

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Patent Petitions Related to Application and Reexamination Processing Fees**  
**(formerly Certain Patent Petitions Requiring a Fee)**  
**OMB CONTROL NO. 0651-0059**  
**(July 2014)**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. § 131 *et seq.* to examine an application for patent and, when appropriate, issue a patent. The USPTO is also required to publish patent applications, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under Title 35, United States Code (“eighteen-month publication”).

Many actions taken by the USPTO during its examination of an application for patent or for reissue of a patent, or during its reexamination of a patent, are subject to review by an appeal to the Patent Trial and Appeal Board. For other USPTO actions, review is in the form of administrative review obtained via submission of a petition to the USPTO. USPTO petitions practice also provides an opportunity for a patent applicant or owner to supply additional information that may be required in order for the USPTO to further process an application or patent.

This collection covers petitions filed in patent applications and reexamination proceedings that, when submitted to the USPTO by a patent applicant or owner, are required to be accompanied by the fee set forth in 37 CFR 1.17(f), (g), or (h).

Table 1 identifies the statutory and regulatory provisions that require the USPTO to collect this information:

**Table 1: Information Requirements for Patent Petitions Related to Application and Reexamination Processing Fees**

	<b>Requirement</b>	<b>Statute</b>	<b>Rule</b>
1	Petitions (requiring the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> <li>• Petition to Accord a Filing Date Under 1.57(a)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)</li> <li>• Petition for Decision on a Question Not Specifically Provided For</li> <li>• Petition to Suspend the Rules</li> </ul>	35 U.S.C. §§ 131 and 132	37 CFR 1.17(f), 1.53(e), 1.57(a), 1.182, and 1.183

2	Petitions (requiring the fee) under 37 CFR 1.17(g): <ul style="list-style-type: none"> <li>• Petition to Access an Assignment Record</li> <li>• Petition for Access to an Application</li> <li>• Petition for Expungement and Return of Information</li> <li>• Petition to Suspend Action in an Application</li> </ul>	35 U.S.C. §§ 131 and 132	37 CFR 1.12, 1.14, 1.17(g), 1.59, and 1.102
3	Petitions (requiring the fee) under 37 CFR 1.17(h): <ul style="list-style-type: none"> <li>• Petition for Accepting Color Drawings or Photographs</li> <li>• Petition for Entry of a Model or Exhibit</li> <li>• Petition to Withdraw an Application from Issue</li> <li>• Petition to Defer Issuance of a Patent</li> </ul>	35 U.S.C. §§ 131 and 132	37 CFR 1.17(h), 1.84, 1.91, 1.103(d), 1.313, and 1.314
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	35 U.S.C. §§ 2(b)(2), 131, and 132	37 CFR 1.19(i) and (j)
5	Petitions to Make Special Under Accelerated Examination Program	35 U.S.C. § 2(b)(2)	37 CFR 1.102
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	35 U.S.C. § 122(b)	37 CFR 1.38(c) and 1.211(a)(1)
7	Petitions for Extension of Time Under 37 CFR 1.136(b)	35 U.S.C. §§ 2(b)(2), 41(a)(8), 131, and 132	37 CFR 1.136
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	35 U.S.C. § 2(b)(2)	37 CFR 1.17(f), (g), and (h)

## 2. Needs and Uses

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.*, the 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. (Ref A)

The collection contains a total of eight forms, insofar as EFS-Web versions are counted as separate forms (e.g., PTO/SB/23, for which the USPTO provides “paper” and EFS-Web versions, counts as two forms).

Table 2 shows the relationship between the eight forms and the collections of information. Table 2 also outlines how these collections of information are used by the public and by the USPTO.

**Table 2: Needs and Uses for Patent Petitions Related to Application and Reexamination Processing Fees**

	<b>Form and Function</b>	<b>Form #</b>	<b>Needs and Uses</b>
1	Petitions (requiring the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> <li>• Petition to Accord a Filing Date Under 1.57(a)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)</li> <li>• Petition for Decision on a Question Not Specifically Provided For</li> <li>• Petition to Suspend the Rules</li> </ul>	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the applicant to request agreement to a filing date.</li> <li>• Used by the public to request a decision on a question not specifically provided for.</li> <li>• Used by the applicant to ask for suspension of the rules.</li> <li>• Used by the USPTO to agree to a filing date.</li> <li>• Used by the USPTO to grant a decision on a question not specifically provided for.</li> <li>• Used by the USPTO to agree to a suspension of the rules.</li> </ul>
1	EFS-Web Petitions (requiring the fee) Under 37 CFR 1.17(f)	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the applicant to request agreement to a filing date.</li> <li>• Used by the public to request a decision on a question not specifically provided for.</li> <li>• Used by the applicant to ask for suspension of the rules.</li> <li>• Used by the USPTO to agree to a filing date.</li> <li>• Used by the USPTO to grant a decision on a question not specifically provided for.</li> <li>• Used by the USPTO to agree to a suspension of the rules.</li> </ul>
2	Petitions (requiring the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> <li>• Petition to Access an Assignment Record</li> <li>• Petition for Access to an Application</li> <li>• Petition for Expungement and Return of Information</li> <li>• Petition to Suspend Action in an Application</li> </ul>	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the applicant to request access to an assignment record.</li> <li>• Used by the applicant to request access to an application.</li> <li>• Used by the applicant to request expungement and return of information.</li> <li>• Used by the applicant to request to suspend action in an application.</li> <li>• Used by the USPTO to grant access to an assignment record.</li> <li>• Used by the USPTO to grant access to an application.</li> <li>• Used by the USPTO to expunge and return information.</li> <li>• Used by the USPTO to suspend action on an application.</li> </ul>
2	EFS-Web Petitions (requiring the fee) Under 37 CFR 1.17(g)	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the applicant to request access to an assignment record.</li> <li>• Used by the applicant to request access to an application.</li> <li>• Used by the applicant to request expungement and return of information.</li> <li>• Used by the applicant to request to suspend action in an application.</li> <li>• Used by the USPTO to grant access to an assignment record.</li> <li>• Used by the USPTO to grant access to an application.</li> <li>• Used by the USPTO to expunge and return information.</li> <li>• Used by the USPTO to suspend action on an application.</li> </ul>

	Form and Function	Form #	Needs and Uses
3	<p>Petitions (requiring the fee) Under 37 CFR 1.17(h) include:</p> <ul style="list-style-type: none"> <li>• Petition for Accepting Color Drawings or Photographs</li> <li>• Petition for Entry of a Model or Exhibit</li> <li>• Petition to Withdraw an Application from Issue</li> <li>• Petition to Defer Issuance of a Patent</li> </ul>	No Form Associated	<ul style="list-style-type: none"> <li>• Used by an applicant to submit color drawings or photographs.</li> <li>• Used by an applicant to submit a model or exhibit.</li> <li>• Used by an applicant to request withdrawal of an application from issue before paying the issue fee.</li> <li>• Used by an applicant to request withdrawal of an application from issue after paying the issue fee.</li> <li>• Used by an applicant to request permission to defer issuance of a patent.</li> <li>• Used by the USPTO to accept color drawings or photographs from an applicant.</li> <li>• Used by the USPTO to accept a model or exhibit.</li> <li>• Used by the USPTO to ensure that all of the necessary information has been supplied to withdraw an application from issue before the issue fee has been paid by the applicant.</li> <li>• Used by the USPTO to ensure that all of the necessary information has been supplied to withdraw an application from issue after the issue fee has been paid by the applicant.</li> <li>• Used by the USPTO to defer issuance of a patent.</li> </ul>
3	<p>EFS-Web Petitions (requiring the fee) Under 37 CFR 1.17(h) (Ref B)</p> <ul style="list-style-type: none"> <li>• Petition to Withdraw an Application from Issue (<b>PTO/SB/140</b>)</li> </ul>	No Form Associated, except for PTO/SB/140 for petitions to withdraw an application from issue	<ul style="list-style-type: none"> <li>• Used by an applicant to submit color drawings or photographs.</li> <li>• Used by an applicant to submit a model or exhibit.</li> <li>• Used by an applicant to request withdrawal of an application from issue before paying the issue fee.</li> <li>• Used by an applicant to request withdrawal of an application from issue after paying the issue fee.</li> <li>• Used by an applicant to request permission to defer issuance of a patent.</li> <li>• Used by the USPTO to accept color drawings or photographs from an applicant.</li> <li>• Used by the USPTO to accept a model or exhibit.</li> <li>• Used by the USPTO to ensure that all of the necessary information has been supplied to withdraw an application from issue before the issue has been paid by the applicant.</li> <li>• Used by the USPTO to ensure that all of the necessary information has been supplied to withdraw an application from issue after the issue fee has been paid by the applicant.</li> <li>• Used by the USPTO to defer issuance of a patent.</li> </ul>
4	<p>Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19</p>	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the applicant to obtain copies of documents that have been submitted in a form other than provided for by the rules of practice.</li> <li>• Used by the USPTO to provide copies of documents that have been submitted in a form other than provided for by the rules of practice.</li> </ul>
4	<p>EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19</p>	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the applicant to obtain copies of documents that have been submitted in a form other than provided for by the rules of practice.</li> <li>• Used by the USPTO to provide copies of documents that have been submitted in a form other than provided for by the rules of practice.</li> </ul>
5	<p>Petitions to Make Special Under Accelerated Examination Program (Ref C)</p>	PTO/SB/28 (EFS-Web only)	<ul style="list-style-type: none"> <li>• Used by the applicant to assist in meeting the requirements necessary to request accelerated examination.</li> <li>• Used by the applicant to increase the likelihood of a filing of a grantable application.</li> <li>• Used by the USPTO to assist in the expeditious processing of the petitions to make special.</li> </ul>

	<b>Form and Function</b>	<b>Form #</b>	<b>Needs and Uses</b>
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c) (Ref D)	PTO/SB/24a	<ul style="list-style-type: none"> <li>Used by the applicant to expressly request abandonment of an application to avoid publication of the application.</li> <li>Used by the USPTO to expressly abandon the application prior to its publication.</li> </ul>
6	EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	PTO/SB/24a	<ul style="list-style-type: none"> <li>Used by the applicant to expressly request abandonment of an application to avoid publication of the application.</li> <li>Used by the USPTO to expressly abandon the application prior to its publication.</li> </ul>
7	Petition for Extension of Time Under 37 CFR 1.136(b) (Ref E)	PTO/SB/23	<ul style="list-style-type: none"> <li>Used by the applicant to request an extension of time.</li> <li>Used by the USPTO to determine whether the reason for requesting an extension is sufficient for granting it.</li> <li>Used by the USPTO to decide the correct fee, based upon the number of months of extension requested, and whether or not the applicant is entitled to small entity status.</li> </ul>
7	EFS-Web Petition for Extension of Time Under 37 CFR 1.136(b)	PTO/SB/23	<ul style="list-style-type: none"> <li>Used by the applicant to request an extension of time.</li> <li>Used by the USPTO to determine whether the reason for requesting an extension is sufficient for granting it.</li> <li>Used by the USPTO to decide the correct fee, based upon the number of months of extension requested, and whether or not the applicant is entitled to small entity status.</li> </ul>
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal (Ref F)	PTO/SB/17P	<ul style="list-style-type: none"> <li>Used by the applicant to identify the proper fees, and thus reduce the potential for any additional work due to mistakes in payment.</li> <li>Used by the USPTO to process the appropriate fees.</li> </ul>
8	EFS-Web Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	PTO/SB/17P	<ul style="list-style-type: none"> <li>Used by the applicant to identify the proper fees, and thus reduce the potential for any additional work due to mistakes in payment.</li> <li>Used by the USPTO to process the appropriate fees.</li> </ul>

### 3. Use of Information Technology

In general, the items in this collection can be submitted to the USPTO on paper, by mail, facsimile, hand delivery, or electronically through EFS-Web, the USPTO's web-based electronic filing system. However, petitions to make special under the accelerated examination program can only be filed through EFS-Web. Also, although petitions to withdraw an application from issue after payment of the issue fee under 37 CFR 1.313(c) may be submitted on paper or electronically, applicants choosing to use form PTO/SB/140 to file a petition to withdraw must do so electronically because PTO/SB/140 is strictly an EFS-Web electronic form.

The Legal Framework for EFS-Web, which is available at [http://www.uspto.gov/patents/process/file/efs/guidance/New\\_legal\\_framework.jsp](http://www.uspto.gov/patents/process/file/efs/guidance/New_legal_framework.jsp), outlines which types of patent applications and associated documents can and cannot be submitted electronically. As for facsimile submission, it is governed by 37 CFR 1.6(d). The USPTO does not use any other automated, mechanical, or other technological collection techniques to collect the information in this collection.

EFS-Web is a web-based document submission system that allows customers to file documents covered under this information collection through their standard web browser without downloading special software, changing their documentation preparation tools, or altering their workflow processes. Customers may create their 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. The fillable PDF forms that can be submitted through EFS-Web may be downloaded from the USPTO Web site and do not require special PDF creation software. A PDF form is not required for form PTO/SB/140; the information for form PTO/SB/140 is entered directly into EFS-Web screens.

Registered and unregistered users can file documents securely through EFS-Web, which is hosted on secure servers. The documents 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 documents are submitted to EFS-Web using Transport Layer Security (TLS) or Secure Socket Layer (SSL) protocol.

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 document has been successfully submitted through EFS-Web, customers will receive an acknowledgment receipt that lists the time and date stamp stating when the document 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 a postcard in the postcard receipt practice used for patent application documents that are filed in paper. The USPTO recommends that customers print the electronic acknowledgement receipt to keep with their records.

There are many additional benefits to filing through EFS-Web. 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. Customers can submit fee payments and other requests in real time. The PDF forms can be passed around to multiple users for collaboration.

EFS-Web integrates with the 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 information about unpublished patent applications and to maintain the confidentiality and integrity of the information as it is transmitted over the Internet. Information for published patent applications, issued patents, certificates of correction, and reissue applications is made available to the general public. PAIR is available through the USPTO web site.

Since May 2010, EFS-Web Contingency Option permits users to file their patent documents even when the primary portal to EFS-Web is unavailable. EFS-Web Contingency Option has the same functionality as EFS-Web for unregistered users and provides an electronic acknowledgment receipt, performs file validation, and encrypts the applications using TLS. Of the documents covered under this information collection, EFS-Web Contingency Option can be used only to file petitions to make special under the accelerated examination program (must be filed with a non-provisional utility patent application under 35 U.S.C. § 111(a)).

#### **4. Efforts to Identify Duplication**

This information is collected during the pendency of a patent application. It does not duplicate information or collection of data found elsewhere.

#### **5. Minimizing the Burden to Small Entities**

No significant impact is placed on small entities.

Small entities that assert small entity status (or certify micro entity status) obtain the benefit of the small entity (or micro entity) fee discount. The USPTO's regulations concerning the small entity and micro entity fee discounts are at 37 CFR 1.27 and 1.28 and 37 CFR 1.29, respectively, and small and micro entity fee discounts for small and micro entity applicants are shown in 37 CFR 1.16, 1.17, 1.18, and 1.20, including 37 CFR 1.17(f), (g), and (h).

#### **6. Consequences of Less Frequent Collection**

This information is collected only as required to process a patent application or enforceable patent, and is not collected elsewhere. Therefore, this collection of information could not be conducted less frequently. If this information were not collected, the USPTO would not be able to comply with the relevant sections of the patent statute, e.g., 35 U.S.C. § 131.

#### **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 *Federal Register* Notice was published on May 20, 2014 (79 Fed. Reg. 29800). The public comment period ended on July 21, 2014. No comments were received from the public.

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, inventor groups, and users of our public facilities.

Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an information collection. No views have been expressed impacting the present renewal.

## **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.

## **11. Justification for Sensitive Questions**

None of the required information is considered to be of a sensitive nature.

## **12. Estimate of Hour and Cost Burden to Respondents**

Table 3 calculates the anticipated 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 33,119 responses to this information collection per year, with approximately 30,569 submitted electronically through EFS-Web. The USPTO estimates that 25% or 9,754 petitions and petition fee transmittals will be submitted by small entities.

- **Burden Hour Calculation Factors**

The USPTO estimates that it takes the public approximately 5 minutes (0.08 hours) to complete the petition fee transmittals and 12 minutes (0.20 hours) to 12 hours to complete the petitions in this collection, depending on the nature of the information. This includes the time to gather the necessary information, prepare the petitions and petition fee transmittal, and submit them to the USPTO. The USPTO estimates that it will take the same amount of time (and possibly less time) to gather the necessary information, prepare the submission, and submit it electronically as it does to submit the information in paper form.

- **Cost Burden Calculation Factors**

The USPTO expects that attorneys will supply the majority of information requested for the petitions and petition fee transmittals in this collection, with the exception of two petitions that are prepared by para-professionals/paralegals. The professional hourly rate for attorneys in private firms is \$389, while the hourly rate for paraprofessionals/paralegals in private firms is \$125. The professional rate used in this submission is the median rate for attorneys in private firms published in the 2013 report

of the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA), which summarizes the results of a survey with data on hourly billing rates. The paraprofessional/paralegal rate used in this submission is the “ACP Credential” rate for paralegals/legal assistants as shown in the 2013 National Utilization and Compensation Survey Report published by the National Association of Legal Assistants (NALA) in 2013. These are fully loaded hourly rates.

**Table 3: Burden Hour/Burden Cost to Respondents for Patent Petitions Related to Application and Reexamination Processing Fees**

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> <li>• Petition to Accord a Filing Date Under 1.57(a)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)</li> <li>• Petition for Decision on a Question Not Specifically Provided For</li> <li>• Petition to Suspend the Rules</li> </ul>	4.00	300	1,200	\$389.00	\$466,800
1	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(f)	4.00	2,800	11,200	\$389.00	\$4,356,800
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> <li>• Petition to Access an Assignment Record</li> <li>• Petition for Access to an Application</li> <li>• Petition for Expungement and Return of Information</li> <li>• Petition to Suspend Action in an Application</li> </ul>	2.00	300	600	\$389.00	\$233,400
2	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(g)	2.00	3,000	6,000	\$389.00	\$2,334,000
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> <li>• Petition for Accepting Color Drawings or Photographs</li> <li>• Petition for Entry of a Model or Exhibit</li> <li>• Petition to Withdraw an Application from Issue</li> <li>• Petition to Defer Issuance of a Patent</li> </ul>	1.00	900	900	\$389.00	\$350,100
3	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(h)	1.00	8,800	8,800	\$389.00	\$3,423,200
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1.00	5	5	\$125.00	\$625
4	EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1.00	40	40	\$125.00	\$5,000
5	Petitions to Make Special Under Accelerated Examination Program (EFS-Web only)	12.00	450	5,400	\$389.00	\$2,100,600

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.20	40	8	\$125.00	\$1,000
6	EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.20	425	85	\$389.00	\$33,065
7	Petition for Extension of Time Under 37 CFR 1.136(b)	0.50	5	2.50	\$389.00	\$973
7	EFS-Web Petition to Extension of Time Under 37 CFR 1.136(b)	0.50	54	27	\$389.00	\$10,503
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	0.083	1,000	83	\$389.00	\$32,287
8	EFS-Web Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	0.083	15,000	1,245	\$389.00	\$484,305
	<b>Total</b>	- - - -	<b>33,119</b>	<b>35,596</b>	---	<b>\$13,832,658</b>

### 13. Total Annualized Cost Burden

There are no operation or maintenance costs associated with this information collection. There are, however, postage costs associated with this collection.

#### Postage Costs

The public may submit the petitions and petition fee transmittals in this collection to the USPTO by mail through the United States Postal Service. All correspondence may include a certificate of mailing for each piece of correspondence enclosed, stating the date of deposit or transmission to the USPTO in order to receive credit for timely filing.

The USPTO has estimated that the vast majority of these submissions will weigh no more than 13 oz. Therefore, the USPTO is conservatively estimating that these submissions will be mailed in large mailing envelopes by first-class postage at a rate of \$2.92. Postage for the certificates of mailing themselves are not calculated into this estimate as they are included with the individual pieces of correspondence that are being deposited with the United States Postal Service. The USPTO estimates that 1,961 petitions and 1,900 fee transmittal forms will be mailed to the USPTO per year, for a total postage cost of \$11,275. The estimated postage costs are outlined in Table 4 below:

**Table 4: Postage Costs – Non-Hour Cost Burden for Patent Petitions Related to Application and Reexamination Processing Fees**

Item	Responses	Postage	Total Cost
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		(a)	Costs (b)	(a) x (b)
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> <li>• Petition to Accord a Filing Date Under 1.57(a)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)</li> <li>• Petition for Decision on a Question Not Specifically Provided For</li> <li>• Petition to Suspend the Rules</li> </ul>	300	3.90	\$1,170.00
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> <li>• Petition to Access an Assignment Record</li> <li>• Petition for Access to an Application</li> <li>• Petition for Expungement and Return of Information</li> <li>• Petition to Suspend Action in an Application</li> </ul>	300	3.90	\$1,170.00
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> <li>• Petition for Accepting Color Drawings or Photographs</li> <li>• Petition for Entry of a Model or Exhibit</li> <li>• Petition to Withdraw an Application from Issue (PTO/SB/140)</li> <li>• Petition to Defer Issuance of a Patent</li> </ul>	900	3.90	\$3,510
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	5	3.90	19.50
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	40	3.90	156
7	Petition for Extension of Time Under 37 CFR 1.136(b)	5	3.90	\$19.50
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	1,000	3.90	3900.00
	<b>Total</b>	<b>2550</b>	<b>-----</b>	<b>9945.00</b>

### Filing Fees

The fees in 0651-0059 were moved into collection 0651-0072 America Invents Act Section 10 Patent Fee Adjustments. As a result this collection no longer includes any filing or processing fees.

**The USPTO estimates that the total non-hour respondent cost burden for this collection, in the form of postage costs, is \$9,945 per year.**

### **14. Annual Cost to the Federal Government**

The USPTO estimates that it takes a GS-5, step 1, between 5 to 30 minutes (0.08 to 0.50 hours) to process the petitions and petition fee transmittals in this collection. The hourly rate for a GS-5, step 1, is currently \$16.49 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 \$21.43 (\$16.33 + \$4.94).

Table 6 calculates the processing hours and costs of this information collection to the Federal Government:

**Table 6: Burden Hour/Burden Cost to the Federal Government for Patent Petitions Related to Application and Reexamination Processing Fees**

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> <li>• Petition to Accord a Filing Date Under 1.57(a)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)</li> <li>• Petition for a Decision on a Question Not Specifically Provided For</li> <li>• Petition to Suspend the Rules</li> </ul>	0.30	300	90	\$21.43	\$1,929
1	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(f)	0.30	2,800	840	\$21.43	\$18,001
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> <li>• Petition to Access an Assignment Record</li> <li>• Petition for Access to an Application</li> <li>• Petition for Expungement and Return of Information</li> <li>• Petition to Suspend Action in an Application</li> </ul>	0.20	300	60	\$21.43	\$1,286
2	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(g)	0.20	3,000	600	\$21.43	\$12,858
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> <li>• Petition for Accepting Color Drawings or Photographs</li> <li>• Petition for Entry of a Model or Exhibit</li> <li>• Petition to Withdraw an Application from Issue (PTO/SB/140)</li> <li>• Petition to Defer Issuance of a Patent</li> </ul>	0.10	900	90	\$21.43	\$1,929
3	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(h)	0.10	8,800	880	\$21.43	\$18,858
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	0.10	5	1	\$21.43	\$21
4	EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	0.10	40	4	\$21.43	\$86
5	Petitions to Make Special Under Accelerated Examination Program (PTO/SB/28) (EFS-Web only)	0.50	450	225	\$21.43	\$4,822
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.10	40	4	\$21.43	\$86

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
6	EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.10	425	43	\$21.43	\$921
7	Petition for Extension of Time Under 37 CFR 1.136(b)	0.20	5	1	\$21.43	\$21
7	EFS-Web Petition for Extension of Time Under 37 CFR 1.136(b)	0.20	54	11	\$21.43	\$236
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal (PTO/SB/17P)	0.08	1,000	80	\$21.43	\$1,714
8	EFS-Web Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	0.08	15,000	1,200	\$21.43	\$25,716
	<b>Total</b>	- - - -	33,119	4,129		88,484

**The USPTO's total estimated cost for processing the information in this collection is \$88,484 per year.**

## 15. Reason for Change in Burden

### Summary of Changes Since the Previous Renewal

This information collection was approved by OMB as a renewal on July 15, 2011. At that time, the collection had \$13,586,280 in respondent cost burden. In April 2014, OMB approved the removal of all fees from this collection, and their incorporation into 0651-0072 America Invents Act Section 10 Patent Fee Adjustments. After stripping out the fees, the collection had 39,015 responses, 41,907 burden hours, \$13,586,280 respondent hourly cost burden, and \$11,275 in annualized (non-hourly) cost.

With this renewal, the USPTO estimates that the total burden and annualized (non-hour) costs for this collection will be 33,119 responses, 35,596 burden hours, and \$13,832,658 in hourly cost burden. This is a decrease of 5,896 responses and 6,311 burden hours, but an increase of \$246,378 in respondent cost burden against the currently approved burden for this collection. Both the decreases in the responses and burden hours and the increase in the burden costs are due to administrative adjustments. The non-hourly cost burden also decreased, by \$1,330, to \$9,945 due to administrative adjustments.

### Changes in Respondent Cost Burden

The respondent cost burden for this collection has increased since the previous submission due to an increase in the hourly rate used to calculate the respondent cost burden. The USPTO expects that the items in this collection will be completed by attorneys, with the exception of two petitions that are prepared by

para-professionals/paralegals. Based on figures provided by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association, the estimated hourly billing rate for attorneys has increased from \$325 to \$389 since the previous submission.

The total respondent cost burden for the currently approved collection is \$13,586,280 per year. A decrease in the number of petitions should have resulted in a lower cost burden, but was offset by rising attorney costs. With this renewal, the USPTO estimates that the total respondent cost burden will increase by \$246,378 to \$13,832,658 per year.

#### Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses for this collection will decrease by 5,896 responses, from 39,015 to 33,119 responses per year. In turn, the USPTO estimates that the burden hours will decrease by 6,311 hours, from 41,907 to 35,596 hours per year. This decrease is due to an estimated decrease in the number of respondents filing these petitions with the USPTO.

**This information collection has a burden decrease of 6,311 hours due to administrative adjustments.**

#### Changes in Annual (Non-Hour) Costs

For this renewal, the USPTO estimates that the annual (non-hour) costs for this collection will decrease by \$ 1,330, from \$11,275 to \$9,945 per year.

This increase is due to administrative adjustments, as follows:

- The USPTO estimates that the costs for mailing the items in this collection via first-class mail will decrease for this renewal, despite an increase in the postage cost. The USPTO estimates the majority of these submissions will weigh no more than 13 oz. and that they will be mailed in large mailing envelopes. Therefore, the USPTO estimates that the first-class postage cost will now be \$3.90, a 98 cent increase from the \$2.92 in the previous submission. The USPTO expects, however, that this increase will be offset by expected reductions in the number of overall submissions and the percentage of mailed submissions, since electronic filling of these petitions is increasing. The number of mailed petitions, estimated at 3861 in 2011, will decline by a third (1,310) and only number 2,550 for this submission. The USPTO estimates that the mailing costs for these petitions will decrease by \$1,330, from \$11,275 to \$9,945 per year. **Therefore, this collection has a reduction of \$1,330 in postage costs, producing a reduction of \$1,330 cost burden due to administrative adjustments.**

The USPTO estimates that the total annual (non-hour) costs for this renewal will decrease by \$1,033, from \$11,275 to \$9,945 per year. **Therefore, this collection has a total net burden decrease of \$1,330 in annual (non-hour) costs due to administrative adjustments.**

Note: The USPTO transferred all fees relating to petitions out of this collection (0651-0059). The fees were moved into collection 0651-0072 America Invents Act Section 10 Patent Fee Adjustments (approved by OMB in January 2013).

## **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. However, plant and utility patents granted are published weekly in the *Official Gazette of the United States Patent and Trademark Office*.

## **17. Display of Expiration Date of OMB Approval**

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

## **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.

### **References**

- A. USPTO Information Quality Guidelines
- B. PTO/SB/140 Petition to Withdraw an Application from Issue After Payment of the Issue Fee Under 37 CFR 1.313(c)
- C. PTO/SB/28 Petition to Make Special Under Accelerated Examination Program (EFS-Web only)
- D. PTO/SB/24a Petition for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)
- E. PTO/SB/23 Petition for Extension of Time Under 37 CFR 1.136(b)
- F. PTO/SB/17P Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal