

**Petitions to Accept a Delayed Patent Maintenance Fee Payment where  
Non-Payment was due to the Effects of Hurricane Katrina**

The United States Patent and Trademark Office (USPTO) considers the effects of Hurricane Katrina to be an “extraordinary situation” within the meaning of 37 CFR 1.183 for the affected applicants and patentees. For those patentees who were unable to timely pay a patent maintenance fee due to the effects of Hurricane Katrina, the USPTO will *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment when they file the maintenance fee payment with a petition to accept a delayed maintenance fee under 37 CFR 1.378(c). *See* 37 CFR 1.183.

The USPTO advises patentees who need to file a petition to accept a delayed maintenance fee payment due to the effects of Hurricane Katrina to promptly file a petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 -- **Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))**) accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)) and a copy of this notice. The inclusion of a copy of this notice will be treated as a representation that the delay in payment of the maintenance fee was due to the effects of Hurricane Katrina and as a request for *sua sponte* a waiver of the surcharge under 37 CFR 1.20(i).

Patentees are reminded that a petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C. 41(c). A petition to accept a delayed maintenance fee payment filed later than twenty-four months after the expiration date of the patent must be filed under 37 CFR 1.378(b) and include a showing that the delay in payment was unavoidable.

A petition to accept a delayed maintenance fee payment due to the effects of Hurricane Katrina may be submitted by facsimile directly to the Office of Petitions at 571-273-0025.

Any such petition may also be submitted by mail addressed as follows:

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Inquiries concerning this notice may be directed to Eugenia Jones, Senior Legal Advisor in the Office of Patent Legal Administration, at 877-PTO-NORL (877-786-6675) or 571-272-7704, or by e-mail at PatentPractice@uspto.gov.

Date: 9/09/05 \_\_\_\_\_/s/\_\_\_\_\_

**JON W. DUDAS**

Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office