

**SF-83 SUPPORTING STATEMENT
PAPERWORK REDUCTION ACT - OMB CONTROL NUMBER 0651-0033
POST ALLOWANCE AND REFILING**

A. Justification

1. Necessity of Information Collection

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. §§ 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. When an application for a patent is allowed by the USPTO, the USPTO issues a notice of allowance and the applicant must pay the specified issue fee (including the publication fee, if applicable) within three months to avoid abandonment of the application. If the appropriate fees are paid within the proper time period, the USPTO can then issue the patent. If the fees are not paid within the designated time period, the application is abandoned and the applicant may petition the Director to accept a delayed payment with a satisfactory showing that the delay was unavoidable. This Petition for Revival of an Application for Patent Abandoned Unavoidably (Form PTO/SB/61) is approved under information collection 0651-0031. The rules outlining the procedures for payment of the issue fee and issuance of a patent are found at 37 CFR 1.18 and 1.311-1.317.

Chapter 25 of Title 35 U.S.C. provides that there are several actions that the applicant may take after issuance of a patent, including requesting the correction of errors in a patent. If the USPTO determines the corrections should be approved, the USPTO will issue a certificate of correction. For original patents that are deemed wholly or partly inoperative, applicants may file a reissue application, which entails several formal requirements including an oath or declaration stating that the errors in the patent were not the result of any deceptive intention on the part of the applicant. If any additional changes are made during the reissue application examination process, the applicant must submit a supplemental oath or declaration stating that any additional errors also occurred without any deceptive intent. The rules outlining these procedures are found at 37 CFR 1.171-1.178 and 1.322-1.325.

Chapter 30 of Title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art patents or printed publications. Once initiated, the reexamination proceedings are substantially *ex parte* and do not permit input from third parties under Chapter 30, but Chapter 31 also provides for *inter partes* reexamination allowing third parties to participate. If a request for *ex parte* or *inter partes* reexamination is denied, the requester may petition the Director to review the examiner's refusal of reexamination. The rules outlining *ex parte* and *inter partes* reexaminations are found at 37 CFR 1.510-1.570 and 1.902-1.997.

The USPTO is adding two items to this information collection, an electronic version of the Issue Fee Transmittal (Form PTOL-85B) and a petition to request an extension of time in *ex parte* or *inter partes* reexamination proceedings. The USPTO is developing a new

version of the existing Issue Fee Transmittal that customers will be able to submit electronically through EFS-Web. The petition for an extension of time in an *ex parte* or *inter partes* reexamination allows patent owners to request additional time to take action in a reexamination proceeding for sufficient cause and for a reasonable time specified. This petition is an existing requirement that was not previously covered under this information collection. No form is provided for this petition.

Table 1 provides the specific statutes and regulations requiring the USPTO to collect the information discussed above:

Table 1: Information Requirements for Post Allowance and Refiling

Requirement	Statute	Rule
Certificate of Correction	35 U.S.C. §§ 254-255	37 CFR 1.322-1.325
Reissue Application Documentation	35 U.S.C. §§ 251-252	37 CFR 1.171-1.179
Request for <i>Ex Parte</i> Reexamination	35 U.S.C. § 302	37 CFR 1.510-1.570
Request for <i>Inter Partes</i> Reexamination	35 U.S.C. § 311	37 CFR 1.902-1.997
Petition to Review Refusal to Grant <i>Ex Parte</i> Reexamination	35 U.S.C. § 303	37 CFR 1.181 and 1.515(c)
Petition to Review Refusal to Grant <i>Inter Partes</i> Reexamination	35 U.S.C. § 312	37 CFR 1.181 and 1.927
Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination	35 U.S.C. §§ 304-305 and 314	37 CFR 1.550(c) and 1.956
Issue Fee Transmittal	35 U.S.C. §§ 41(a) and 151	37 CFR 1.18 and 1.311-1.317

2. Needs and Uses

The public uses this information collection to request corrections of errors in issued patents, to request reissue patents, to request reexamination proceedings, and to ensure that the associated fees and documentation are submitted to the USPTO.

The Information Quality Guidelines from Section 515 of Public Law 106-554, Treasury and General Government Appropriations Act for Fiscal Year 2001, apply to this information collection and comply with all applicable information quality guidelines, i.e. OMB and specific operating unit guidelines.

This proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with all applicable OMB and USPTO Information Quality Guidelines. (See Attachment A, the USPTO Information Quality Guidelines.)

Table 2 outlines how this collection of information is used by the public and the USPTO:

Table 2: Needs and Uses of Information Collected for Post Allowance and Refiling

Form and Function	Form #	Needs and Uses
Certificate of Correction (Attachment B)	PTO/SB/44	<ul style="list-style-type: none"> Used by the patentee to list the number of the patent to be corrected and the corrections to be made. Facilitates matching the patent or patent file with other identifying information in order to make the appropriate corrections. Used by the USPTO to determine whether the indicated corrections should be approved.
Reissue Documentation	No Form	<ul style="list-style-type: none"> Used by the patentee to submit to the USPTO the remainder of the documentation and information necessary for a reissue patent that is not collected on one of the existing forms. Used by the USPTO to finish processing a request for a reissue application.
Reissue Patent Application Transmittal (Attachment C)	PTO/SB/50	<ul style="list-style-type: none"> Provides a checklist for the patentee to ensure that the requirements for a reissue application submission are met. Allows the USPTO to identify the type of patent and patent number in order to quickly associate the patent file with the reissue documents.
Reissue Application Declaration by the Inventor or the Assignee (Attachment D)	PTO/SB/51/52	<ul style="list-style-type: none"> Provides the inventor or assignee with the required language stating that all the errors in the original patent being corrected or any additional errors made during the reissue examination process occurred "without deceptive intent." Used by the USPTO to ensure that the requirements of 37 CFR 1.63 and 1.175 are met in order to reissue the patent.
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (Attachment E)	PTO/SB/51S	
Reissue Application: Consent of Assignee; Statement of Non-Assignment (Attachment F)	PTO/SB/53	<ul style="list-style-type: none"> Enables the assignee to consent to filing a reissue application. Allows the USPTO to verify the actual owners of the original patent.
Reissue Application Fee Transmittal Form (Attachment G)	PTO/SB/56	<ul style="list-style-type: none"> Used by the applicant or his representatives to calculate the reissue application fee. Used by the USPTO to determine the appropriate reissue application fee.
Request for <i>Ex Parte</i> Reexamination Transmittal Form (Attachment H)	PTO/SB/57	<ul style="list-style-type: none"> Serves as a checklist for the requester (patent owner) of the reexamination. Ensures compliance with the requirements of the statutes and rules for reexaminations.
Request for <i>Inter partes</i> Reexamination Transmittal Form (Attachment I)	PTO/SB/58	<ul style="list-style-type: none"> Used by a third-party requester to establish grounds for challenging a patent. Used by the USPTO to evaluate patentability of patent claims in view of the request. Used by the USPTO to determine how and whether the patent claims are to be confirmed, amended, or canceled.
Petition to Review Refusal to Grant <i>Ex Parte</i> Reexamination	No form	<ul style="list-style-type: none"> Used by the public to request review by the Director of a decision refusing <i>ex parte</i> reexamination. Used by the USPTO to determine whether the decision to refuse <i>ex parte</i> reexamination should be upheld.
Petition to Review Refusal to Grant <i>Inter Partes</i> Reexamination	No form	<ul style="list-style-type: none"> Used by the third party to request review by the Director of a decision refusing <i>inter partes</i> reexamination. Used by the USPTO to determine whether the decision to refuse <i>inter partes</i> reexamination should be upheld.
Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination	No form	<ul style="list-style-type: none"> Used by the public to request additional time to take action in a reexamination proceeding. Used by the USPTO to determine whether the cause is sufficient to grant additional time to act in a reexamination proceeding.

Issue Fee Transmittal (Attachment J)	PTOL-85B	<ul style="list-style-type: none"> • Used by the public to submit an issue fee payment to the USPTO. • Used by the USPTO to determine whether all of the appropriate information is included at the time of payment of the issue fee, such as assignments, small entity status, method of payment, and certificate of mailing.
Issue Fee Transmittal (EFS-Web) (Attachment K)	PTOL-85B	<ul style="list-style-type: none"> • Used by the public to submit an issue fee payment to the USPTO electronically. • Used by the USPTO to determine whether all of the appropriate information is included at the time of payment of the issue fee, such as assignments, small entity status, and method of payment.

3. Use of Information Technology

The USPTO is developing an electronic version of the existing Issue Fee Transmittal form that customers will be able to submit through EFS-Web, the USPTO's latest electronic filing initiative. EFS-Web was deployed in March 2006.

In October 2000, the USPTO released the production version of the Electronic Filing System (EFS), which used two client-side components to create the patent applications: EFS-ABX for patent application specification authoring and ePAVE for form generation, validation, and submission to the USPTO. Because the percentage of electronic filings fell short of expectations, the USPTO requested feedback from the Intellectual Property (IP) community on how EFS could be improved. The agency found that the IP community wanted to file applications using the PDF (Portable Document Format) format that they use every day in their practice and that they did not want to download and install software on their computers in order to file their applications electronically.

Based on the response from the patent community, the USPTO developed EFS-Web. EFS-Web is a web-based patent application and document submission system that allows customers to file applications and associated documents through their standard web browser without downloading special software, changing their documentation preparation tools, or altering their workflow processes. Applicants may create their patent applications and associated documents using the tools and processes that they already use and then convert those documents into standard PDF files that are submitted through EFS-Web to the USPTO. EFS-Web uses standard web-based screens and prompts. Files are typically submitted through EFS-Web within minutes, depending on the speed of the Internet connection and the size of the PDF files. The USPTO has found that the time required for these submissions is significantly less than that typically required for submissions through the original EFS. In addition, EFS-Web can automatically validate whether the file types and data entered into the web screens meet USPTO standards so that any problems can be corrected before final submission.

EFS-Web uses the standard PDF file format. The fillable PDF forms that can be submitted through EFS-Web do not require special PDF creation software, only the latest free version of the Adobe Reader. In addition to documents in the PDF format, EFS-Web also accepts PCT EASY compressed files (ZIP) for international PCT applications, and ASCII text files (TXT) for bio-sequence listings, computer program listings, and large tables.

In order to process data that is filed electronically, the USPTO has started creating web-based fillable PDF forms, which are interactive forms that can automatically load field information directly into the USPTO's systems. The USPTO plans to convert as many of the existing fillable forms as possible into web-based fillable PDF forms for EFS-Web. The majority of EFS-Web fillable forms will automatically load data into the USPTO's systems, but some forms must be reviewed manually.

The fillable PDF forms can be printed with data entered by the user and saved electronically with the data embedded to permit future modifications. The fillable PDF forms enable the system to import and export data in XML format to document management systems and other databases. Because the information collected from the EFS-Web forms is processed automatically, the use of these forms accelerates the USPTO's processing of patent applications and documents and increases the accuracy and timeliness of the data. This efficiency reduces the number of times that EFS-Web users have to redo their documents and reduces the need to file additional papers, such as the "Correction of Filing" forms. Use of the fillable PDF forms enables the USPTO to process the requests in real time.

The USPTO also offers legacy PDF forms, which are available through its web site. Data entered into these legacy forms will not be saved. If these older forms are submitted through EFS-Web, the data will not be automatically loaded into the USPTO's processing system. If an applicant creates their own PDF document or modifies one of the USPTO's existing forms, the data from the individual fields also will not be automatically loaded into the USPTO's systems.

Registered and unregistered users can file documents securely through EFS-Web, which is hosted on secure servers. The applications of registered users are protected using a Public Key Infrastructure (PKI) system and digital certificates which provide authentication and encryption security. For filers who are not registered, the applications are submitted to EFS-Web using Transport Layer Security (TLS) or Secure Socket Layer (SSL) protocol. Since EFS-Web has these security features in place, documents that are submitted through EFS-Web cannot be password protected or encrypted.

Registered users can save their applications before submission so that they do not lose any information. They can view their saved submission packages under "My Workplace" as well as view their last 20 acknowledgment receipts for previous filings. Unregistered users can file the same application types as registered filers, but they cannot file follow-on documents for previously filed applications, pay the fees for existing patent applications, or use other EFS-Web features such as "My Workplace." Unregistered users must provide their contact information in order to proceed through the application process.

EFS-Web offers many benefits to filers, including immediate notification that a submission has been received by the USPTO, automated processing of requests, and avoidance of postage and other paper delivery costs. After the application has been successfully submitted through EFS-Web, applicants will receive an acknowledgement receipt that lists the time and date stamp stating when the application was submitted to the USPTO, an

application number, a confirmation number, and other critical information, such as the EFS ID, a listing of the files and documents associated with the submission, and page counts for the files and documents. This receipt is the legal equivalent of the postcard receipt practice used for the patent application documents that are filed in paper. The USPTO recommends that applicants print the electronic acknowledgement receipt to keep with their records.

There are many additional benefits to filing through EFS-Web that were not available previously. Users can access EFS-Web from any computer with an Internet connection. Since EFS-Web is hosted on the USPTO's secure servers and not on the individual's personal computer, USPTO staff can update EFS-Web without requiring any action from the user. Applicants can submit fee payments and other requests in real time. The PDF forms can be passed around to multiple users for collaboration. Legal assistants or paralegals can submit applications through EFS-Web that have been previously reviewed by a registered practitioner without the responsible attorney or agent being present.

The PDF files that are submitted as part of the Patent Application Specification in EFS-Web are used to create the legal record of the application. The Official Record for applications filed through EFS-Web is a Tagged Image File Format (TIFF) image of the original documents that are stored in the Image File Wrapper system. Applications and other documents submitted through EFS-Web are stored exactly as filed, for reference, in an independent location. The USPTO has created guidelines for the PDF documents to ensure that the application documents will be processed properly. Documents that do not conform to these guidelines may not be able to be processed by the USPTO. The PDF files that are submitted through EFS-Web should include either a handwritten signature in compliance with 37 CFR 1.4(d)(1) inserted before scanning the document as an image-based PDF form or an S-signature in compliance with 37 CFR 1.4(d)(2).

EFS-Web integrates with the Private Patent Application Information Retrieval (PAIR) system, the USPTO's online database that provides trusted filers with controlled access to non-published patent application information. PAIR uses digital certificates to permit only authorized individuals to access patent application information and to maintain the confidentiality and integrity of the information as it is transmitted over the Internet. Information for granted patents and published applications is available to the general public.

Private PAIR also contains all of the information that the public can access in Public PAIR, such as bibliographic data, status, file history, PDF file images, continuity, foreign priority, patent term adjustments and extensions, text and TIFF images of published applications and patents, maintenance fees, and online ordering of copies. The fillable PDF forms submitted through EFS-Web allow the USPTO to extract the form data directly into the Patent Application Locating and Monitoring (PALM) system, which is the main database used to process these forms. The data in PALM feeds directly into PAIR. Most new applications that are submitted electronically through EFS-Web can be viewed in Private PAIR within an hour after they are filed. Registered users can view and check on the status of their pending applications in Private PAIR, but unregistered users can only check

on the status and the documents for patents and published applications as shown in PAIR. PAIR is available through the USPTO web site.

4. Efforts to Identify Duplication

This information is collected only when an applicant pays an issue fee for a patent allowed by the USPTO, or when the grantee or others request reconsideration via a reissue application, request for reexamination, or request to correct errors contained in the patent. This information is not collected elsewhere and does not result in a duplication of effort.

5. Minimizing Burden to Small Entities

The information in this collection is necessary in order to process requests related to corrections of errors, reissue applications, reexaminations, and issue fee payments. The same information is required from every applicant and is not available from any other source.

This information collection does involve payment of fees by customers who may qualify as small entities. To reduce this cost burden for small entities, the USPTO offers reduced fees (by 50%) for issued patents and reissue applications pursuant to 35 U.S.C. § 41(h) for persons, small business concerns, or nonprofit organizations that qualify as small entities under 37 CFR 1.27. No significant burden is placed on small entities, in that small entities are simply required to identify themselves as such in order to obtain these benefits. An assertion of small entity status only needs to be filed once in an application or patent.

6. Consequences of Less Frequent Collection

This information is collected only when the public submits a related request for a certificate of correction, reissue patent application, reexamination, or an issue fee payment and is not found elsewhere. If the information were not collected, the USPTO would not be able to comply with the statutes and regulations governing issued patents, reissue applications, and reexaminations. This information could not be collected less frequently.

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultations Outside the Agency

The 60-Day Notice was published in the *Federal Register* on January 23, 2007 (72 Fed. Reg. 2869) (Attachment L). The comment period ended on March 26, 2007. The USPTO received one general comment from the public welcoming the introduction of an electronic version of the Issue Fee Transmittal (Attachment M).

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the American Intellectual Property Law Association, as well as patent

bar associations, independent inventor groups, and users of our public facilities. Their views are expressed in regularly scheduled meetings and considered in developing proposals for information collection requirements. There have been no comments or concerns expressed by these or similar organizations concerning the time to provide the information required under this program.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent.

10. Assurance of Confidentiality

The confidentiality of patent applications is governed by statute (35 U.S.C. § 122) and regulation (37 CFR 1.11 and 1.14). The USPTO has a legal obligation to maintain the confidentiality of the contents of unpublished patent applications and related documents. Upon publication of an application or issuance of a patent, the patent application file is made available to the public, subject to the provisions for providing only a redacted copy of the file contents. The entire file of a reissue application and an *ex parte* or *inter partes* reexamination proceeding are also available to the public.

The disclosure of the invention in the application is the quid pro quo for the property right conferred by the patent grant and the very means by which the patent statute achieves its constitutional objective of “promot[ing] the progress of science and useful arts.” The prosecution history contained in the application file is critical to determining the scope of the property right conferred by the patent grant.

11. Justification for Sensitive Questions

None of the required information in this collection is considered to be sensitive.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**

The USPTO estimates that it will receive approximately 224,926 responses per year as outlined in the table below.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public from 1.8 minutes (0.03 hours) to 2 hours to read the instructions, gather the necessary information, prepare the appropriate form or other document, and submit the information to the USPTO.

- **Cost Burden Calculation Factors**

In 2005 the Committee on Economics of Legal Practice of the American Intellectual Property Law Association published a report that summarized the results of a survey with

data on hourly billing rates. The professional rate of \$304 per hour used in this submission is the median rate for associate attorneys in private firms as published in that report. The USPTO expects that the information in this collection will be prepared by attorneys, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals at an estimated rate of \$90 per hour. These rates are fully-loaded hourly rates.

Table 3: Burden Hour/Burden Cost to Respondents for Post Allowance and Refiling

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a x b)	Rate (\$/hr) (d)	Total Cost (\$/yr) (e) (c x d)
Certificate of Correction (PTO/SB/44)	1.00	25,000	25,000	\$304.00	\$7,600,000.00
Reissue Documentation	2.00	1,100	2,200	\$304.00	\$668,800.00
Reissue Patent Application Transmittal (PTO/SB/50)	0.20	1,100	220	\$304.00	\$66,880.00
Reissue Application Declaration by the Inventor or the Assignee (PTO/SB/51/52)	0.50	1,100	550	\$304.00	\$167,200.00
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	0.03	700	21	\$304.00	\$6,384.00
Reissue Application: Consent of Assignee; Statement of Non- assignment (PTO/SB/53)	0.10	1,075	108	\$304.00	\$32,832.00
Reissue Application Fee Transmittal Form (PTO/SB/56)	0.20	1,100	220	\$304.00	\$66,880.00
Request for <i>Ex Parte</i> Reexamination Transmittal Form (PTO/SB/57)	2.00	500	1,000	\$304.00	\$304,000.00
Request for <i>Inter Partes</i> Reexamination Transmittal Form (PTO/SB/58)	2.00	100	200	\$304.00	\$60,800.00
Petition to Review Refusal to Grant <i>Ex Parte</i> Reexamination (No form)	1.00	100	100	\$304.00	\$30,400.00
Petition to Review Refusal to Grant <i>Inter Partes</i> Reexamination (No form)	1.00	1	1	\$304.00	\$304.00
Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination	0.50	50	25	\$304.00	\$7,600.00
Issue Fee Transmittal (PTOL-85B)	0.20	154,400	30,880	\$90.00	\$2,779,200.00
Issue Fee Transmittal (PTOL-85B) (EFS-Web)	0.20	38,600	7,720	\$90.00	\$694,800.00

Totals	-----	224,926	68,245	-----	\$12,486,080.00
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The USPTO estimates that approximately 17% of the total responses for this collection will be submitted electronically.

13. Total Annualized Cost Burden

There are no capital start-up or maintenance costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees, postage costs, and recordkeeping costs.

The total estimated annual filing fees for this collection are calculated in Table 4 below. The Reissue Application Fee Transmittal Form includes the fees for the reissue application under 37 CFR 1.16, including the basic filing fee, search fee, and examination fee. These fees cover all parts of the application, including reissue documentation, reissue application transmittal, reissue application declarations, and consent of assignee or statement of non-assignment. There is no fee for the supplemental declaration for a reissue patent application to correct an “errors” statement.

The fee to request an *inter partes* reexamination is \$8,800. This fee is set to recover the aggregate cost to the USPTO for conducting an *inter partes* reexamination proceeding. Without this optional reexamination proceeding, the only alternative that an outside third party would have to request reexamination of an issued patent would be court action against the patent owner, which can run anywhere from \$50,000 to over one million dollars. Thus, *inter partes* reexamination is a cost-effective alternative for a third party to use when challenging an issued patent.

Additionally, there are several different issue fees under 37 CFR 1.18 depending on the type of patent being issued, whether a publication fee is required, and whether the inventor is entitled to the discounted small entity fee. The additional publication fee may not be owed at the time of patent issue for any of the following reasons: (1) the application requested non-publication under 35 U.S.C. § 122(b)(2)(B)(i); (2) the application will not be published due to national security concerns as provided in 35 U.S.C. § 122(d); (3) the applicant has paid the publication fee prior to issue due to a request for early or amended publication under 37 CFR 1.219; or (4) the application was filed prior to November 29, 2000, and therefore not subject to eighteen-month publication under 35 U.S.C. § 122(b). The USPTO estimates that the total filing costs associated with this collection will be \$273,013,030 per year.

Table 4: Filing Fees for Respondents for Post Allowance and Refiling

Item	Form Number	Estimated annual responses	Fee Amount	Estimated annual filing costs
Certificate of Correction	PTO/SB/44	25,000	\$100.00	\$2,500,000.00
Reissue Documentation	N/A	1,100	\$0.00	\$0.00

Reissue Patent Application Transmittal	PTO/SB/50	1,100	\$0.00	\$0.00
Reissue Application Declaration by the Inventor or the Assignee	PTO/SB/51/52	1,100	\$0.00	\$0.00
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175)	PTO/SB/51S	700	\$0.00	\$0.00
Reissue Application: Consent of Assignee; Statement of Non-assignment	PTO/SB/53	1,075	\$0.00	\$0.00
Reissue Application Fee Transmittal Form	PTO/SB/56	657	\$1,400.00	\$919,800.00
Reissue Application Fee Transmittal Form (small entity)	PTO/SB/56	443	\$700.00	\$310,100.00
Request for <i>Ex Parte</i> Reexamination Transmittal Form	PTO/SB/57	500	\$2,520.00	\$1,260,000.00
Request for <i>Inter Partes</i> Reexamination Transmittal Form	PTO/SB/58	100	\$8,800.00	\$880,000.00
Petition to Review Refusal to Grant <i>Ex Parte</i> Reexamination	N/A	100	\$130.00	\$13,000.00
Petition to Review Refusal to Grant <i>Inter Partes</i> Reexamination	N/A	1	\$130.00	\$130.00
Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination	N/A	50	\$200.00	\$10,000.00
Issue Fee (utility patent, no publication fee)	PTOL-85B	25,000	\$1,400.00	\$35,000,000.00
Issue Fee (utility patent, no publication fee, small entity)	PTOL-85B	9,000	\$700.00	\$6,300,000.00
Issue Fee (utility patent, with publication fee)	PTOL-85B	105,000	\$1,700.00	\$178,500,000.00
Issue Fee (utility patent, with publication fee, small entity)	PTOL-85B	36,000	\$1,000.00	\$36,000,000.00
Issue Fee (design patent, no publication fee)	PTOL-85B	8,500	\$800.00	\$6,800,000.00
Issue Fee (design patent, no publication fee, small entity)	PTOL-85B	8,500	\$400.00	\$3,400,000.00
Issue Fee (plant patent, no publication fee)	PTOL-85B	120	\$1,100.00	\$132,000.00
Issue Fee (plant patent, no publication fee, small entity)	PTOL-85B	80	\$550.00	\$44,000.00
Issue Fee (plant patent, with publication fee)	PTOL-85B	480	\$1,400.00	\$672,000.00
Issue Fee (plant patent, with publication fee, small entity)	PTOL-85B	320	\$850.00	\$272,000.00
Totals	224,926	\$273,013,030.00

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 52 cents and that up to 186,326 submissions will be mailed to the USPTO per year. The total estimated postage cost for this collection is \$96,890 per year.

When submitting the electronic version of the Issue Fee Transmittal, the applicant is strongly urged to retain a copy of the acknowledgment receipt as evidence that the form was received by the USPTO on the date noted. The USPTO estimates that it will take 5 seconds (0.001 hours) to print and retain a copy of the acknowledgment receipt and that 38,600 submissions per year will submit the issue fee electronically, for a total of approximately 39 hours per year for printing this receipt. Using the paraprofessional rate of \$90 per hour, the USPTO estimates that the recordkeeping cost associated with this requirement will be \$3,510 per year.

The total annual (non-hour) respondent cost burden for this collection in the form of filing fees (\$273,013,030), postage costs (\$96,890), and recordkeeping costs (\$3,510) is \$273,113,430 per year.

14. Annual Cost to Federal Government

The USPTO estimates that it takes a GS-5, step 1, from 6 minutes (0.10 hours) to 1 hour to process the information in this collection, depending on the type and amount of information submitted. The hourly rate for a GS-5, step 1, is currently \$14.56. When 30% is added to account for a fully-loaded hourly rate (benefits and overhead), the hourly rate for a GS-5, step 1 is \$14.56 + \$4.37, for a rate of \$18.93 per hour. The USPTO expects that the EFS-Web version of the Issue Fee Transmittal will be processed automatically without any direct staff time required.

Table 5 calculates the burden hours and costs of this information collection to the Federal Government:

Table 5: Burden Hour/Burden Cost to the Federal Government for Post Allowance and Refiling

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a x b)	Rate (\$/hr) (d)	Total Cost (\$/yr) (e) (c x d)
Certificate of Correction (PTO/SB/44)	1.00	25,000	25,000	\$18.93	\$473,250.00
Reissue Application Materials (Includes: PTO/SB/50/51/51S/52/53/56)	1.00	1,100	1,100	\$18.93	\$20,823.00
Request for <i>Ex Parte</i> Reexamination Transmittal (PTO/SB/57)	0.34	500	170	\$18.93	\$3,218.00
Request for <i>Inter Partes</i> Reexamination Transmittal (PTO/SB/58)	0.34	100	34	\$18.93	\$644.00
Petition to Review Refusal to Grant <i>Ex Parte</i> Reexamination	0.10	100	10	\$18.93	\$189.00
Petition to Review Refusal to Grant <i>Inter Partes</i> Reexamination	0.10	1	1	\$18.93	\$19.00

Petition to Request Extension of Time in <i>Ex Parte</i> or <i>Inter Partes</i> Reexamination	0.20	50	10	\$18.93	\$189.00
Issue Fee Transmittal (PTOL-85B)	0.17	154,400	26,248	\$18.93	\$496,875.00
Issue Fee Transmittal (PTOL-85B) (EFS-Web)	0.00	38,600	0	N/A	\$0.00
Totals	-----	219,851	52,573	-----	\$995,207.00

The listing for Reissue Application Materials in Table 5 above combines several items that are listed separately in Table 3 with separate responses and burden hours, including the reissue documentation, reissue application transmittal form, reissue application declarations, consent of assignee, and the reissue application fee transmittal form. However, the USPTO staff processes these various forms together as one unit, so the responses for these forms are listed together in Table 5 as one total for the Reissue Application. Consequently, the total estimated number of responses shown for the Federal Government in Table 5 above differs from the total estimated responses for the respondent in Table 3.

15. Reason for Changes in the Annual Burden

Summary of Changes Since the Previous Renewal

This information collection was previously approved by OMB in April 2004 with a total of 223,411 responses and 67,261 burden hours per year.

For this renewal, the USPTO estimates that the total annual responses will be 224,926 and the total annual burden hours will be 68,245, which is an increase of 1,515 responses and 984 hours from the currently approved burden for this collection. This increase in burden hours is due to both program changes and administrative adjustments. In addition, the USPTO estimates that the proportion of responses submitted electronically will be 17%.

The total annual (non-hour) cost burden for this renewal of \$273,113,430 is an increase of \$15,596,829 from the currently approved total of \$257,516,601 in annual costs for this collection. This increase in annual costs is due to both program changes and administrative adjustments.

Change in Respondent Cost Burden

This collection was previously approved in April 2004 with an estimated total respondent cost burden of \$9,355,046 per year. That submission used an estimated rate of \$286 per hour for attorneys preparing the items in this collection (except for the Issue Fee Transmittal) and an estimated rate of \$30 per hour for paraprofessionals preparing the Issue Fee Transmittals. For this renewal, the USPTO has revised the estimated rates for respondents to \$304 for attorneys and \$90 for paraprofessionals. At these revised rates, the 68,245 burden hours for this renewal yield a respondent cost burden of \$12,486,080,

which is an increase of \$3,131,034 from the total respondent cost burden reported in the previous submission. This increase is due to the increases in the estimated hourly rates for respondents and the increase in total burden hours.

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the total annual responses for this collection will increase by 1,515, from 223,411 to 224,926 responses per year. Accordingly, the USPTO estimates that the total annual burden hours for this collection will increase by 984, from 67,261 to 68,245 hours per year. This increase in burden hours is due to both program changes and administrative adjustments, as follows:

- The USPTO estimates that the annual responses for Reissue Documentation will increase by 230, from 870 to 1,100, due to expected increases in filings. **Therefore, this collection takes a burden increase of 460 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for Reissue Patent Application Transmittals will increase by 230, from 870 to 1,100, due to expected increases in filings. **Therefore, this collection takes a burden increase of 46 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for Reissue Application Declarations by the Inventor or the Assignee will increase by 230, from 870 to 1,100, due to expected increases in filings. **Therefore, this collection takes a burden increase of 115 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for the Supplemental Declaration for Reissue Patent Application to Correct “Errors” Statement will increase by 150, from 550 to 700, due to expected increases in filings. **Therefore, this collection takes a burden increase of 4 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for the Reissue Application: Consent of Assignee; Statement of Non-assignment will increase by 225, from 850 to 1,075, due to expected increases in filings. **Therefore, this collection takes a burden increase of 23 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for Reissue Application Fee Transmittal Forms will increase by 230, from 870 to 1,100, due to expected increases in filings. **Therefore, this collection takes a burden increase of 46 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for the Request for *Ex Parte* Reexamination Transmittal Form will increase by 170, from 330 to 500, due to expected increases in filings. **Therefore, this collection takes a burden increase of 340 hours as an administrative adjustment.**

- The USPTO estimates that the annual responses for the Request for *Inter Partes* Reexamination Transmittal Form will decrease by 75, from 175 to 100, due to expected decreases in filings. **Therefore, this collection takes a burden decrease of 150 hours as an administrative adjustment.**
- The USPTO estimates that the annual responses for the Petition to Review Refusal to Grant *Ex Parte* Reexamination will increase by 75, from 25 to 100, due to expected increases in filings. **Therefore, this collection takes a burden increase of 75 hours as an administrative adjustment.**
- The USPTO estimates that it will receive 50 Petitions to Request Extension of Time in *Ex Parte* or *Inter Partes* Reexaminations per year. This petition is an existing requirement that was not previously included in this collection. **Therefore, this collection takes a burden increase of 25 hours as a program change.**
- The USPTO estimates that the annual responses for Issue Fee Transmittals will remain at approximately 193,000. However, the USPTO expects that approximately 38,600 of the Issue Fee Transmittals will be filed electronically using the new EFS-Web version of the transmittal form. The USPTO estimates that the EFS-Web version of the form will take the public approximately the same time to complete as the existing PDF version, so there will be no net change in burden hours for this requirement.
- The USPTO does not expect any changes in the estimated annual responses or burden hours for the Certificate of Correction or the Petition to Review Refusal to Grant *Inter Partes* Reexamination.

In sum, this information collection has a total burden increase of 984 hours, with an increase of 25 hours due to program changes and a net increase of 959 hours due to administrative adjustments.

Changes in Annual (Non-hour) Costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$15,596,829, from \$257,516,601 to \$273,113,430 per year. This increase in annual costs is due to both program changes and administrative adjustments, as follows:

- This collection is currently approved with a total of \$257,407,130 in filing fees. For this renewal, the USPTO estimates that the total filing fees will increase to \$273,013,030 due to several factors. An expected increase of \$15,686,455 in filing fees is due to increases in fee amounts for reissue applications, for patent issues, and for the addition of the Petition to Request an Extension of Time in *Ex Parte* and *Inter Partes* Reexamination. There is also an expected increase of \$579,445 in fees attributed to expected increases in filings for reissue applications, Requests for *Ex Parte* Reexamination, and Petitions to Review Refusal to Grant *Ex Parte*

Reexamination, but these increases are offset by an expected decrease of \$660,000 in fees from decreases in filings for Requests for *Inter Partes* Reexamination, resulting in a net decrease of \$80,555 based on expected changes in filings. **Therefore, this collection takes a net burden increase of \$15,605,900 in filing fees, with an increase of \$15,686,455 from program changes being partially offset by a net decrease of \$80,555 from administrative adjustments.**

- This collection is currently approved with a total of \$109,471 in postage costs associated with submitting the information in this collection to the USPTO by mail. For this renewal, the USPTO estimates that the total postage costs will decrease to \$96,890 primarily due to the new option for customers to file the Issue Fee Transmittal electronically and the consequent reduction in mailed responses. The decrease in total postage costs is partially offset by an increase in the estimated postage from 49 cents to 52 cents per mailed submission. **Therefore, this collection takes a net burden decrease of \$12,581 in postage costs, with a decrease of \$18,888 from program changes being partially offset by an increase of \$6,307 from administrative adjustments.**
- The USPTO is adding recordkeeping costs to this collection associated with retaining a copy of the acknowledgment receipt for electronic Issue Fee Transmittal submissions. **Therefore, this collection takes a burden increase of \$3,510 in recordkeeping costs as a program change.**

In sum, this collection has an annual (non-hour) cost burden of \$273,113,430, with \$273,013,030 in filing fees, \$96,890 in postage costs, and \$3,510 in recordkeeping costs. **Therefore, this collection has a net increase in annual (non-hour) cost burden of \$15,596,829, with an increase of \$15,671,077 due to program changes being partially offset by a net decrease of \$74,248 due to administrative adjustments.**

16. Published Collections of Information

No special publication of the items in this collection is planned. However, information regarding requests for reexamination filed, patents with certificates of correction, reissue applications filed, and reissue patents granted is published weekly in the *Official Gazette of the United States Patent and Trademark Office*. The *Official Gazette* is published in electronic format on the USPTO web site.

17. Display of Expiration Date of OMB Approval

The forms in this information collection will display the OMB Control Number and the expiration date of OMB approval.

18. Exceptions to the Certificate Statement

This collection of information does not include any exceptions to the certificate statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.

List of Attachments

- A. The USPTO Information Quality Guidelines
- B. Form PTO/SB/44 Certificate of Correction
- C. Form PTO/SB/50 Reissue Patent Application Transmittal
- D. Forms PTO/SB/51/52 Reissue Application Declaration by the Inventor or the Assignee
- E. Form PTO/SB/51S Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175)
- F. Form PTO/SB/53 Reissue Application, Consent of Assignee; Statement of Non-Assignment
- G. Form PTO/SB/56 Reissue Application Fee Transmittal Form
- H. Form PTO/SB/57 Request for *Ex Parte* Reexamination Transmittal Form
- I. Form PTO/SB/58 Request for *Inter Partes* Reexamination Transmittal Form
- J. Form PTOL-85B Issue Fee Transmittal
- K. Form PTOL-85B Issue Fee Transmittal (EFS-Web)
- L. 60-Day Notice published in the *Federal Register* on January 23, 2007 (72 Fed. Reg. 2869)
- M. Public comment in response to the 60-Day *Federal Register* Notice