Official Gazette Notice

Relief Available to Federal Agencies that are Patent Applicants, Patentees, and Reexamination Parties Impacted by the Lapse of Appropriated Funding Beginning October 1, 2025

The United States Patent and Trademark Office (USPTO or Office) regards the lapse of appropriated funding beginning October 1, 2025 (appropriations lapse), to be an "extraordinary situation" within the meaning of 37 CFR 1.183 for impacted Federal agencies, as defined in 35 U.S.C. 201(a), that are patent applicants, patentees, and reexamination parties.

Patent-Related Correspondence—Time Periods for Reply

Federal agencies impacted by the appropriations lapse may request that the USPTO restart the time period for reply set in an Office communication. For patent applications and reexamination proceedings pending in the USPTO as of October 1, 2025, having at least one patent applicant or patent owner that is a Federal agency, where a reply to an Office communication is outstanding, and for which the statutory or non-statutory time period set for reply has not yet expired, the USPTO will, at an applicant's or a reexamination party's request, restart the time period for reply set in the Office communication. The USPTO may restart the time period for reply by either withdrawing and reissuing the Office communication or sending a notice stating that the time period for reply to the Office communication is being restarted. The Office communication must have been outstanding on October 1, 2025. The request must be made prior to the expiration of the statutory or non-statutory time period set for reply and within sufficient time so that the USPTO can restart the time period for reply to the Office communication prior to the expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 37 CFR 1.956). The request must be accompanied by a copy of this notice in order to allow the USPTO to identify it as a request for relief and facilitate timely processing. The inclusion of a copy of this notice will be considered as a representation that at least one applicant or patent owner is a Federal agency, as defined in 35 U.S.C. 201(a), and that the need to restart the time period for reply set in the Office communication was a result of the appropriations lapse. The request should be sent via the USPTO patent electronic filing system (Patent Center) using document code PET.RELIEF or by mail to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Patent-Related Correspondence—Petitions to Revive

For Federal agencies that, beginning October 1, 2025, were unable to timely reply to an Office communication due to the appropriations lapse, which resulted in the application being held abandoned or the reexamination prosecution being terminated or limited, the USPTO will waive the petition fee in 37 CFR 1.17(m) when the Federal agency that is a patent applicant or patent owner files the reply with a petition under 37 CFR 1.137(a). See 35 U.S.C. 41(a)(7). The inclusion of a copy of this notice with the required reply to the outstanding Office communication will be treated as a request that the USPTO waive, at its own initiative, the petition fee under 37 CFR 1.17(m). The inclusion of a copy of this notice also will be considered as a representation that at least one applicant or patent owner is a Federal agency, as defined in 35 U.S.C. 201(a), and that the delay in filing the reply was a result of the appropriations lapse. The USPTO advises any Federal agency that is a patent applicant or patent owner that seeks to file a petition to revive under 37 CFR 1.137(a) with a request to waive the petition fee under 37 CFR 1.17(m) due to the appropriations lapse, to promptly file the petition under 37 CFR 1.137(a) accompanied by the required reply (but not the petition fee under 37 CFR 1.17(m)) and a copy of this notice. The petition under 37 CFR 1.137(a) must be filed by April 1, 2026, in order to be entitled to a waiver of the petition fee under 37 CFR 1.17(m). A petition to revive under 37 CFR 1.137(a) due to the appropriations lapse may be submitted via the USPTO patent electronic filing system (Patent Center) using document code PET.RELIEF or by mail to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Patent-Related Correspondence—Payment of Maintenance Fees

For Federal agencies that are patentees and that, beginning October 1, 2025, were unable to timely pay a patent maintenance fee due to the appropriations lapse, the USPTO will waive: (1) the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee, and (2) the petition fee in 37 CFR 1.17(m) for accepting a delayed maintenance fee payment when the patentee files the maintenance fee payment with a petition to accept a delayed maintenance fee under 37 CFR 1.378(b).

Federal agencies that are patentees and that seek to pay a maintenance fee during the six-month grace period following the window to pay the maintenance fee may request waiver of the surcharge in 37 CFR 1.20(h). The request must be accompanied by a copy of this notice in order to allow the USPTO to identify it as a request for relief and facilitate timely processing. The inclusion of a copy of this notice with the payment of the maintenance fee during the grace period will be treated as a request that the USPTO waive, at its own initiative, the surcharge under 37 CFR 1.20(h). The inclusion of a copy of this notice will also be treated as a representation that at least one patentee is a Federal agency, as defined in 35 U.S.C. 201(a), and that the late payment of the fee was a result of the appropriations lapse. This waiver may be appropriately requested only where the original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after October 1, 2025, and the delay in paying the fee was due to the appropriations lapse. The request to waive the surcharge in 37 CFR 1.20(h), together with the payment and copy of this notice, must be mailed to: Mail Stop Maintenance Fee, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; or submitted via facsimile to 571-273-6500.

The USPTO advises Federal agencies that are patentees and that need to file a petition to accept a delayed maintenance fee payment due to the appropriations lapse, where the maintenance fee payment was required to have been paid on or after October 1, 2025, to promptly file a petition under 37 CFR 1.378(b), using USPTO form PTO/SB/66, "Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b))", accompanied by the applicable maintenance fee payment (but not the petition fee under 37 CFR 1.17(m)) and a copy of this notice. The inclusion of a copy of this notice will be considered as a request that the USPTO waive, at its own initiative, the petition fee under 37 CFR 1.17(m). The inclusion of a copy of this notice also will be treated as a representation that at least one patentee is a Federal agency, as defined in 35 U.S.C. 201(a), and that the delay in payment of the maintenance fee was due to the appropriations lapse. The petition must be filed by October 1, 2026, in order to be entitled to a waiver of the petition fee under 37 CFR 1.17(m). A petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) due to the appropriations lapse may be submitted via the USPTO patent electronic filing system (Patent Center) using document code PET.RELIEF or by mail to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Patent-Related Correspondence—Contact Information

Patent-related inquiries concerning this notice may be directed to the Office of Patent Legal Administration at 571-272-7704 (571-272-7703 for reexamination) or PatentPractice@uspto.gov.

Patent Trial and Appeal Board-Related Correspondence

For proceedings before the Patent Trial and Appeal Board (PTAB), a request for an extension of time where the appropriations lapse has prevented or interfered with a filing before the Board can be made by contacting the PTAB at 571-272-9797 or by email at Trials@uspto.gov (for AIA trials), PTAB_Appeals_Suggestions@uspto.gov (for PTAB appeals), or InterferenceTrialSection@uspto.gov (for interferences).

General Information Regarding Patent-Related Statutory Time Periods and Requirements

This notice does not grant waivers or extensions of dates or requirements set by statute. For example, the following patent-related time periods or requirements are not extended or waived: (1) the period set forth in 35 U.S.C. 119(a)-(d) to file a nonprovisional patent application claiming the benefit of a prior-filed foreign application; (2) the period set forth in 35 U.S.C. 119(e) during which a nonprovisional application claiming the benefit of a prior filed provisional application must be filed in order to obtain the benefit of the provisional application's filing date; (3) the copendency requirement of 35 U.S.C. 120 between a parent application that issues as a patent and a later filed child application, which requires that the child application be filed prior to the issuance of the parent application; (4) the three-month time period to pay the issue fee set forth in 35 U.S.C. 151; and (5) the two-month time period from the date of patentee service set forth in 35 U.S.C. 304 for a requester to file, in an ex parte reexamination, a reply to a statement filed by the patentee.

Date: 31 Oct 2025

John A. Squires
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office