§ 1.377 Review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent.

(a) Any patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the Director to accept and record the maintenance fee.

(b) Any petition under this section must be filed within two months of the action complained of, or within such other time as may be set in the action complained of, and must be accompanied by the fee set forth in §1.17(g). The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

(c) Any petition filed under this section must comply with the requirements of §1.181(b) and must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(a) The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge due after the date on which status as a small entity is no longer appropriate. See §1.27(g).

(g) Maintenance fees and surcharges relating thereto will not be refunded except in accordance with §§1.26 and 1.28(a).