

**JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE**  
**Initial Patent Application**  
**OMB Control Number 0651-0032**

Background:

The United States Patent and Trademark Office (USPTO) is required by Title 35 of the United States Code, including 35 U.S.C. § 131, to examine applications for patents. The USPTO administers the patent statutes relating to examination through various rules in Chapter 37 of the Code of Federal Register (CFR), such as, for example, 37 CFR 1.16 through 1.84. Each patent applicant must provide sufficient information to allow the USPTO to properly examine the application to determine whether it meets the criteria set forth in the patent statutes and regulations for issuance as a patent.

Item 12 in this collection (Petition to Accept Unintentionally Delayed Priority/Benefit Claim) is used to determine whether the applicant has included the documentation and fees necessary to successfully petition for:

- 1) 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)),
- 2) an unintentionally delayed claim under 35 U.S.C. 120, 121, 365(c), or 386(c) (37 CFR 1.78(e)) for the benefit of a nonprovisional application or an international application designating the United States, or
- 3) 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)).

This change worksheet updates an existing form to newly facilitate petitions for unintentionally delayed domestic benefit claims to nonprovisional applications and international applications designating the United States, and adds a new form to facilitate petitions for unintentionally delayed claims for foreign priority under 35 U.S.C. 119. The proposed changes to this information collection include:

- 1) The update of form USPTO/SB/445 – Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. 119(e) (37 CFR 1.78(c)) and/or to Accept an Unintentionally Delayed Claim Under 35 U.S.C. 120, 121, 365(c), or 386(c) (37 CFR 1.78(e)) for the Benefit of a Prior-Filed Application. The current version of USPTO/SB/445 only facilitates unintentionally delayed claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application (37 CFR 1.78(c)).
- 2) The addition of form USPTO/SB/458 – 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)).

Burden Changes:

The update and addition of these two forms will result in no changes in burden. This item is already accounted for in the information collection with a reasonable time estimate.