

**PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 119(e)  
FOR THE BENEFIT OF A PRIOR-FILED PROVISIONAL APPLICATION (37 CFR 1.78(c))**

Page 1 of 4

First named inventor: \_\_\_\_\_

Application No.: \_\_\_\_\_ Art Unit: \_\_\_\_\_

Filed: \_\_\_\_\_ Examiner: \_\_\_\_\_

Title:

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

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

**APPLICANT HEREBY PETITIONS FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED BENEFIT CLAIM UNDER 37 CFR 1.78(c).**

NOTE: A grantable petition requires the following items:

- (1) the reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(3) to the prior-filed provisional application, unless previously submitted;
- (2) the petition fee set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay between the date the benefit claim was due under 37 CFR 1.78(a)(4) and the date the benefit claim was filed was unintentional. The Director may require additional information where there is a question as to whether the delay was unintentional.

**1. The reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(3) to the prior-filed provisional application**

- The application was filed on or after September 16, 2012, and the reference is either set forth in the attached corrected ADS, or in a corrected ADS that was previously submitted.
- The application was filed prior to September 16, 2012, and the reference is either (1) set forth in a supplemental ADS, or (2) set forth in the attached amendment to the first sentence(s) of the specification, or (3) a supplemental ADS or amendment to the first sentence(s) of the specification was previously submitted. See 37 CFR 1.78(h).

**Reminders:**

- 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))
- The nonprovisional application must have been filed within 1 year of the filing date of the prior-filed provisional application except as provided in 37 CFR 1.78(b). See 37 CFR 1.78(a).

**2. Petition fee**

- Small entity fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant asserts small entity status. See 37 CFR 1.27.
- Micro entity fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). 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.
- Undiscounted fee \$ \_\_\_\_\_ (37 CFR 1.17(m)).

This collection of information is required by 37 CFR 1.78(c). 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 1.11, 1.14 and 41.6. This collection is estimated to take 1 hour 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: Mail Stop Petition, 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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**3. STATEMENT:** The entire delay between the date the benefit claim was due under 37 CFR 1.78(a)(4) and the date the benefit claim was filed was unintentional.

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

**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 3)

Fee

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 EFS-Web or by fax on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

\_\_\_\_\_  
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(e)  
for the Benefit of a Prior-Filed Provisional Application (37 CFR 1.78(c))**

(Not to be Submitted to the USPTO)

Note: This form is for unintentionally delayed benefit claims to provisional application(s) only

**1. The reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(3) to the provisional application**

a. For applications filed on or after September 16, 2012, the reference must be set forth in a corrected ADS.

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 EFS-Web 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/efs-web-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).

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(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 amendment in the first sentence(s) of the specification following the title. See 37 CFR 1.78(h).

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. 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>.

**3. Statement**

37 CFR 1.78(c) requires a statement that the entire delay between the date the benefit claim was due under 37 CFR 1.78(a)(4) and the date the benefit claim was filed was unintentional. The required statement is 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. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to 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)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.