

Chapter 2500 Maintenance Fees

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- 2501 Introduction
- 2504 Patents Subject to Maintenance Fees
- 2506 Times for Submitting Maintenance Fee Payments
- 2510 Submission of Maintenance Fee >Payments and< Documents
- 2515 Information Required for Submission of Maintenance Fee Payment
- 2520 Maintenance Fee Amounts
- 2522 Methods of Payment
- 2530 >Special Acceptance of Maintenance Fee Payments Containing< Informalities
- >2531 Payment Late or Insufficient
- 2532 Duplicate Payments<
- 2540 Fee Address for Maintenance Fee Purposes
- 2542 Change of Correspondence Address
- 2550 Small Entity Status
- 2560 Revocation of Power of Attorney and Withdrawal of Attorney
- 2570 >Maintenance Fee Payment< Status Requests
- 2575 Notices
- 2580 Review of Decision Refusing to Accept and Record Payment of a Maintenance Fee Filed Prior to Expiration of Patent
- 2590 Acceptance of Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent
- 2591 Intervening Rights in Reinstated Patents
- 2595 Forms

2501 Introduction [R-2]

35 U.S.C. 41. Patent fees; patent and trademark search systems.

(b) The Director shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

- (1) 3 years and 6 months after grant, \$830 [* >\$910.00<].
- (2) 7 years and 6 months after grant, \$1,900 [* >\$2,090.00<].
- (3) 11 years and 6 months after grant, \$2,910 [* >\$3,220.00<].

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period. The Director may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee. No fee may be established for maintaining a design or plant patent in force.

(c)(1)The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

(2) A patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall not abridge or affect the right of any person or that person's successors in business who made, purchased, offered to sell, or used anything protected by the patent within the United States, or imported anything protected by the patent into the United States after the 6-month grace period but prior to the acceptance of a maintenance fee under this subsection, to continue the use of, to offer for sale, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, or used within the United States, or imported into the United States, as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, and the court may also provide for the continued practice of any process that is practiced, or for the practice of which substantial preparation was made, after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the 6-month grace period but before the acceptance of a maintenance fee under this subsection.

Note: The fees in brackets in 35 U.S.C. 41(b) as reproduced above are the fees that went into effect on October 1, * >2003<. See 37 CFR 1.20(e)-(g) for the current fee amounts.

Public Law 96-517, enacted December 12, 1980, established the requirement to pay maintenance fees for applications filed on or after that date. The statutory provisions regarding maintenance fees have been subsequently modified by Public Law 97-247, enacted August 27, 1982; Public Law 98-622, enacted November 8, 1984; Public Law 102-204, enacted December 10, 1991; Public Law 102-444, enacted October 23, 1992; Public Law 105-358, enacted November 10, 1998; and Public Law 106-113, enacted November 29, 1999.

**** >MAINTENANCE FEE BRANCH<**

The ** >Maintenance Fee Branch of the Receipts Accounting Division of the Office of Finance< provides specialized advice and guidance to the public on maintenance fee matters.

The ** >Maintenance Fee Branch< determines the proper status of issued patents which are subject to payment of maintenance fees, receives and processes fee transmittals, determines small entity status, responds to public inquiries on post-issuance status and maintenance fees, determines if patents have expired, and determines if maintenance fees are timely and properly computed. This * >Branch< also generates the data necessary to produce *Official Gazette* notices of maintenance fees due and of expiration of patents due to failure to pay maintenance fees.

OFFICE OF PUBLIC RECORDS DOCUMENT SERVICES DIVISION SPECIAL HANDLING BRANCH

The Special Handling Branch updates patent post issuance automated files with the following information:

- (A) Changes of Address
- (B) Powers of Attorney and Revocations Thereof
- (C) Withdrawals of Attorneys and Agents
- (D) Changes to Small Entity Status

The official mailing address for submitting requests to update all post-issuance patent information is:

** >Director of the United States Patent and Trademark Office
 Mail Stop Document Services
 P.O. Box 1450
 Alexandria, Virginia 22313-1450<

2504 Patents Subject to Maintenance Fees [R-2]

37 CFR 1.362. Time for payment of maintenance fees.

(a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

(b) Maintenance fees are not required for any plant patents or for any design patents. Maintenance fees are not required for a

reissue patent if the patent being reissued did not require maintenance fees.

(c) The application filing dates for purposes of payment of maintenance fees are as follows:

(1) For an application not claiming benefit of an earlier application, the actual United States filing date of the application.

(2) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119, the United States filing date of the application.

(3) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.

(4) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, the United States filing date of the original non-reissue application on which the patent reissued is based.

(5) For an international application which has entered the United States as a Designated Office under 35 U.S.C. 371, the international filing date granted under Article 11(1) of the Patent Cooperation Treaty which is considered to be the United States filing date under 35 U.S.C. 363.

(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:

(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,

(2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and

(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.

(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:

(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.

(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and

(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.

(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.

(h) The periods specified in §§1.362 (d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based.

Maintenance fees are required to be paid on all patents based on applications filed on or after December 12, 1980, except for plant patents and design patents. Furthermore, maintenance fees are not required for a reissue patent if the patent being reissued did not require maintenance fees. >No payment of additional maintenance fees is required for second or subsequent reissue patents, i.e., continuation or divisional reissues (see MPEP 1451), which are derived from a first reissue patent which has issued.<

Application filing dates for purposes of determining whether a patent is subject to payment of maintenance fees are as follows:

(A) For an application not claiming benefit of an earlier application, the actual United States filing date of the application.

(B) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119(a)-(d), the actual United States filing date of the application.

(C) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.

(D) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, the United States filing date of the original nonreissue application on which the patent reissued is based.

(E) For an international application that has entered the United States as a Designated Office under 35 U.S.C. 371, the international filing date granted under Article 11(1) of the Patent Cooperation Treaty which is considered to be the United States filing date under 35 U.S.C. 363.

2506 Times for Submitting Maintenance Fee Payments [R-2]

>Maintenance fees cannot be paid in advance since 35 U.S.C. 41(f) permits maintenance fees to be adjusted every year on October 1 to reflect any fluctuations during the previous 12 months in the Consumer Price Index as determined by the Secretary of Labor.<

37 CFR 1.362(d) sets forth the time periods when the maintenance fees for a utility patent can be paid without surcharge. Those periods, referred to generally as the “window period,” are the 6-month periods

preceding each due date. The “due dates” are defined in 35 U.S.C. 41(b). The window periods are (1) 3 years to 3 1/2 years after the date of issue for the first maintenance fee payment, (2) 7 years to 7 1/2 years after the date of issue for the second maintenance fee payment, and (3) 11 years to 11 1/2 years after the date of issue for the third and final maintenance fee payment. A maintenance fee paid on the last day of a window period can be paid without surcharge. The last day of a window period is the same day of the month the patent was granted 3 years and 6 months, 7 years and 6 months, or 11 years and 6 months after grant of the patent.

37 CFR 1.362(e) sets forth the time periods when the maintenance fees for a utility patent can be paid with surcharge. Those periods, referred to generally as the “grace period,” are the 6-month periods immediately following each due date. The grace periods are (1) 3 1/2 years and through the day of the 4th anniversary of the grant of the patent, (2) 7 1/2 years and through the day of the 8th anniversary of the grant of the patent and, (3) 11 1/2 years and through the day of the 12th anniversary of the grant of the patent. A maintenance fee may be paid with the surcharge on the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant to prevent the patent from expiring.

Maintenance fees for a reissue patent are due based upon the schedule established for the original utility patent. The filing of a request for *ex parte* or *inter partes* reexamination and/or the publication of a reexamination certificate does not alter the schedule of maintenance fee payments of the original patent.

If the day for paying a maintenance fee falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the maintenance fee may be paid on the next succeeding day that is not a Saturday, Sunday, or Federal holiday. For example, if the window period for paying a maintenance fee without a surcharge ended on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the maintenance fee can be paid without surcharge on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday within the District of Columbia. Likewise, if the grace period for paying a maintenance fee with a surcharge ended on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the maintenance fee can be paid with sur-

charge on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday within the District of Columbia. In the latter situation, the failure to pay the maintenance fee and surcharge on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday within the District of Columbia will result in the patent expiring on a date (4, 8, or 12 years after the date of grant) earlier than the last date on which the maintenance fee and surcharge could be paid. This situation results from the provisions of 35 U.S.C. 21, but those provisions do not extend the expiration date of the patent if the maintenance fee and any required surcharge are not paid when required. For example, if the grace period for paying a maintenance fee with a surcharge ended on a Saturday, the maintenance fee and surcharge could be paid on the next succeeding business day, e.g., Monday, but the patent will have expired at midnight on Saturday if the maintenance fee and surcharge were not paid on the following Monday. Therefore, if the maintenance fee and any applicable surcharge are not paid, the patent will expire as of the end of the grace period as listed above. A patent that expires for failure of payment will expire on the anniversary date the patent was granted in the 4th, 8th, or 12th year after the grant.

2510 Submission of Maintenance Fee >Payments and< Documents [R-2]

**** >SUBMISSION OVER THE INTERNET**

Maintenance fee payments can be made quickly and easily over the Internet at www.uspto.gov by electronic funds transfer (EFT), credit card or deposit account payment methods. See MPEP § 509 and § 2522 for additional information pertaining to payments by credit card and payments by deposit account.

SUBMISSION BY MAIL

As provided in 37 CFR 1.1(d)(1), the mailing address for maintenance fee payments not electronically submitted over the Internet is:

United States Patent and Trademark Office
P.O. Box 371611
Pittsburgh, Pennsylvania 15250-1611

Correspondence related to maintenance fees other than payments of maintenance fees in patents must be mailed to:

Mail Stop M Correspondence

Director of the United States Patent and Trademark Office
Alexandria, Virginia 22313-1450<

37 CFR 1.366(b) provides that the certificate of mailing procedures of 37 CFR 1.8 or the mailing by "Express Mail" provisions of 37 CFR 1.10 may be utilized in paying maintenance fees. The specific requirements of either 37 CFR 1.8 or 1.10 must be fully complied with if the benefits of either are desired. See MPEP § 512 and § 513.

SUBMISSION BY FACSIMILE

Payment of a maintenance fee is accepted via facsimile, when charged to a deposit account or to a credit card. ** >Credit Card Payment Form (PTO-2038)< should be used if payment is made by credit card. See MPEP § 509 and § 2522. In addition, requests pertaining to post-issuance documents, such as change of correspondence address, assignment of fee address, etc., may be submitted by facsimile.

37 CFR 1.366(b) provides that the certificate of transmission procedure of 37 CFR 1.8 may be utilized in paying maintenance fees. The specific requirements of 37 CFR 1.8 must be fully complied with if the benefits thereof are desired. See MPEP § 512.

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2515 Information Required for Submission of Maintenance Fee Payment [R-2]

37 CFR 1.366. Submission of maintenance fees.

(a) The patentee may pay maintenance fees and any necessary surcharges, or any person or organization may pay maintenance fees and any necessary surcharges on behalf of a patentee. Authorization by the patentee need not be filed in the Patent and Trademark Office to pay maintenance fees and any necessary surcharges on behalf of the patentee.

**>

(b) A maintenance fee and any necessary surcharge submitted for a patent must be submitted in the amount due on the date the maintenance fee and any necessary surcharge are paid. A maintenance fee or surcharge may be paid in the manner set forth in § 1.23 or by an authorization to charge a deposit account estab-

lished pursuant to § 1.25. Payment of a maintenance fee and any necessary surcharge or the authorization to charge a deposit account must be submitted within the periods set forth in § 1.362(d), (e), or (f). Any payment or authorization of maintenance fees and surcharges filed at any other time will not be accepted and will not serve as a payment of the maintenance fee except insofar as a delayed payment of the maintenance fee is accepted by the Director in an expired patent pursuant to a petition filed under § 1.378. Any authorization to charge a deposit account must authorize the immediate charging of the maintenance fee and any necessary surcharge to the deposit account. Payment of less than the required amount, payment in a manner other than that set forth § 1.23, or in the filing of an authorization to charge a deposit account having insufficient funds will not constitute payment of a maintenance fee or surcharge on a patent. The procedures set forth in § 1.8 or § 1.10 may be utilized in paying maintenance fees and any necessary surcharges.<

(c) In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include the patent number, and the application number of the United States application for the patent on which the maintenance fee is being paid. If the payment includes identification of only the patent number (*i.e.*, does not identify the application number of the United States application for the patent on which the maintenance fee is being paid), the Office may apply the payment to the patent identified by patent number in the payment or may return the payment.

(d) Payment of maintenance fees and any surcharges should identify the fee being paid for each patent as to whether it is the 3 1/2-, 7 1/2-, or 11 1/2-year fee, whether small entity status is being changed or claimed, the amount of the maintenance fee and any surcharge being paid, and any assigned customer number. If the maintenance fee and any necessary surcharge is being paid on a reissue patent, the payment must identify the reissue patent by reissue patent number and reissue application number as required by paragraph (c) of this section and should also include the original patent number.

(e) Maintenance fee payments and surcharge payments relating thereto must be submitted separate from any other payments for fees or charges, whether submitted in the manner set forth in § 1.23 or by an authorization to charge a deposit account. If maintenance fee and surcharge payments for more than one patent are submitted together, they should be submitted on as few sheets as possible with the patent numbers listed in increasing patent number order. If the payment submitted is insufficient to cover the maintenance fees and surcharges for all the listed patents, the payment will be applied in the order the patents are listed, beginning at the top of the listing.

(f) Notification of any change in status resulting in loss of entitlement to small entity status must be filed in a patent prior to paying, or at the time of paying, the earliest maintenance fee due after the date on which status as a small entity is no longer appropriate. See § 1.27(g).

(g) Maintenance fees and surcharges relating thereto will not be refunded except in accordance with §§1.26 and 1.28(a).

37 CFR 1.366 establishes the guidelines and procedures for submission of maintenance fees, including any necessary surcharges. The patentee may pay maintenance fees and any necessary surcharges or any person or organization may pay maintenance fees and any necessary surcharges on behalf of the patentee without filing in the Office evidence of authorization by the patentee to pay maintenance fees. This will enable patentees to pay the maintenance fees and any necessary surcharges themselves or authorize some person or organization to pay maintenance fees and any necessary surcharges on their behalf. No verification of the authority to pay maintenance fees and any necessary surcharges in a particular patent will be made by the Office. While anyone may pay the maintenance fees and any necessary surcharges on a patent, if the payment is accepted by the Office, any Office notices relating to maintenance fees and any necessary surcharges will be mailed to the “fee address” set forth in 37 CFR 1.363. If the payment is not accepted by the Office, it will be returned to the person who submitted the payment if a return address is available. It is >strongly< recommended that the payor should include a return address along with his or her telephone number since the Office may contact the payor in some instances when it is unclear to which patent the fees are to be applied. See MPEP § 2530.

A maintenance fee and any necessary surcharge for a patent must be submitted in the amount due on the date the maintenance fee and any necessary surcharge are paid, and at the proper time, *i.e.*, within the periods set forth in 37 CFR 1.362. If the amount of the maintenance fee is correct on the date it is paid and credited to the patent, a later change in the maintenance fees to reflect a new fee amount will not require a modification in the amount paid. **

37 CFR 1.366(c) provides that a maintenance fee payment must include the patent number and the application number on which the maintenance fee is being paid. If the payment includes identification of only the patent number (*i.e.*, does not identify the application number for the patent on which the maintenance fee is being paid), the Office may apply the payment to the patent identified by patent number in the payment or may return the payment. See MPEP § 2530. The application number required to be submitted is not that of a prior parent application, but

rather the application number of the actual application that matured into the patent for which maintenance fees are to be paid. If the maintenance fee and any necessary surcharge is being paid on a reissue patent, the application number required is that of the reissue application.

If a patent expires because the maintenance fee and any necessary surcharge have not been paid in the manner required by 37 CFR 1.366, the patentee could proceed under 37 CFR 1.378 (see MPEP § 2590), if appropriate, or could file a petition under 37 CFR 1.377 (see MPEP § 2580) within the period set therein seeking to have the maintenance fee accepted as timely even though not all of the required identifying data was present prior to expiration of the grace period.

Under 37 CFR 1.366(d), the following information should also be submitted for each patent on which a maintenance fee or surcharge is paid (37 CFR 1.366(d)):

(A) the Fee Year (e.g., 3 1/2, 7 1/2, or 11 1/2 year fee);

(B) the amount of the maintenance fee and any surcharge being submitted;

(C) any assigned customer number; and

(D) whether small entity status is being changed or claimed with the payment.

Where the payment is a maintenance fee and any necessary surcharge on a reissue patent, in addition to the information requested for all payments, it is requested that the original patent number be furnished. Although the submission of the information requested under 37 CFR 1.366(d) is not mandatory, it would expedite the processing of maintenance fee payments.

The Maintenance Fee Transmittal Form, PTO/SB/45 should be used when submitting maintenance fees. This form is available, upon request, from the ** >Maintenance Fee Branch<. It is also available from the USPTO website (<http://www.uspto.gov>).

The Office processes fees in the order in which they are presented. If the payment submitted is insufficient to cover the maintenance fees and surcharges for all patents listed, and there is no >general< authorization to charge a deposit account **, the payment will be applied in the order the patents are listed, beginning at the top of the listing.

2520 Maintenance Fee Amounts [R-2]

37 CFR 1.20(e)-(h) sets the fee amounts for the maintenance fees and the grace period surcharge. The maintenance fee amounts are subject to adjustment to reflect fluctuations occurring in the Consumer Price Index pursuant to 35 U.S.C. 41(f). The maintenance fee amounts (37 CFR 1.20(e)-(h)) are subject to a 50% reduction for small entities pursuant to 35 U.S.C. 41(h). The >Maintenance Fee Branch< and the USPTO website (www.uspto.gov) may be contacted for the current maintenance fee amounts.

>The term of a patent might be shortened, e.g., by a terminal disclaimer. If a patent will expire part way between the due dates set in 35 U.S.C. 41(b), or between the latest due date and the term set in 35 U.S.C. 154, it is still required that the entire maintenance fee amount for the due date be paid. The maintenance fee amount is set by statute (subject to periodic adjustment), and cannot be prorated to cover only the amount of time past the due date before the patent expires.<

37 CFR 1.366(g) provides that maintenance fees and surcharges relating thereto will not be refunded except in accordance with 37 CFR 1.26 and 1.28(a). A patentee cannot obtain a refund of a maintenance fee which was due and payable on the patent. Any duplicate payment will be refunded to the fee address.

2522 Methods of Payment [R-2]

The method of payment for the maintenance fee and any necessary surcharge is set forth in 37 CFR 1.23. The payment shall be made in U.S. dollars and in the form of a cashier's or certified check, Treasury note, national bank notes, or United States Postal Service money order as provided in 37 CFR 1.23(a). If the maintenance fee and any necessary surcharge is sent in any other form, the Office may delay or cancel the credit until collection is made. For example, a personal or other uncertified check drawn on a U.S. bank that is not immediately negotiable, e.g., because it lacks a signature or due to insufficient funds, will not constitute payment of a maintenance fee and/or surcharge.

The maintenance fee can be charged to a credit card as set forth in 37 CFR 1.23(b), but credit for the payment is subject to actual receipt of the fee by the Office. Credit Card Payment Form (PTO-2038)

should be used for payment of fees by credit card >unless the payment is submitted over the internet<. If credit card information is provided on a form or document other than the form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge. See MPEP § 509.

Any remittance from a foreign country must be payable and immediately negotiable in the United States for the full amount of the maintenance fee and/or surcharge required.

37 CFR 1.366(b) provides that maintenance fees and any necessary surcharge may be paid by authorization to charge a deposit account established pursuant to 37 CFR 1.25. The authorization to charge the deposit account must be submitted within an appropriate window or grace period and must be limited to maintenance fees and surcharges payable on the date of submission. The authorization to charge the deposit account cannot be submitted prior to the third, seventh, or eleventh year after grant of the patent. If an authorization to charge a deposit account were submitted to pay the maintenance due at 3 years and 6 months after grant, a new authorization to charge a deposit account or other form of payment will have to be submitted at the appropriate time for each of the maintenance fees due at 7 years and 6 months and 11 years and 6 months. Any payment or authorization filed at any time other than that set forth in 37 CFR 1.362(d), (e), or (f) will not serve as a payment of the maintenance fee, except insofar as a delayed payment of the maintenance fee is accepted by the Commissioner pursuant to 37 CFR 1.378. See MPEP § 2590. A payment of less than the required amount, a payment in a manner other than that set forth in 37 CFR 1.23, or the filing of an authorization to charge a deposit account having insufficient funds, will not constitute payment of a maintenance fee on a patent. The authorization is required to permit the immediate charging of the maintenance fee to the deposit account. An authorization would be improper if it only authorized the maintenance fee to be charged at a later date, e.g., on the last possible day of payment without surcharge. Such an authorization would not serve as payment of the maintenance fee. Any payment which fails to result in the entire proper amount of the maintenance fee being present on the due date will not constitute payment of the maintenance fee.

Maintenance fee payments and any surcharges relating thereto must be submitted separately from any other payments for fees or charges, whether submitted in the manner set forth in 37 CFR 1.23 or by authorization to charge a deposit account. >See< 37 CFR 1.366(e). Maintenance fee payments and surcharge payments relating thereto that are commingled with payments for other fees or charges, e.g., application filing fees, issue fees, document supply fees, etc., will not be accepted. Maintenance fees require processing by a separate area of the Office and are not processed in the same manner as other fees and charges. Maintenance fees for a number of patents can be submitted together in one submission and one payment. 37 CFR 1.366(e) specifies that if maintenance fee payments for more than one patent are submitted together, they should be submitted on as few sheets as possible, listing the patent numbers in increasing patent number order. If the payment submitted is insufficient to cover the maintenance fees and any surcharges for all the listed patents, the payment will be applied in the order the patents are listed. In such a circumstance the maintenance fee and any surcharge for one or more of the last listed patents will not be paid.

Money orders and checks must be made payable to the ** >Director of the United States Patent and Trademark Office. (Checks made payable to the Commissioner of Patents and Trademarks will continue to be accepted. See 37 CFR 1.23 (a)<. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount required.

It is not suggested that cash be sent by mail. However, if cash is sent it will be at the risk of the sender and should be sent via registered mail.

2530 >Special Acceptance of Maintenance Fee Payments Containing< Informalities [R-2]

** >It is strongly recommended that a maintenance fee submission include both a telephone number and a mailing address for the fee submitter because, provided the fee is sufficient, the Office will often attempt to contact the submitter by telephone and/or by mail to confirm the patent to which the fee is to be applied.

If a maintenance fee payment identifies only the patent number (i.e., does not identify the application number for the patent on which the maintenance fee is being paid), the Office may apply the payment to the patent identified by the patent number in the payment or may return the payment. See 37 CFR 1.366 (c). If the Office specially accepts a payment, a Notice of Special Acceptance of Patent Maintenance Fee (PTO-2143) will be mailed to the fee submitter identifying the patent number and application number to which the maintenance fee was applied and requesting the fee submitter to verify that the payment was applied as intended. The Notice of Special Acceptance of Patent Maintenance Fee (PTO-2143) will set a time period within which to file a petition under 37 CFR 1.377 along with the petition fee if the maintenance fee was not applied to the patent for which the payment was intended. The Office intends to specially accept maintenance fee payments according to the following guidelines.

I. PATENT NUMBER SUPPLIED BUT NO APPLICATION NUMBER SUPPLIED

If the maintenance fee payment is sufficient for the maintenance fee due for the patent identified by only the patent number, the Office will specially accept and apply the payment.

II. PATENT NUMBER AND APPLICATION NUMBER SUPPLIED BUT THEY DO NOT CORRESPOND

When a patent number and an application number are both supplied, but they do not correspond to the same patent, the Office will make a reasonable attempt to confirm the correct patent by telephoning the submitter (e.g., patentee or agent), provided the payment is sufficient to pay the maintenance fee due on either the patent identified by the patent number or the patent identified by the application number.

(A) If *verbal* confirmation of the patent identified by the patent number is obtained during the telephone call and the payment submitted is sufficient, the Office will specially accept and apply the payment as confirmed.

(B) If *written* (e.g., facsimile or email) confirmation of the patent identified by the application num-

ber is obtained immediately following the telephone call, and the payment submitted is sufficient, the Office will specially accept and apply the payment as confirmed.

(C) If the telephone call is not successful (e.g., no contact is made with the fee submitter) but a maintenance fee is due on the patent identified by the patent number, provided the payment submitted is sufficient, the Office may specially accept and apply the payment to the patent identified by the patent number.

III. NO PATENT NUMBER SUPPLIED BUT APPLICATION NUMBER SUPPLIED

If a maintenance fee is due on the patent identified by the application number and the payment submitted is sufficient, the Office will telephone the fee submitter to confirm the payment. If *written* (e.g., facsimile) confirmation is obtained immediately following the telephone call, the Office will specially accept and apply payment as confirmed. Otherwise, the Office will return the payment to the fee submitter.

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2531 Payment Late or Insufficient [R-2]

Examples of when a payment of maintenance fees and any necessary surcharges will be considered to be late or insufficient include instances when:

(A) Though a payment was received, additional funds are required due to surcharge or fee increase;

(B) Though a payment was received in an amount for small entity, the patented file records do not indicate that an assertion of small entity status was received; or

(C) The payment was received after the patent expired.

If the Office considers a payment to be late or insufficient, a notice (e.g., a Notice of Non-Acceptance of Patent Maintenance Fee (PTO-2142)) will be sent to the "fee submitter." Reply to the notice is required prior to expiration of the grace period provided by 37 CFR 1.362(e) in order to avoid the expiration of the patent. If a reply is not received prior to expiration of the patent, then an appropriate petition under 37 CFR 1.377 or 37 CFR 1.378 is required. See MPEP § 2580 and § 2590.

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PTO/SB/45 (09-03)
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MAINTENANCE FEE TRANSMITTAL FORM

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P.O. Box 371611
Pittsburgh, PA 15250-1611

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611" on _____.

Signature _____

Typed or printed name _____

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. A check for the amount of \$ _____ for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed.
2. The Director is hereby authorized to charge \$ _____ to cover the payment of the fee(s) indicated below to Deposit Account No. _____.
3. The Director is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. _____.
4. Payment by credit card. Form PTO-2038 is attached.

* Information required by 37 CFR 1.366(c) (columns 1 & 4). Information requested under 37 CFR 1.366(d) (columns 2, 3, 5, & 6)

Item	Patent Number* Column 1	Maintenance Fee Amount (37 CFR 1.20 (e)-(g)) Column 2	Surcharge Amount (37 CFR 1.20 (h)-(i)) Column 3	U.S. Application Number* [06/555,555] Column 4	Payment Year			Small Entity? ** Column 6
					Column 5			
					3.5 yrs	7.5 yrs	11.5 yrs	
1								
2								
3								
4								
5								
6								

Subtotals: Columns 2 & 3 \$0.00 \$0.00

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_____ additional sheets attached for listing additional patents.

WARNING:
Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038

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Customer's name:

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Note: *All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. 37 CFR 1.363.

** Payment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity status or to change status from small to large entity, note the requirements of 37 CFR 1.27 and 1.33(b).

*** WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH CUSTOMER'S NAME AND SIGNATURE ARE REQUIRED.

This collection of information is required by 37 CFR 1.366. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 0.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA. 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611.

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