

SUPPORTING STATEMENT
United States Patent and Trademark Office
Patent and Trademark Financial Transactions
OMB CONTROL NUMBER 0651-0043
(September 2011)

A. JUSTIFICATION

1. Necessity of Information Collection

Under 35 U.S.C. § 41 and 15 U.S.C. § 1113, the United States Patent and Trademark Office (USPTO) charges fees for processing and other services related to patents, trademarks, and information products. Customers may submit payments to the USPTO by several methods, including credit card, deposit account, electronic funds transfer (EFT), and paper check transactions. The provisions of 35 U.S.C. § 41 and 15 U.S.C. § 1113 are implemented in 37 CFR 1.16-1.28, 2.6-2.7, and 2.206-2.209.

This information collection includes the Credit Card Payment Form (PTO-2038), which provides the public with a convenient way to submit a credit card payment for fees related to a patent, trademark, or information product. Customers may also submit credit card payments via the Electronic Credit Card Payment Form (PTO-2231) when using online systems through the USPTO Web site for paying fees related to patents, trademarks, or information products. The USPTO will not include credit card information submitted using the provided credit card payment forms among the patent or trademark records open to public inspection.

Customers may establish a deposit account for making fee payments by completing a Deposit Account Application Form (PTO-2232) and sending the required information, initial deposit, and service fee to the USPTO. Deposit accounts eliminate the need to submit a check, credit card information, or other form of payment for each transaction with the USPTO. Additionally, in the event that a fee amount due is miscalculated, customers may authorize the USPTO to charge any remaining balance to the deposit account and therefore avoid the potential consequences of underpayment. As customers use their deposit accounts to make payments, they may deposit funds to replenish their accounts by mailing a check to the USPTO or making a deposit online via EFT using the Electronic Deposit Account Replenishment Form (PTO-2233) available at the USPTO Web site. Replenishments may not be made by credit card. Customers may close their deposit accounts by submitting a written request or by using the Deposit Account Closure Request Form (PTO-2234). The remaining balance in the deposit account will be refunded after a six-week waiting period with no account activity to ensure that all outstanding charges have been applied before the account is closed.

In addition to credit cards and deposit accounts, customers may also use EFT to make online fee payments to the USPTO. Customers must first establish a user profile with their banking information by submitting the EFT User Profile Form (PTO-2236) through

the USPTO Web site. Once their profile is created, customers may use their User ID and password to perform EFT transactions.

Under 37 CFR 1.26 and 2.209, the USPTO may refund fees paid by mistake or in excess of the required amount. In general, refunds of amounts larger than \$25 are returned to the customer automatically using the same method as the original payment. For refund amounts of \$25 or less, customers must submit a written request to the Refund Branch of the USPTO Office of Finance.

In order to access and manage their financial activity records online, customers may create a Financial Profile through the USPTO Web site. Customers create a profile by registering a username and password, providing contact information, and specifying the types of notifications and alerts they would like to receive. After establishing a Financial Profile, customers may then add the relevant account information to the profile in order to track their credit card, deposit account, and EFT transactions with the USPTO.

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

Table 1: Information Requirements for Patent and Trademark Financial Transactions

Requirement	Statute	Rule
Credit Card Payment Form	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.23(b) and 2.207(b)
Electronic Credit Card Payment Form	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.23(b) and 2.207(b)
Deposit Account Application Form	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.21(b), 1.25, 2.6, and 2.208
Deposit Account Replenishment	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.21(b), 1.25, 2.6, and 2.208
Electronic Deposit Account Replenishment Form	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.21(b), 1.25, 2.6, and 2.208
Deposit Account Closure Request Form	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.25 and 2.208
EFT User Profile Form	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.23, 1.25, 2.207, and 2.208
Refund Request	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.26, 1.28, and 2.209
Financial Profiles	35 U.S.C. § 41, 15 U.S.C. § 1113	37 CFR 1.23, 1.25 and 2.206-2.208

2. Needs and Uses

This collection allows the public to pay for patent and trademark fees by credit card, establish and manage USPTO deposit accounts, request refunds, and set up user profiles. The USPTO uses this collection to process credit card payments, handle deposit account requests, issue refunds, and provide user accounts for EFT and other financial transactions.

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 this information collection and its supporting statement

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.

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 Patent and Trademark Financial Transactions

Form and Function	Form #	Needs and Uses
Credit Card Payment Form	PTO-2038	<ul style="list-style-type: none"> Used by the public to pay fees using a credit card and to advise the USPTO of the purpose for which the fee is being submitted. Used by the USPTO to process the fee payment and determine whether the appropriate fee has been submitted.
Electronic Credit Card Payment Form	PTO-2231	<ul style="list-style-type: none"> Used by the public to pay fees online using a credit card. Used by the USPTO to process the fee payment and determine whether the appropriate fee has been submitted.
Deposit Account Application Form	PTO-2232	<ul style="list-style-type: none"> Used by the public to open a deposit account at the USPTO, make an initial deposit, and pay the setup fee. Used by the USPTO to establish a deposit account for the identified customer.
Deposit Account Replenishment	No Form	<ul style="list-style-type: none"> Used by the public to submit additional funds for a deposit account by mail. Used by the USPTO to process additions of funds to a deposit account.
Electronic Deposit Account Replenishment Form	PTO-2233	<ul style="list-style-type: none"> Used by the public to submit additional funds for a deposit account online. Used by the USPTO to process additions of funds to a deposit account.
Deposit Account Closure Request Form	PTO-2234	<ul style="list-style-type: none"> Used by the public to close a deposit account and recover the remaining balance. Used by the USPTO to close a deposit account and return the remaining balance to the customer.
EFT User Profile Form	PTO-2236	<ul style="list-style-type: none"> Used by the public to set up a User ID and password for making online payments to the USPTO via electronic funds transfer. Used by the USPTO to collect the necessary banking information from customers to allow payments via electronic funds transfer.
Refund Request	No Form	<ul style="list-style-type: none"> Used by the public to request refunds for overpayments of \$25 or less. Used by the USPTO to issue refunds of \$25 or less at the request of the customer.
Financial Profiles	No Form Number	<ul style="list-style-type: none"> Used by the public for online management of their financial transactions with the USPTO. Used by the USPTO to establish a financial profile to store account and transaction information for customers.

3. Use of Information Technology

The agency leverages information technology to support the ability of customers to use online systems provided by the USPTO for paying fees related to patents, trademarks,

or information products. This information collection currently includes Web-based forms used to make credit card payments, replenish deposit accounts, and establish user profiles for EFT payments and other financial transactions.

After mailing in a Deposit Account Application to set up the account, customers may then use the Electronic Deposit Account Replenishment Form to add funds to the deposit account online through the USPTO Web site. Customers wishing to make payments to the USPTO via EFT must first complete the online EFT User Profile Form with the required banking information and choose a unique User ID and password. After establishing an EFT User Profile, customers can then simply use their User ID and password to make EFT payments to the USPTO. Customers may also change their own password without assistance from USPTO staff.

The payment portion of these online transactions is handled by an electronic revenue system maintained by the USPTO. The customer uses the web as an interface to the revenue system, which maintains a secure payment server. The online payment system uses Secure Sockets Layer (SSL) technology in order to encrypt the credit card data and transmit it securely over the Internet. The customer is presented with an electronic confirmation receipt after the payment is submitted and may print it out as a record of payment.

The information for Financial Profiles is collected electronically. Customers with a Financial Profile at the USPTO Web site may request to receive notifications and alerts. They also may add the relevant account information to their profile in order to track their credit card, deposit account, EFT, and paper check transactions with the USPTO. In addition to tracking this activity, customers who have added the appropriate deposit account and EFT information to their Financial Profiles may use them to add funds to a deposit account or transfer funds between two deposit accounts.

4. Efforts to Identify Duplication

This information is not collected elsewhere and does not result in a duplication of effort.

5. Minimizing Burden to Small Entities

The collection does not impose a significant economic burden on small entities or small businesses. The same information is required from every customer and is not available from any other source.

6. Consequences of Less Frequent Collection

This information is collected only when a customer makes a credit card payment, establishes or maintains a deposit account, sets up a user profile, or requests a refund from the USPTO. This information could not be collected less frequently. If the

information were not collected, the USPTO would not be able to accept payments using credit cards, deposit accounts, or EFT and process related requests.

7. Special Circumstances in the Conduct of Information Collection

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

8. Consultation Outside the Agency

The 60-Day Notice was published in the *Federal Register* on June 10, 2011 (76 Fed. Reg. 34062). The comment period ended on August 9, 2011. No public comments were received.

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

This collection contains personal information that is subject to the Privacy Act and is covered under the system of records notice entitled "PAT/TM-10 Deposit Accounts and Electronic Funds Transfer Profiles," which was published in the *Federal Register* on July 6, 2006 (71 Fed. Reg. 38387). This information, such as credit card numbers and personal information associated with deposit accounts and EFT profiles, will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. § 552) and the Privacy Act (5 U.S.C. § 552a).

The Credit Card Payment Form includes a statement advising the cardholder that if a credit card number is included on any form or document other than the Credit Card Payment Form, the USPTO will not be liable in the event that the credit card number becomes public knowledge. The USPTO originally included this warning statement on the form because patent and trademark applicants may submit fees on forms or documents other than the Credit Card Payment Form. These other forms and documents also contain this warning and directions to use the official Credit Card Payment Form for submitting credit card payment information.

This warning statement is necessary because of the different confidentiality requirements for patents and trademarks. Confidentiality of information concerning patent applications is governed by statute (35 U.S.C. § 122) and regulation (37 CFR 1.11 and 1.14). Upon publication of an application or issuance of a patent, the entire patent application file is available to the public, subject to the provisions for providing only a redacted copy of the file contents. Trademark applications and registrations are also open to public inspection. Confidentiality is not required in the processing of trademark applications.

In order to protect confidentiality, the USPTO will not include the credit card information submitted using the provided credit card payment forms among the patent or trademark records open to public inspection. If a customer supplies credit card information on a form or document (e.g. in correspondence related to a patent or trademark) other than a credit card payment form provided by the USPTO, the credit card information may become part of a patent or trademark file that is open to public inspection. In such cases, the USPTO will not be liable if the credit card information becomes public knowledge.

Credit card and deposit account records are kept under a variety of administrative controls to ensure that the information is kept confidential. Systems are maintained in areas that are only accessible by authorized personnel and in buildings protected by security systems after business hours. The USPTO maintains paper records in lockable file cabinets or in file cabinets in secure areas. Electronic records are stored in secured premises with appropriate measures taken to limit electronic access to authorized personnel who require access for the performance of their official duties.

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 1,849,771 total responses per year for this collection, with approximately 20% of these responses submitted by small entities.

The USPTO estimates that approximately 90% of the total responses for this collection will be submitted electronically using the Electronic Credit Card Payment Form, Electronic Deposit Account Replenishment Form, the EFT User Profile Form, and the Financial Profiles, which customers may access through the USPTO Web site.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public approximately two to six minutes (0.03 to 0.10 hours) to gather the necessary information, prepare the appropriate form or document, and submit the items in this collection to the USPTO.

- **Cost Burden Calculation Factors**

The USPTO uses a paraprofessional rate of \$122 per hour for respondent cost burden calculations, which is the average rate for paralegals as shown in the 2010 *National Utilization and Compensation Survey* published by the National Association of Legal Assistants (NALA). The USPTO uses an estimated rate of \$30 per hour for fee administrators/coordinators.

The USPTO expects that approximately 75% of the submissions for this information collection will be prepared by fee administrators/coordinators and that 25% of the submissions will be prepared by paraprofessionals. Using those proportions and the estimated rates above, the USPTO estimates that the average rate for all respondents will be approximately \$53 per hour.

Table 3: Burden Hour/Burden Cost to Respondents for Patent and Trademark Financial Transactions

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/yr) (e) (c) x (d)
Credit Card Payment Form (PTO-2038)	0.03	151,144	4,534	\$53.00	\$240,302.00
Electronic Credit Card Payment Form (PTO-2231)	0.03	1,622,708	48,681	\$53.00	\$2,580,093.00
Deposit Account Application Form (PTO-2232)	0.03	264	8	\$53.00	\$424.00
Deposit Account Replenishment	0.03	31,281	938	\$53.00	\$49,714.00
Electronic Deposit Account Replenishment Form (PTO-2233)	0.03	33,250	998	\$53.00	\$52,894.00
Deposit Account Closure Request Form (PTO-2234)	0.07	207	14	\$53.00	\$742.00
EFT User Profile Form (PTO-2236)	0.03	1,489	45	\$53.00	\$2,385.00
Refund Request	0.07	8,660	606	\$53.00	\$32,118.00
Financial Profiles	0.10	768	77	\$53.00	\$4,081.00
Totals	-----	1,849,771	55,901	-----	\$2,962,753.00

13. Total Annual (Non-hour) Cost Burden

The total (non-hour) respondent cost burden for this collection is estimated to be \$141,971 per year, which includes \$120,865 in service fees and \$21,106 in postage.

Service Fees

There are service fees associated with deposit accounts and returned payments, for a total of \$120,865 per year:

- 264 service charges for establishing a deposit account, at \$10 each: \$2,640
- 4,273 service charges for deposit accounts that are below the minimum balance at the end of the month (\$1,000 minimum balance for an unrestricted deposit account or \$300 minimum balance for a restricted deposit account), at \$25 each: \$106,825
- 228 returned payment charges for processing a payment refused (including a check returned “unpaid”) or charged back by a financial institution, at \$50 each: \$11,400

Postage Costs

The non-electronic items in this collection have associated first-class postage costs when submitted by mail, for a total of \$21,106 per year:

- 7,557 Credit Card Payment Forms (approximately 5% of the 151,144 total submitted) that are mailed in by themselves and without other supporting documents, at \$0.44 postage: \$3,325
- 40,412 other non-electronic submissions per year, including Deposit Account Application Forms, Deposit Account Replenishments, Deposit Account Closure Requests, and Refund Requests, at \$0.44 postage: \$17,781

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-7, step 1 employee approximately 6 minutes (0.10 hours) to process a paper Credit Card Payment Form and approximately 12 minutes (0.20 hours) to process a Refund Request. The USPTO estimates that the cost of a GS-7, step 1 employee is \$26.29 per hour (GS hourly rate of \$20.22 with 30% (\$6.07) added for benefits and overhead).

The USPTO estimates that it takes a GS-9, step 1 employee approximately 12 minutes (0.20 hours) to process a Deposit Account Application Form, a Deposit Account Replenishment, or a Deposit Account Closure Request Form. The USPTO estimates that the cost of a GS-9, step 1 employee is \$32.16 per hour (GS hourly rate of \$24.74 with 30% (\$7.42) added for benefits and overhead).

When a customer makes an online submission using the Electronic Credit Card Payment Form or the Electronic Deposit Account Replenishment Form, the transaction is processed electronically and recorded directly into the revenue system with no staff time required. Similarly, when a customer creates an EFT User Profile or Financial

Profile online through the USPTO Web site, the information is processed electronically and the profile established with no staff time required.

Table 4 calculates the burden hours and costs to the Federal Government for processing this information collection:

Table 4: Burden Hour/Cost to the Federal Government for Patent and Trademark Financial Transactions

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/yr) (e) (c) x (d)
Credit Card Payment Form (PTO-2038)	0.10	151,144	15,114	\$26.29	\$397,347.00
Electronic Credit Card Payment Form (PTO-2231)	0.00	1,622,708	0	N/A	\$0.00
Deposit Account Application Form (PTO-2232)	0.20	264	53	\$32.16	\$1,704.00
Deposit Account Replenishment	0.20	31,281	6,256	\$32.16	\$201,193.00
Electronic Deposit Account Replenishment Form (PTO-2233)	0.00	33,250	0	N/A	\$0.00
Deposit Account Closure Request Form (PTO-2234)	0.20	207	41	\$32.16	\$1,319.00
EFT User Profile Form (PTO-2236)	0.00	1,489	0	N/A	\$0.00
Refund Request	0.20	8,660	1,732	\$26.29	\$45,534.00
Financial Profiles	0.00	768	0	N/A	\$0.00
Totals	-----	1,849,771	23,196	-----	\$647,097.00

The USPTO estimates that the cost of providing and maintaining the systems to process these transactions is approximately \$1,527,700 annually, including costs for associated hardware, software, licensing, and support. Therefore, this information collection has a total government processing cost of approximately \$2,174,797 per year.

15. Reason for Change in Burden

Change in Respondent Cost Burden

The total respondent cost burden for this collection has increased by \$572,593, from \$2,390,160 to \$2,962,753, from the previous renewal of this collection in December 2008, due to:

- Increases in estimated hourly rates.** The 2008 renewal used an estimated rate of \$48 per hour for respondents to this collection, which was based on the expectation that 75% of submissions will be prepared by fee administrators/coordinators at an estimated rate of \$30 per hour and that 25% will be prepared by paraprofessionals at a rate of \$100 per hour. For the current renewal, the USPTO is using an updated rate of \$122 per hour for

paraprofessionals, which yields a revised average estimated rate of \$53 per hour for respondents.

- **Increases in estimated burden hours.** The total estimated burden hours have increased from 49,795 in the 2008 renewal to 55,901 for the current renewal due to increases in the estimated annual responses for this collection.

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses will increase by 202,638 (from 1,647,133 to 1,849,771) and the total burden hours will increase by 6,106 (from 49,795 to 55,901) from the currently approved burden for this collection. These changes are due to the following administrative adjustments:

- **Decrease of 100,583 estimated annual responses** for the Credit Card Payment Form (PTO-2038) from 251,727 to 151,144; a **burden decrease of 3,018 hours.**
- **Increase of 300,787 estimated annual responses** for the Electronic Credit Card Payment Form (PTO-2231) from 1,321,921 to 1,622,708; a **burden increase of 9,023 hours.**
- **Decrease of 41 estimated annual responses** for the Deposit Account Application Form (PTO-2232) from 305 to 264; a **burden decrease of 1 hour.**
- **Decrease of 898 estimated annual responses** for Deposit Account Replenishments from 32,179 to 31,281; a **burden decrease of 27 hours.**
- **Increase of 4,241 estimated annual responses** for the Electronic Deposit Account Replenishment Form (PTO-2233) from 29,009 to 33,250; a **burden increase of 128 hours.**
- **Increase of 39 estimated annual responses** for the Deposit Account Closure Request Form (PTO-2234) from 168 to 207; a **burden increase of 2 hours.**
- **Decrease of 1,361 estimated annual responses** for the EFT User Profile Form (PTO-2236) from 2,850 to 1,489; a **burden decrease of 41 hours.**
- **Increase of 186 estimated annual responses** for Refund Requests from 8,474 to 8,660; a **burden increase of 13 hours.**
- **Increase of 268 estimated annual responses** for Financial Profiles from 500 to 768; a **burden increase of 27 hours.**

Changes in Annual (Non-hour) Costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will decrease by \$134,488 (from \$276,459 to \$141,971), with a decrease of \$135,100 due to program changes partially offset by a net increase of \$612 due to administrative adjustments, as follows:

Program Changes:

- **Decrease of \$135,100.** This collection was previously approved with a total of \$135,100 in recordkeeping costs associated with printing and retaining a copy of the acknowledgment receipt after submitting the Electronic Credit Card Payment Form and the Electronic Deposit Account Replenishment Form. The USPTO is removing these recordkeeping costs from this collection because keeping a copy of the acknowledgment receipt is a suggestion and not a requirement.

Administrative Adjustments:

- **Increase of \$2,065.** This collection is currently approved with a total of \$118,800 in service fees associated with setting up deposit accounts, not maintaining the required minimum balance for deposit accounts, and returned payments. For this renewal, the USPTO estimates that total service fees will increase to \$120,865, primarily due to expected increases in total fees collected for below-minimum balances but offset by expected decreases in fees collected for setting up deposit accounts and returned payments.
- **Decrease of \$1,453.** This collection is currently approved with a total of \$22,559 in postage costs associated with mailing responses to the USPTO. For this renewal, the USPTO estimates that the postage costs for mailed items will decrease to \$21,106, primarily due to an overall decrease in the expected number of mailed submissions from 53,712 to 47,969 per year. This decrease is partially offset by a small increase in first-class postage rates since the previous renewal in 2008.

16. Project Schedule

The USPTO does not intend to publish this information for statistical use.

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.