

Form E2-1. Application for Compensation Under the Invention Secrecy Act (35 U.S.C. §183)

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When to use. An applicant whose patent application was placed under a secrecy order seeks compensation. **Not for:** Government-employee inventors, who have no §183 right.

Deadlines. From notice that the application is in condition for allowance until six years after the patent issues (35 U.S.C. §183).

[Applicant / counsel letterhead]

[Date]

[Head of Department or Agency that caused the secrecy order]

Attention: [Office of General Counsel / Patent Counsel]

[Address]

Re: Application for compensation under 35 U.S.C. §183; U.S. Patent Application No. [], filed [date]; Secrecy Order dated [date]

Dear [Name]:

[Applicant], the owner of the above application, applies under 35 U.S.C. §183 for compensation for (1) damage caused by the secrecy order imposed on the application under 35 U.S.C. §181 at the request of [agency], and (2) use of the invention by or for the Government.

1. The application and order. The application, titled [title] [or “an invention in the field of (general field)” if the title is subject to the order], was filed on [date]. On [date], the Commissioner for Patents issued a secrecy order at the request of [agency]. The order was renewed on [dates]. [Applicant] received a notice of allowability on [date] [or: the patent issued on (date) after rescission of the order].

2. Timeliness. Section 183 permits an application from the date the applicant is notified that, but for the secrecy order, the application is otherwise in condition for allowance, until six years after a patent issues. [Applicant] was notified on [date] that the application was in condition for allowance but for the order [and the patent issued on (date)]. This application is therefore timely. [Compensation for use runs from the first use of the invention by the Government, which [applicant] believes occurred on or about [date].]

3. Damage caused by the order. As a result of the order, [applicant] (a) was barred from publishing, licensing, and commercializing the invention, (b) was unable to file corresponding foreign applications, and (c) [other]. [Describe with evidence: licensing offers declined, investor commitments lost, development costs, market analyses.] [Applicant] estimates damage of \$[amount].

4. Government use. On information and belief, the Government has used the invention, or caused it to be used, since [date], as shown by [unclassified evidence]. [Applicant] requests that the agency identify any use through the channel designated for information subject to the order.

5. Amount claimed. [Applicant] claims \$[amount], consisting of \$[amount] for damage caused by the order and \$[amount] for Government use.

6. Information subject to the order. [Applicant] will provide information subject to the secrecy order only through a channel the agency designates. [Applicant] requests that the agency designate such a channel and arrange for cleared counsel access if necessary.

7. Settlement. [Applicant] is prepared to discuss settlement under §183, which authorizes the agency head to make a final settlement.

[Applicant] reserves the right to bring suit in the United States Court of Federal Claims under §183 if this application is denied or not resolved.

Sincerely,
[Name]