Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/458 (08-26)
Approved for use through 11/30/2027. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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 AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 119(a)-(d) OR (f), 365(a) OR (b), OR 386(a) OR (b) FOR THE RIGHT OF PRIORITY TO A PRIOR-FILED FOREIGN APPLICATION (37 CFR 1.55(e))

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

APPLICANT HEREBY PETITIONS FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 CFR 1.55(e).

NOTE: A nonprovisional application must be filed within 12 months (six months in the case of a design application) of the filing date of the foreign application, or be entitled to claim the benefit under 35 U.S.C. 120, 121, 365(c), or 386(c) of an application that was filed within twelve months (six months in the case of a design application) of the filing date of the foreign application, except as provided in 37 CFR 1.55(c).

NOTE: A grantable petition requires the following items:

(1) the priority claim in an application data sheet identifying the foreign application to which priority is claimed by the application number, country (or intellectual property authority), and the filing date, unless previously submitted;
(2) a certified copy of the foreign application, unless previously submitted or an exception in paragraph (h), (i), or (j) of 37 CFR 1.55 applies;
(3) the petition fee set forth in 37 CFR 1.17(m); and
(4) a statement that the entire delay between the date the priority claim was due under 37 CFR 1.55(d) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

1. The required priority claim:

☐ The above-identified application was filed on or after September 16, 2012, and the priority claim is either set forth in the attached corrected application data sheet (ADS) or in a corrected ADS that was previously submitted.

☐ The application was filed prior to September 16, 2012, and the priority claim is either (1) set forth in the attached supplemental ADS or in a supplemental ADS that was previously submitted, or (2) in the attached oath or declaration under 37 CFR 1.63 or in an oath or declaration under 37 CFR 1.63 that was previously submitted. See 37 CFR 1.55(n).

Reminder: Any ADS which corrects or updates the information of record must comply with 37 CFR 1.76(c)(2) (or for applications filed prior to September 16, 2012, pre-AIA 37 CFR 1.76(c)).

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 0651-0032. 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.

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2. Certified copy of the foreign application:

☐ is enclosed herewith.

☐ has been previously submitted.

☐ has not been submitted because an exception in paragraph (h), (i), or (j) of 37 CFR 1.55 applies.

3. Petition fee:

(A) For delay greater than one year after the date when the priority claim was due:

37 CFR 1.17(m)(1)

☐ Other than a small or micro entity (undiscounted) fee $ _____ (Fee Code 1469).

☐ Small entity fee $ _____ (Fee Code 2469). Applicant asserts small entity status. See 37 CFR 1.27.

☐ Micro entity fee $ _____ (Fee Code 3469). Applicant has established or is establishing 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.

(B) For delay less than or equal to one year after the date when the priority claim was due:

37 CFR 1.17(m)(2)

☐ Other than a small or micro entity (undiscounted) fee $ _____ (Fee Code 1454).

☐ Small entity fee $ _____(Fee Code 2454). Applicant asserts small entity status. See 37 CFR 1.27.

☐ Micro entity fee $ _____(Fee Code 3454). Applicant has established or is establishing 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. Statement: The entire delay between the date the priority claim was due under 37 CFR 1.55(d) and the date the priority claim was filed was unintentional.

Petitioner is reminded that a change in circumstance or a delay resulting from a deliberately chosen course of action does not become an "unintentional" delay because, for example:

- the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent; or
- the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

NOTE: Where the petition under 37 CFR 1.55(e) is filed more than one year after the date the priority or benefit claim was due, 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 *Conditions for Additional Information and Fee in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay*, 91 FR 37826 (June 24, 2026). 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 1.55(e) is being filed more than one year after the date the priority or benefit claim was due, additional explanation of the circumstances surrounding the delay that establishes the entire delay was unintentional is enclosed herewith. Note: If this box is checked, section 3A must also be completed.

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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, petitioners/applicants 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.

Signature*	Date
Typed or Printed Name	Registration Number, if applicable
Address	Telephone Number
Address	

* This petition must be signed in accordance with 37 CFR 1.33. Please see 37 CFR 1.4(d) for the signature requirements. Submit multiple forms if more than one signature is required.

Enclosures:

- ☐ Application Data Sheet (see instructions starting on page 4)
- ☐ Fee (along with supporting documentation, if required)
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence 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.
- ☐ Transmitted by the USPTO electronic filing system, or by facsimile to 571-273-8300, to the USPTO on the date shown below.

Date	Signature
	Typed or printed name of person signing certificate

Instructions for Petition to Accept an Unintentionally Delayed Claim under 35 U.S.C. 119(a)-(d) or (f), 365(a) or (b), or 386(a) or (b) for the Right of Priority to a Prior-Filed Foreign Application (37 CFR 1.55(e))

(Not to be Submitted to the USPTO)

Note: This form is for unintentionally delayed priority claims to a prior-filed foreign application(s) only.

1. The priority claim under 35 U.S.C. 119(a)-(d) and (f), 365(a) or (b), or 386(a) or (b):

a. For applications filed on or after September 16, 2012, the reference must be set forth in a corrected application data sheet (ADS). See 37 CFR 1.76.

Note: Any ADS filed after the filing of the application is considered a corrected (or updated) ADS even if an ADS was not previously submitted. A corrected ADS must identify the information that is being changed with underlining for insertions and strike-through or brackets for text removed. In general, the identification of the information being changed should be made relative to the most recent filing receipt. For example, where the most recent filing receipt for the application shows no benefit claim, the entire benefit claim must be shown with underlining in the corrected ADS. In addition, if the ADS identified an incorrect provisional application number and the most recent filing receipt included the incorrect provisional application number, the corrected ADS should identify the incorrect provisional application number being deleted with strike-through or brackets, and should identify the correct provisional application number being added with underlining. For more information regarding a corrected ADS in an application filed on or after September 16, 2012, see MPEP 601.05(a), subsection II.

A corrected ADS may include all of the section headings listed in 37 CFR 1.76(b) with all appropriate data for each heading or only those sections (including the section headings) containing changed or updated information. See 37 CFR 1.76(c)(2). A corrected ADS must identify the application by application number and be properly signed.

Use of the corrected Web-based ADS is recommended for registered users of the USPTO patent electronic filing system because it will pre-populate with information of record; applicants can then type in the desired changes, and the system will create a PDF version with the appropriate strike-through and underlining. For more information, see the "Quick Start Guide for Corrected Web-based Application Data Sheet (Corrected Web ADS)" available at https://www.uspto.gov/patents-application-process/applying-online/efsweb-guidance-and-resources.

Applicants may also use Form PTO/AIA/14, which may be printed and marked up to comply with 37 CFR 1.76(c).

Instructions for Petition to Accept an Unintentionally Delayed Claim under 35 U.S.C. 119(a)-(d) or (f), 365(a) or (b), or 386(a) or (b) for the Right of Priority to a Prior-Filed Foreign Application (37 CFR 1.55(e))

(Not to be Submitted to the USPTO)

b. For applications filed before September 16, 2012, the reference to the prior-filed application may be made in a supplemental ADS in compliance with pre-AIA 37 CFR 1.76(c) or in an oath or declaration under 37 CFR 1.63, although the Office prefers the use of an ADS.

Note: For applications filed before September 16, 2012, any ADS submitted after the filing date of the application is a supplemental ADS, regardless of whether an original ADS was submitted with the application papers on filing. Supplemental ADS papers must be labeled Supplemental ADS or Supplemental Application Data Sheet, include each of the seven section headings listed in pre-AIA 37 CFR 1.76(b) with all appropriate data for the section heading, and identify the information that is being changed. See pre-AIA 37 CFR 1.76(c). A supplemental ADS must also identify the application by application number and be properly signed. For more information regarding a supplemental ADS in an application filed before September 16, 2012, see MPEP 601.05(b), subsection II.

2. The certified copy of the foreign application:

NOTE: Petitioner is directed to the appropriate sections of the regulation, 37 CFR 1.55(h), (i) or (j), for additional requirements for meeting the relevant exception to the requirement to submit a certified copy of the foreign priority document. For more information on the certified copy requirement and these exceptions, see MPEP 215 *et seq*.

Petitioner must file a certified copy of the foreign application, unless one of the exceptions in paragraph (h) (Certified copy in another U.S. patent or application); (i) (Foreign intellectual property office participating in a priority document exchange agreement), or (j) (A copy of the original foreign application clearly labeled as "Interim Copy," is filed in the Office), of 37 CFR 1.55 apply.

3. Petition fee:

The petition fee is set forth in 37 CFR 1.17(m) and must be included with the petition. Petitioner is advised to refer to the current fee schedule at https://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule.

4. Statement:

37 CFR 1.55(e) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.55(d) and the date the claim was filed was unintentional. The statement has been included in this form.

Note: The Director may require additional information where there is a question whether the delay was unintentional.

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), 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.