

Doc Code: PET.PCT

Document Description: Petition for review by the PCT Legal

PTO/SB/64PCT (01-25)

Approved for use through XX/XX/XXXX. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN INTERNATIONAL (PCT) APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

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First named inventor: _____

International (PCT) Application No.: _____ U.S. Application No. (if known): _____

Filed: _____

Title:

Attention: International Patent Legal Administration

Mail Stop PCT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact the PCT Helpdesk at (571) 272-4300.

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) and 37 CFR 1.495 were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(c) and (h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Proper reply;
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee:

(A) For delay greater than two years:

37 CFR 1.17(m)(1)

- ☐ Other than a small or micro entity (undiscounted) fee \$ _____ (Fee Code 14R2).
- ☐ Small entity fee \$ _____ (Fee Code 24R2). Applicant asserts small entity status. See 37 CFR 1.27.
- ☐ Micro entity fee \$ _____ (Fee Code 34R2). 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 two years:

37 CFR 1.17(m)(2)

- ☐ Other than a small or micro entity (undiscounted) fee \$ _____ (Fee Code 1453).
- ☐ Small entity fee \$ _____ (Fee Code 2453). Applicant asserts small entity status. See 37 CFR 1.27.
- ☐ Micro entity fee \$ _____ (Fee Code 3453). 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.

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1.137(a)

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2. Proper reply

The proper reply (the missing requirement(s)) in the form of

_____ (identify the type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d) of \$ _____) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(a) was unintentional. [NOTE: The United States Patent and Trademark Office (USPTO) may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(a) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

Petitioner is reminded that a delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137 because:

- the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
- the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
- the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
- the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
- the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Petitioner is further reminded that an intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

- the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;
- the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
- the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

NOTE: Where the petition under 37 CFR 1.137(a) is filed more than two years after the date the application became abandoned, the United States Patent and Trademark Office (USPTO) 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 *Clarification of the Practice for Requiring Additional Information in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay*, 85 FR 12222 (March 2, 2020). 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 1.137(a) is being filed more than two years after the date the application became abandoned, 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 1A must also be completed.

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DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR
1.137(a)**

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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

Enclosures:

- ☐ Petition fee under 37 CFR 1.17(m)(1) or (m)(2)
- ☐ Reply and/or fee
- ☐ Terminal Disclaimer Form
- ☐ Additional sheet(s) containing statements establishing unintentional delay
- ☐ Other (please identify): _____

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 PCT, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by the USPTO patent 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

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). <https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>

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- 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.