	END CLAIMS
59/956,507	02/03/2014	3773	1260	45456-0102	12	1


UNITED STATES PATENT AND TRADEMARK OFFICE
 UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

CONFIRMATION NO. 7285

12346

FILING RECEIPT


*OC00000057605684

Inventor(s)
 Charles Jordan, Sr. Brooklyn, NY
 Alexander Robert Thompson, New York, NY
 Kwan Jian Pak Seoul, KOREA, REPUBLIC OF

Applicant(s)
 VICTOR PEST CONTROL COMPANY
 Assignment For Published Patent Application
 VICTOR PEST CONTROL COMPANY

Power of Attorney: The patent practitioners associated with Customer Number 12346

Domestic Priority data as claimed by applicant
 NONE


Foreign Applications for which priority is claimed (You may be eligible to benefit from the Patent Prosecution Highway program at the USPTO. Please see <http://www.uspto.gov> for more information.)
 REPUBLIC OF KOREA 12-2013-004567892 10/2/2013
Foreign application information must be provided in an Application Data Sheet in order to constitute a claim to foreign priority. See 37 CFR 1.55 and 1.76.

Domestic benefit data

Foreign priority data



Helpful tips: Petition submission

- Getting your petition to the Office of Petitions:
 - ePetition - 
 - EFS-Web
 - Mail to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
 - Central fax – (571) 273-8300
 - Deliver to Customer Service Window at Randolph Building
 - ONLY FOR PETITIONS TO WITHDRAW FROM ISSUE (in addition to the options listed above):
 - Fax to the Office of Petitions - (571) 273-0025

Helpful tips: Call centers

- Office of Petitions Help Desk
 - (571) 272-3282
- Inventor Assistance Center (IAC)
 - 1-800-786-9199 or (571) 272-1000
- IPLA (PCT Legal) Help Desk
 - (571) 272-4300
- Pro Se Assistance
 - 1-866-767-3848
- Fee Assistance
 - 1-800-786-9199
- Other support numbers
 - www.uspto.gov/patent/contact-patents



Helpful tips: Online resources

- ePetition resource page:
 - www.uspto.gov/patents-application-process/applying-online/epetition-resource-page
- Petitions timeline:
 - www.uspto.gov/patents-application-process/petitions/timeline/patents-petitions-timeline
- Patents dashboard:
 - www.uspto.gov/dashboards/patents/main.dashxml
- Web-based ADS:
 - www.uspto.gov/patents/process/file/efs/guidance/WebADS_QSG.pdf
- Corrected web-based ADS:
 - www.uspto.gov/sites/default/files/documents/Corrected-WebADS-QSG.pdf
- ADS information page:
 - www.uspto.gov/patent/forms/important-information-completing-application-data-sheet-ads
- Patent form finder:
 - <https://my.uspto.gov/patent-form-finder>



Questions?

