

SUPPORTING STATEMENT
United States Patent and Trademark Office
America Invents Act Section 10 Patent Fee Adjustments
OMB CONTROL NUMBER 0651-0072
(December 2012)

A. JUSTIFICATION

1. Necessity of Information Collection

The United States Patent and Trademark Office (“USPTO” or “Office”) is submitting this request in support of the Final Rule titled “Setting and Adjusting Patent Fees” (RIN 0651-AC54)

The USPTO is setting or adjusting patent fees as authorized by the *Leahy-Smith America Invents Act* (“Act” or “AIA”) Pub.L.112-29. The revised fees will provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of patent operations and will help the Office implement a sustainable funding model, reduce the current patent application backlog, decrease patent pendency, improve patent quality, and upgrade the Office’s patent business information technology (“IT”) capability and infrastructure. The Office also introduced reduced fees for a new class of patent applicants, “micro entities,” under section 10(g) of the Act and included multipart and staged fees for requests for continued examination (“RCEs”), appeals, and some of the newly created AIA administrative trial services. The revised fee schedule will foster innovation and increase application processing options.

Section 10(a) of the Act authorizes the Director of the USPTO to set or adjust by rule any patent fee established, authorized, or charged under Title 35, United States Code (“U.S.C.”) for any services performed by, or materials furnished by, the Office.

When fees are set or adjusted, the aggregate revenue from the patent fees may only be set to recover the aggregate estimated costs to the Office for processing, activities, services, and materials relating to patents, including administrative costs to the Office with respect to such patent operations.

Under section 10(b) of the AIA, eligible small entities shall receive a 50 percent fee reduction from the large entity fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Act further provides that micro entities shall receive a 75 percent fee reduction for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

The Office is setting or adjusting 351 patent fees – 93 apply to large entities (herein the reference to “large entity” includes all entities other than small or micro entities), 94 apply to small entities, 93 apply to micro entities, and 71 are not entity-specific fees. Of the 93 large-entity fees, 71 are adjusted by this rulemaking package, 18 are set at existing fee amounts, and 4 are new in this rulemaking. Of the 94 small-entity fees, 85

are adjusted by this rulemaking package, 5 are set at existing fee amounts, and 4 are new in this rulemaking. The 94 small-entity fees are set at a 50 percent reduction from the large-entity fee amounts. The 93 new micro-entity fees in this rule are set at a reduction of 75 percent from the large-entity fee amounts. Of the 71 fees that are not entity-specific, 9 are adjusted in this rulemaking package and 62 are set at existing fee amounts.

This information collection request is submitted as a fee-based burden collection to best provide data for the fee adjustment burden impact of the final rule. The USPTO will maintain the information requirements and non-fee burden for the information collection items within the separate collections in which these items were previously submitted to OMB and approved. This new collection will be maintained for fee burden adjustments only. The relevant fee burdens will be removed from their existing collections through non-substantive change requests to discontinue counting those burdens twice and overstating the total respondent burden in the USPTO inventory.

This information collection request includes:

- “Correct Inventorship After First Office Action on the Merits.” This is an item introduced in this rulemaking. The information collection requirements for this item will eventually be moved into 0651-0031 Patent Processing (Updating), and the fee will remain in this collection.
- “Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3.” This is an item that is not covered by an existing information collection request and is added to this submission because the fee is affected by this rulemaking. The information requirements for this item will eventually be moved into 0651-0063 Board of Patent Appeals and Interferences (BPAI) Actions, and the fee will remain in this collection.
- Fee adjustments to existing and pending items in the agency inventory. Information requirements for those items will remain in their respective collections and only the corresponding fees (as adjusted by the final rule) are submitted for this collection.
- Response adjustments to existing and pending items in the agency inventory projected to be impacted by the fee adjustments because changes in some fees are expected to change demand for those services, which changes the number of responses. Information requirements for those items will remain in their respective collections and only the corresponding fees are submitted for this collection. The response adjustments are offered here solely for the purpose of capturing the total impact on burden due to the final rule.

This information collection request includes this supporting statement as well as three supplemental reference documents in the form of appendices:

Appendix A (Existing Information Collections): Statutory and regulatory provisions, and needs and uses for items in existing information collections with fee adjustments requested in this new collection.

Appendix B (Pending Information Collections): Statutory and regulatory provisions, and needs and uses for items in pending information collections with fee adjustments requested in this new collection.

Appendix C (Existing and Pending Collections and Fees Added in This Collection Request): Fee burden calculations, broken out by item and fee category, and response adjustments and effects on (hourly) cost burden.

Table 1 identifies the statutory and regulatory provisions that authorize the USPTO to collect the information for the two requirements added in this information collection request:

Table 1: Information Requirements Added in this Collection

	Requirement	Statute	Rule
1	Correct Inventorship After First Office Action on the Merits	35 U.S.C. § 115	37 CFR 1.17(d)
2	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3	35 U.S.C. § 134	37 CFR 41.3

2. Needs and Uses

The public uses this information collection to pay their required fees and communicate with the USPTO regarding their applications and patents procedures. The USPTO uses these fees to process applicants' patent applications and to process applicants' requests for various procedures in application and post-grant patent processing and all other associated services of the USPTO. See Table 2, Appendix A and Appendix B for a listing of all Needs and Uses in the existing and pending collections.

Table 2 outlines how the two information requirements introduced in this submission are used by the public and by the USPTO:

Table 2: Needs and Uses for Information Requirements Added in this Collection

	Form and Function	Form #	Needs and Uses
1	Correct Inventorship After First Office Action on the Merits	No Form	<ul style="list-style-type: none"> Permits individuals to either add previously unnamed persons as inventors or to delete previously named persons as inventors after the first office action on the merits. Allows the USPTO to correct the inventorship in a patent application.
2	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3	No Form	<ul style="list-style-type: none"> Permits parties to petition the Chief Administrative Patent Judge on matters pending before the Board of Patent Appeals and Interferences. Used by the Board of Patent Appeals and Interferences to determine whether the necessary information has been provided to grant the petition.

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.

3. Use of Information Technology

The USPTO uses an extensive catalog of automated information systems to both collect fee payments from applicants and to ensure compliance with procedural and payment requirements. The Department of the Treasury's Financial Management Service ("FMS") also collects user fees on behalf of USPTO; maintenance fees may be paid via deposit to an FMS lockbox. FMS incurs the administrative cost of lockbox payments received from USPTO payers. The primary payment processing system at the USPTO is the Revenue Accounting Management ("RAM") System. Patent fee payments are accepted through credit cards, Pay.gov-accepting credit cards or automated clearing house ("ACH") transfers, lockbox electronic check processing ("ECP"), and Treasury General Account ("TGA") deposits. USPTO also accepts replenishments to deposit accounts through wire transfers, lockbox ECP, and TGA deposits. Payments for some fees from foreign sources are sent through wire transfers. Payers for patent fees are individuals, attorneys, law firms, small businesses, non-profits, and large corporations. Patent fees are also paid by annuity companies.

Likewise, in many cases, forms associated with fee collection are available at the USPTO website, www.uspto.gov, in ADOBE[®] portable document format ("PDF") or form-fillable ADOBE[®] PDF when possible. The Office also allows the public to set up accounts online for fee payments.

4. Efforts to Identify Duplication

The information associated with the items added through this submission is collected during the pendency of a patent examination (correct inventorship item) or when parties petition the Chief Administrative Patent Judge concerning matters pending before the BPAI (petition to Chief APJ item). In most situations the information is not collected elsewhere and does not result in a duplication of effort. In certain cases information submitted with petitions may have been submitted earlier as part of the examination process and may be resubmitted through these collections to correct or clarify an issue.

The information associated with all items in this submission is necessary to process and record fee payments. This information is not collected elsewhere and does not result in a duplication of effort by respondents. Although the USPTO will be reporting some of the fee burdens twice (in this submission and in the existing and pending collections) until the agency can delete these fees from their existing information collections, the respondents themselves only pay the fees in question once and thus will not duplicate their efforts by complying with this collection.

5. Minimizing the Burden to Small Entities

The information collection involves the reduction of fee burden on small entities, including provisions for an additional reduction of fee burden for a new class of small entities, micro entities.

6. Consequences of Less Frequent Collection

This information is collected only when the public submits a fee payment. If this information were not collected, the USPTO would not be able to conduct business associated with the particular fee. 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. Consultation Outside the Agency

The Notice of Proposed Rulemaking for RIN 0651-AC54 was published in the *Federal Register* on September 6, 2012 (77 Fed. Reg. 55028). The Office received 28 comments from the public regarding the rulemaking as a whole. Only one comment specifically addressed the Paperwork Reduction Act. That comment stated that the agency must comply with the Paperwork Reduction Act, 44 U.S.C. § 3501, *et seq.* in setting Section 10 fees. The Agency responded that it agreed with the comment and that, as evidenced by the Paperwork Reduction Act section of the Final Rule, the Paperwork Reduction Act section of the Notice of Proposed Rulemaking, and the Supporting Statement accompanying both notices, the Office has complied with the requirements of the Act. A summary of the comments received regarding the full rule, including all fee levels, and the Office's response to those comments will be included in the final rule notice published in the *Federal Register* and uploaded as a supplemental document to this information collection request (available at www.reginfo.gov).

The USPTO has consulted with the public about the AIA in general through the agency microsite at http://www.uspto.gov/aia_implementation/index.jsp.

As directed by the Act, the Director must provide the Patent Public Advisory Committee (PPAC) with new proposed fees at least 45 days prior to publishing the proposed fees in the *Federal Register*. The PPAC then has 30 days to deliberate, consider, and comment on the proposal, as well as hold public hearing(s) on the proposed fees. Consistent with this framework, on February 7, 2012, the Director notified the PPAC of the Office's intent to set or adjust patent fees and submitted a preliminary patent fee proposal with supporting materials. The preliminary patent fee proposal and associated materials are available at <http://www.uspto.gov/about/advisory/ppac>. The PPAC announced two public hearings in the *Federal Register* on January 30, 2012, (77 Fed.

Reg. 19). The first hearing was in Alexandria, Virginia, on February 15, 2012; the second one was in Sunnyvale, California, on February 23, 2012. Transcripts of these hearings and comments submitted to the PPAC in writing are available for review at <http://www.uspto.gov/about/advisory/ppac>. Consistent with the Act, the PPAC considered public comments from these hearings and reviewed the Notice of Proposed Rulemaking issued in the *Federal Register* on September 6, 2012 (77 Fed. Reg. 55028) before issuing a written report to the public setting forth in detail the comments, advice, and recommendations of the committee regarding the preliminary proposed fees. The PPAC's report, issued on September 24, 2012, is available at http://www.uspto.gov/aia_implementation/120924-ppac-fee-setting-report2.pdf. Consistent with the AIA, the Office considered and analyzed the comments, advice, and recommendations received from PPAC before publishing the final rule. Section 10(e) of the Act requires the USPTO to publish the final fee rule in the *Federal Register* and the Official Gazette of the Patent and Trademark Office 45 days before the final fees become effective and to notify Congress of the proposed change. The Office will publish the final fee rule in the *Federal Register* and notified Congress on the same day. The Office will also publish a notice of the final fee rule in the Office Gazette of the Patent and Trademark Office. Most of the final fees are expected to become effective in April 2013. Some fees, as documented in the final rule, have a delayed effective date of January 1, 2014.

9. Payment or Gifts to Respondents

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

10. Assurance of Confidentiality

In order to protect the confidentiality of credit card account information when making fee payments, customers should submit credit card payments on a separate credit card payment form provided by the USPTO for this purpose, which is covered under OMB Control Number 0651-0043. The USPTO will not include the credit card information submitted using the provided credit card payment forms among the patent 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) other than a credit card payment form provided by the USPTO, the USPTO will not be liable if the credit card information becomes public knowledge.

Confidentiality of patent applications is governed by 35 U.S.C. § 122 and 37 CFR 1.11 and 1.14. Upon publication of an application or issuance of a patent, the entire patent application file is made available to the public, subject to provisions for providing only a redacted copy of the file contents. The prosecution history contained in the application file is critical for determining the scope of the property right conferred by a patent grant.

Under 37 CFR 1.22(b), "All fees paid to the United States Patent and Trademark Office must be itemized in each individual application, patent, or other proceeding in such a manner that it is clear for which purpose the fees are paid."

11. Justification for Sensitive Questions

None of the required information is considered to be sensitive.

12. Total Annual (Hourly) Cost Burden to Respondents

This collection contains fees associated with existing and pending information collections as well as two fees associated with the information requirements added by this request. The USPTO estimates that the total annual responses for all fees in this information collection will be 5,470,718. Because this information collection only includes the information requirements of the two items added to this collection and does not include the information requirements of any item in any existing or pending collection, the USPTO estimates that the total burden hours for this collection will be 1,148 (for the two added items), and estimates the number of annual responses for those two items will be 412.

Estimates for the two information requirements added in this information collection are as follows:

- **Respondent Calculation Factors**

The USPTO estimates that it will receive a total of 412 responses per year for the two information requirements added by this collection, of which 84 will be filed by small entities (43 small entity responses for correct inventorship and 41 small entity responses for petitions to the Chief APJ) and 19 will be filed by micro entities (only applicable to fees for correct inventorship). The USPTO estimates that 93% of the responses for correct inventorship and 90% of the petitions to the Chief APJ will be filed electronically.

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected by these items.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public 2 hours to complete the information for the correct inventorship after first office action on the merits and 4 hours to complete the petitions to the chief administrative patent judge under 37 CFR 41.3. This includes time to gather the necessary information, create the document, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to gather the necessary information, create the document, and submit it to the USPTO, whether the applicant submits the information in paper form or electronically.

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected and the

length of time necessary to complete responses containing similar or like information.

- **Respondent (Hourly) Cost Burden Calculation Factors**

The USPTO uses a professional rate of \$371 per hour for respondent cost burden calculations, which is the mean rate for attorneys in private firms as shown in the *2011 Report of the Economic Survey*, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA).

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

Table 3: Burden Hour/Burden Cost to Respondents for Information Requirements Added by this Collection

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
1	Correct Inventorship After First Office Action on the Merits (electronic)	2.0	232	464	\$371.00	\$172,144.00
	Correct Inventorship After First Office Action on the Merits (paper)	2.0	18	36	\$371.00	\$13,356.00
2	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3 (electronic)	4.0	146	584	\$371.00	\$216,664.00
	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3 (paper)	4.0	16	64	\$371.00	\$23,744.00
	Total	- - - - -	412	1,148	- - - - -	\$425,908.00

Impact on Existing and Pending Collections

The adjustments that this rulemaking makes to fees in the existing and pending information collections will have an impact on the estimated number of responses for the information requirements that are associated with those fees. The fee adjustment for a particular service may cause a change in demand for that service, which in turn will have an impact on the estimated burden hours and respondent cost burden for those requirements. Although the affected information requirements will remain in their respective collections, the impact on the total respondent cost burden for these items caused by the change in responses is summarized in Table 4 below and is provided in detail in Appendix C.

Table 4: Burden Impact due to Rulemaking and Non-Rulemaking Factors

Item	Responses	Burden Hours	Respondent (Hourly) Cost Burden
Current burden for information requirements in existing and pending collections associated with the fees in the rulemaking	5,556,757	37,664,172	\$12,228,124,551.00
Rulemaking impact from the change in estimated responses caused by fee adjustments in the rulemaking	(48,251)	1,215,761	\$392,721,456.00
Rulemaking impact from adding the Correct Inventorship After First Office Action on the Merits to this collection	250	500	\$185,500.00
Non-rulemaking impact from adding the Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3 to this collection	162	648	\$240,408.00
Non-rulemaking impact from stayed fees	(38,200)	(6,494)	(\$2,110,550.00)
Totals	5,470,718	38,874,587	\$12,619,161,365.00

Responses: The total responses for all affected fee items in this submission is 5,470,718, which includes changes in estimated responses in existing and pending collections due to the fee adjustments in the final rule, as well as the additional respondents for the two requirements added in this collection. This total also includes a decrease in responses of 38,200 due to stayed fees related to the enrollment of registered patent attorneys and agents. (See www.uspto.gov/ip/boards/oed/practitioner/agents/forregisteredpractitioners.jsp). Those fees have been included in this collection, but remain stayed, so the number of responses for the fees is estimated to be 0. The Office published a Notice of Proposed Rulemaking in the *Federal Register* on October 18, 2012, Changes to Representation of Others Before the United States Patent and Trademark Office (77 Fed. Reg. 64190), proposing to remove this fee entirely. Although that rulemaking may remove this fee, the substance of this information collection will not be affected since, under this information collection request, the Office does not plan to collect these fees. The number of total responses reported here reflects the USPTO's revised and decreased projections of demand for various services compared with the responses reported in the Notice of Proposed Rulemaking. The Paperwork Reduction Act section of the Notice of Proposed Rulemaking and its accompanying Supporting Statement misstated both the specific number of responses for the Utility Issue Fee and the total number of responses such that responses for those items were underreported (5,832,472 total responses were reported instead of 6,061,412).

Burden Hours: The change in estimated responses results in a change in burden hours for the affected items as detailed in Table 4 above. However, except for 1,148 hours for the two information requirements included in this submission (see Table 3 above), these burden hours will remain in the existing and pending collections for the other information requirements affected by this rulemaking because only the fees associated with these items are included in this submission, not the information requirements themselves. Because the total responses were underreported in the Paperwork Reduction Act

section of the Notice of Proposed Rulemaking as explained above, the total burden hours were also underreported (39,343,181 was reported instead of 39,457,650).

Respondent (Hourly) Cost Burden: The change in burden hours (due to the change in the number of responses) results in a change in respondent (hourly) cost burden for the affected items, as detailed in Table 4 above. Again, except for the \$425,908 for the two information requirements added in this submission (see Table 3 above), this respondent (hourly) cost burden will remain in the existing and pending collections for the items affected by this rulemaking because only the fees associated with these items are included in this submission, not the information requirements themselves. Because the total responses were underreported in the Paperwork Reduction Act section of the Notice of Proposed Rulemaking as explained above, the total hourly cost burden was also underreported (\$12,756,110,511 was reported instead of \$12,767,557,411).

The respondent cost burden calculations presented in Table 4 (and in more detail in Appendix C) use the hourly rates as submitted in the previous information collection requests for the associated requirements. These hourly rates are not updated for these calculations at this time because this rulemaking affects neither the length of time to respond to the information collection nor the cost per hour of such a response. Information on the total respondent cost burden across all fees is included solely to demonstrate that this rulemaking may change the total number of responses.

The responses, burden hours, and respondent (hourly) cost burden for the affected information requirements in the existing and pending collections remain in their respective collections and will be updated in separate submissions using non-substantive change requests.

13. Total Annual (Non-hour) Cost Burden to Respondents

The USPTO estimates that the total annual (non-hour) cost burden for this collection will be approximately \$2,727,479,226, with \$2,727,479,150 in fees and \$76 in postage. These totals include the annual (non-hour) cost burden of \$193,426 (\$193,350 in fees and \$76 in postage) for the information requirements added by this collection, as outlined below, as well as the total non-hour cost burden across all fees affected by this rulemaking for which a PRA burden exists (some fees affected by the rulemaking have no PRA burden, *e.g.*, self-service copying fees, and have not been included in this collection). The total non-hour burden reported here includes the USPTO's estimates of the total responses to this collection, which reflect the USPTO's revised projections for demand for various services compared with the responses reported in the Notice of Proposed Rulemaking. The Paperwork Reduction Act section of the Notice of Proposed Rulemaking and its accompanying Supporting Statement misstated both the specific number of responses for the Utility Issue Fee and the total number of responses such that responses for those items, and correspondingly, the non-hour burden, were underreported. Because of this typographical error, the total non-hour burden appears to have increased from the Notice of Proposed Rule to the Final Rule (from

\$2,594,521,312 in the Notice of Proposed Rule to \$2,727,479,226 in the Final Rule), but in reality, the burden has decreased (from \$2,789,786,912 to \$2,727,479,226).

Fees

The total fees for this collection are \$2,727,479,150 as shown in the Supplemental Appendix C spreadsheet. These total fees include the following:

- the new and the amended fees for the existing and pending information collections outlined in the final rule notice;
- fees for information requirements that have no proposed responses because the fees for those items currently are stayed (see www.uspto.gov/ip/boards/oed/practitioner/agents/forregisteredpractitioners.jsp and Supporting Statement for renewal of information collection 0651-0012, IC Reference 201004-0651-001 at www.regulations.gov) and therefore no responses for the fee-cost component are collected (see fee codes 9015-9020 in Appendix C); the information requirements for these items remain in the existing collection, and, as explained above, may be removed entirely pursuant to the rulemaking proposed in Changes to Representation of Others Before the United States Patent and Trademark Office (77 Fed. Reg. 64190); and
- the filing fee amount of \$193,350 for the two items added in this collection, as outlined in Table 5 below.

Table 5: Filing Fees – Non-hour Cost Burden for Information Requirements Added by this Collection

	Item	Responses (a)	Filing Fees (b)	Total Non-Hour Cost Burden (yr) (a) x (b)
1	Correct Inventorship After First Office Action on the Merits	188	\$600.00	\$112,800.00
	Correct Inventorship After First Office Action on the Merits (small entity)	43	\$300.00	\$12,900.00
	Correct Inventorship After First Office Action on the Merits (micro entity)	19	\$150.00	\$2,850.00
2	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3	121	\$400.00	\$48,400.00
	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3 (small entity)	41	\$400.00	\$16,400.00
	Total	412	-----	\$193,350.00

Postage

The public may submit the forms in this collection to the USPTO in paper format by mail through the U. S. Postal Service.

The total (non-hour) cost burden for postage for the information requirements added by this collection is estimated to be \$76 per year, as follows:

Table 6: Postage Costs – Non-hour Cost Burden for Information Requirements Added by this Collection

	Item	Responses by Mail (a)	Postage Cost (b)	Total Non-Hour Cost Burden (yr) (a) x (b)
1	Correct Inventorship After First Office Action on the Merits	18	\$1.30	\$23.00
2	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3	16	\$3.30	\$53.00
	Total	34	-----	\$76.00

14. Annual Cost to the Federal Government

For the two information requirements included in this collection, the estimates are as follows:

The USPTO estimates that it takes a GS-5, step 1, approximately 5 minutes (0.08 hours) to process the correct inventorship after first office action on the merits and approximately 30 minutes (0.50 hours) to process the petitions to the chief administrative patent judge under 37 CFR 41.3. The hourly rate for a GS-5, step 1, is currently \$16.33 according to the U.S. Office of Personnel Management's (OPM's) wage chart, including locality pay for the Washington, DC area. When 30% is added to

account for a fully loaded hourly rate (benefits and overhead), the rate per hour for a GS-5, step 1, is \$21.23 (\$16.33 + \$4.90).

Estimates are based upon agency long-standing institutional knowledge of and experience with processing the type of information collected and the length of time necessary to process similar or like information.

Table 7 calculates the processing hours and costs of this information collection to the Federal Government:

Table 7: Burden Hour/Burden Cost to the Federal Government for Information Requirements Added by this Collection

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
1	Correct Inventorship After First Office Action on the Merits (electronic)	0.08	232	19	\$21.23	\$403.00
	Correct Inventorship After First Office Action on the Merits (paper)	0.08	18	1	\$21.23	\$21.00
2	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3 (electronic)	0.50	146	73	\$21.23	\$1,550.00
	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3 (paper)	0.50	16	8	\$21.23	\$170.00
	Total	- - - - -	412	101	- - - - -	\$2,144.00

15. Reason for Changes in Annual Burden

Program changes and/or adjustments are made in support of the final rule titled “Setting and Adjusting Patent Fees” (RIN 0651-AC54). The rulemaking supports the enactment of the Section 10 provisions of the *Leahy-Smith America Invents Act* (Pub.L.112-29).

Changes in Responses and Burden Hours

The USPTO estimates that the total responses for this information collection will be 5,470,718 and the total annual burden hours will be 1,148. The total responses includes the responses currently in the USPTO inventory for the fees as changed by this rulemaking as well as the responses for the two information requirements added by this submission. The total annual burden hours only reflects the burden hours for the two information requirements added by this submission because no information requirements were changed for any items in existing or pending collections with fees affected by this rulemaking.

Tables 8 and 9 show the impact of the rulemaking and non-rulemaking changes to the response and burden hour estimates for this information collection:

Table 8: Response Changes – Rulemaking/Non-Rulemaking Impact

	Current Inventory	Rulemaking Impact	Non-rule Impact	Total Change	New Response Estimates
Fees in Existing/Pending Collections	5,518,557	Decrease of 48,251	0	Decrease of 48,251	5,470,306
Correct Inventorship After First Office Action on the Merits	0	Increase of 250	0	Increase of 250	250
Petitions to the Chief Administrative Patent Judge	0	0	Increase of 162	Increase of 162	162
Stayed Fees	38,200	0	Decrease of 38,200	Decrease of 38,200	0
Totals	5,556,757	(48,001)	(38,038)	(86,039)	5,470,718

Table 9: Burden Hour Changes – Rulemaking/Non-Rulemaking Impact

	Current Inventory	Rulemaking Impact	Non-rule Impact	Total Change	New Burden Hour Estimates
Correct Inventorship After First Office Action on the Merits	0	Increase of 500	0	Increase of 500	500
Petitions to the Chief Administrative Patent Judge	0	0	Increase of 648	Increase of 648	648
Totals	0	500	648	1,148	1,148

For additional explanation of the impact that the change in responses will have on the burden hours in the information collections that contain the information requirements for the affected fees, please see Section 12 (Table 4) above and Appendix C.

Change in Respondent (Hourly) Cost Burden

This information collection will have a total respondent (hourly) cost burden of \$425,908 for the information requirements added by this collection, as outlined in Section 12 (Table 3) above.

The fee adjustments to the current inventory of fees in the rulemaking may cause a change in demand for some services, which would impact the estimated number of responses for the information requirements that are associated with those fees. This change in the number of responses would impact the estimated burden hours and respondent cost burden for those items. Although the affected information requirements will remain in their respective collections, the impact on the total respondent (hourly)

cost burden for these items from the rulemaking is summarized below in Table 10 and provided in more detail in Appendix C.

Table 10: Respondent (Hourly) Cost Burden Changes – Rulemaking/Non-Rulemaking Impact

	Current Inventory	Rulemaking Impact	Non-rule Impact	Total Change	New Respondent Cost Burden Estimate
Correct Inventorship After First Office Action on the Merits	\$0	Increase of \$185,500	\$0	Increase of \$185,500	\$185,500
Petitions to the Chief Administrative Patent Judge	\$0	\$0	Increase of \$240,408	Increase of \$240,408	\$240,408
Totals for Items Added to this Collection	\$0	Increase of \$185,500	Increase of \$240,408	Increase of \$425,908	\$425,908
Fees in Existing/Pending Collections	\$12,226,014,001	Increase of \$392,721,456	\$0	Increase of \$392,721,456	\$12,618,735,457
Stayed Fees	\$2,110,550	\$0	Decrease of \$2,110,550	Decrease of \$2,110,550	\$0
Totals Across All Fees	\$12,228,124,551	\$392,906,956	(\$1,870,142)	\$391,036,814	\$12,619,161,365

For additional explanation of the impact that the change in responses will have on the respondent (hourly) cost burden in the information collections that contain the information requirements for the affected fees, please see Section 12 (Table 4) above and Appendix C.

Change in Annual (Non-hour) Costs

The USPTO estimates that the total annual (non-hour) cost burden for this submission will be \$2,727,479,226. The total annual (non-hour) cost burden includes the fee burden as changed by this rulemaking as well as changes due to factors other than the rulemaking. These non-rule factors include the annual (non-hour) cost burden for the existing requirement of petitions to the chief administrative patent judge under 37 CFR 41.3, as well as updates to the USPTO fee schedule pre-dating this rulemaking that have not yet been reflected in the USPTO inventory.

Table 11 shows the impact of the rulemaking and non-rulemaking changes to the annual (non-hour) cost burden estimates for this information collection. The non-rulemaking impact to the fees in existing and pending collections is the result of the increase in the Consumer Price Index (CPI).

Table 11: Annual (Non-hour) Cost Burden Changes – Rulemaking/Non-Rulemaking Impact

	Current Inventory	Rulemaking Impact	Non-rule Impact	Total Change	New Annual (Non-hour) Cost Burden Estimate
Fees in Existing/Pending Collections	\$2,230,581,563	Increase of \$409,134,608	Increase of \$87,569,629	Increase of \$496,704,237	\$2,727,285,800
Correct Inventorship After First Office Action on the Merits	\$0	Increase of \$128,550	\$0	Increase of \$128,550	\$128,550
Petitions to the Chief Administrative Patent Judge	\$0	\$0	Increase of \$64,800	Increase of \$64,800	\$64,800
Stayed Fees	\$4,113,700	\$0	Decrease of \$4,113,700	Decrease of \$4,113,700	\$0
Total Fees	\$2,234,695,263	\$409,263,158	\$83,520,729	\$492,783,887	\$2,727,479,150
Postage	\$0	Increase of \$23	Increase of \$53	Increase of \$76	\$76
Totals	\$2,234,695,263	\$409,263,181	\$83,520,782	\$492,783,963	\$2,727,479,226

16. Project Schedule

There is no plan to publish this information for statistical use. No special publication of the items discussed in this justification statement is planned.

17. Display of Expiration Date of OMB Approval

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

18. Exception to the Certificate Statement

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

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.