

SUPPORTING STATEMENT
United States Patent and Trademark Office
Patent Law Treaty
OMB CONTROL NUMBER 0651-0073
July, 2016

A. JUSTIFICATION

1. Necessity of Information Collection

This information collection is necessary so that patent applicants and/or patentees may seek restoration of the right of priority to a prior-filed foreign application or of the right to the benefit of a prior-filed provisional application. The USPTO will use the petition to restore the right of priority to a prior-filed foreign application or the right to the benefit of a prior-filed provisional application to determine whether the applicant has satisfied the conditions of the applicable statute (35 U.S.C. § 119) and regulation (37 CFR 1.55(c) or 1.78(b)).

Title II of the Patent Law Treaties Implementation Act of 2012 (PLTIA) amends the patent laws to implement the provisions of the Patent Law Treaty (PLT). The PLT harmonizes and streamlines formal procedures pertaining to the filing and processing of patent applications.

The information in this collection can be submitted electronically through EFS-Web, the USPTO's Web-based electronic filing system, as well as on paper. The USPTO is therefore accounting for both electronic and paper submissions in this collection.

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

Table 1: Information Requirements

IC Number	Requirement	Statute	Rule
1	Petition to Restore the Right of Priority under 37 CFR 1.55(c)	35 U.S.C. § 119	37 CFR 1.55(c)
2	Petition to Restore the Benefit of a Prior-Filed Provision Application under 37 CFR 1.78(b)	35 U.S.C. § 119	37 CFR 1.78(b)

2. Needs and Uses

The public uses this information collection to seek restoration of the right of priority to a prior-filed foreign application or of the right to the benefit of a prior-filed provisional

application.

The information in this collection can be submitted electronically through EFS-Web, the USPTO's Web-based electronic filing system, as well as on paper. The USPTO is therefore accounting for both electronic and paper submissions in this collection.

The information collected, maintained, and used in this collection is based on OMB and USPTO guidelines. This includes the basic information quality standards established in the Paperwork Reduction Act (44 U.S.C. Chapter 35), in OMB Circular A-130, and in the OMB information quality guidelines.

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

Table 2: Needs and Uses

IC Number	Form and Function	Form #	Needs and Uses
1	Petition to Restore the Right of Priority under 37 CFR 1.55(c)	No Form Associated	<ul style="list-style-type: none"> • Used by patent applicants and/or patentees to petition under 37 CFR 1.55(c) to restore the right of priority to a prior-filed foreign application in a subsequent application. • Used by the USPTO to determine whether the applicant and/or patentee has satisfied the conditions of the applicable statute (35 U.S.C. § 119) and regulation (37 CFR 1.55(c)).
2	Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b)	No Form Associated	<ul style="list-style-type: none"> • Used by patent applicants and/or patentees to petition under 37 CFR 1.78(b) to restore the benefit of a prior-filed provisional application in a subsequent application. • Used by the USPTO to determine whether the applicant and/or patentee has satisfied the conditions of the applicable statute (35 U.S.C. § 119) and regulation (37 CFR 1.78(b)).

3. Use of Information Technology

The items in this collection may be submitted online using EFS-Web, the USPTO's Web-based electronic filing system.

EFS-Web allows customers to file patent applications and associated documents electronically through their standard Web browser without downloading special software, changing their document preparation tools, or altering their workflow processes. Typically, the customer will prepare the documents as standard PDF files and then upload them to the USPTO services using the secure EFS-Web interface. 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 or other paper delivery cost.

4. Efforts to Identify Duplication

The information collected is required in order to restore the right of priority to a prior-filed foreign application, or the right to the benefit of a prior-filed provisional application. This information is not collected elsewhere and does not result in a duplication of effort.

5. Minimizing Burden to Small Entities

This collection of information will not impose a significant economic impact on a substantial number of small entities. The same information will be required from every member of the public in the applicable situation and will not be available from any other source.

6. Consequences of Less Frequent Collection

The information in this collection is collected only when a patent applicant and/or patentee seeks restoration of the right of priority to a prior-filed foreign application or of the right to benefit of a priority-filed provisional application. Less frequent collection of this information would deny patent applicants and/or patentees their right under the statute to have restored the right of priority to a prior-filed foreign application or the right to the benefit of a prior-filed provisional application. Thus, 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 60-Day Notice was published in the *Federal Register* on August 22, 2016. The comment period ended on October 22, 2016. No comments were received.

In addition, the USPTO has long-standing relationships with groups from whom patent application information is collected, such as the American Intellectual Property Law Association, as well as patent bar associations, independent inventor groups, and users of our public search facilities. Views expressed by these groups are considered in developing proposals for information collection requirements. There have been no comments or concerns expressed by these or similar organizations concerning the time to provide the information required under this program.

9. Payments or Gifts to Respondents

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

10. Assurance of Confidentiality

Confidentiality of patent applicants 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 made available to the public (subject to provisions for providing only a redacted copy of the file contents). Therefore, the information collected by this collection will necessarily be available to the public when it is filed in a published application or issued patent, or, if it is filed in an application that has yet to publish or issue as a patent, when the application publishes or issues as a patent.

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 500 total responses per year for this collection, with approximately 25% of these responses submitted by small entities. Approximately 98% of the total responses for this collection will be submitted 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 the responses in this collection will take the public approximately 1 hour to complete. This includes the 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, where the public submits the information on 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.

- **Cost Burden Calculation Factors**

The USPTO uses a professional rate of \$410 per hour for respondent cost burden calculations, which is the mean rate for attorneys in private firms as shown in the 2015 *Report of the Economic Survey*, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA). Based on the Agency's long-standing institutional knowledge of and experience with the type of information collected, the Agency expects \$410 is an accurate estimate of the cost per hour to collect this information.

Table 3: Burden Hour/Burden Cost to Respondents

IC Number	Item	Hours (a)	Estimated Annual Responses (b)	Burden (hrs/yr) (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) = (e)
1	Petition to Restore the Right of Priority under 37 CFR 1.55(c)	1	250	250	\$410.00	\$102,500.00
2	Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b)	1	250	250	\$410.00	\$102,500.00
	TOTAL	- - - -	500	500	- - - -	0205,000.00

13. Total Annual (Non-hour) Cost Burden

The total annual (non-hour) respondent cost burden for this collection is calculated in Table 4 below. This collection has no capital start-up, maintenance, or record keeping costs.

Fees

For both petitions in this collection, a grantable petition requires payment of the petition fee set forth in 37 CFR 1.17(m). 37 CFR 1.17(m) provides an undiscounted fee of \$1,700 and a small or micro entity discounted fee of \$850.

Postage Costs

The USPTO estimates that the average postage cost for a paper submission will be \$5.60 (USPS Priority Mail, flat rate envelope) and that 10 submissions will be mailed to the USPTO per year.

Table 4: Filing Fees/Non-hour Cost Burden to Respondents

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Amount (b)	Totals (a) x (b) = (c)
1	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) (large entity)	190	\$1,700.00	\$323,000.00
1	Grantable Petition to Restore the Right of Priority under 37 CFR	60	\$850.00	\$51,000.00

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Amount (b)	Totals (a) x (b) = (c)
	1.55(c) (small or micro entity)			
2	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (large entity)	190	\$1,700.00	\$323,000.00
2	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (small or micro entity)	60	\$850.00	\$51,000.00
	Total Fees	\$748,000.00
	Postage	10	\$6.45	\$64.50
	Total Postage	\$
	Total Annual (Non-hour) Cost Burden	\$748,064.50

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-7, step 1, employee approximately 18 minutes (0.30 hours) on average to process the items in this collection.

The hourly rate for a GS-7, step 1 employee is currently \$20.93, according to the U.S. Office of Personnel Management's (OPM's) wage charge, 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-7, step 1, employee is \$27.21 (\$20.93 with \$6.28 added for benefits and overhead).

Table 5 calculates the burden hours and costs to the Federal Government for processing this information collection.

Table 5: Burden Hour/Cost to the Federal Government

IC Number	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
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1	Petition to Restore the Right of Priority under 37 CFR 1.55(c)	0.30	250	75	\$27.21	\$2,040.75
2	Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b)	0.30	250	75	\$27.21	\$2,040.75
	TOTAL	- - - -	500	150	- - - - -	\$4,081.50

15. Reason for Change in Burden

Changes from the 60-Day Federal Register Notice

OMB previously approved the renewal of this information collection in October 2013. This collection, as currently approved, contains an estimated:

- 500 responses
- 500 burden hours
- \$185,500 in respondent hourly cost burden
- \$743,096 in annual (non-hour) costs

The proposed collection, as outlined in the tables above, seeks to modify these estimates. The new collection, if approved, is estimated to contain:

- 500 responses
- 500 burden hours
- \$205,000.00 in respondent hourly cost burden
- \$748,064.50 in annual (non-hour) costs

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that there is no increase or decrease in the annual responses and total burden hours from the previous renewal of this collection in October 2013. The responses and burden hours will remain at 500.

Change in Respondent Cost Burden

The total respondent cost burden for this collection has increased by \$19,500 (from \$185,500 to \$205,000) from the previous renewal of this collection in October 2013, due to:

- **Increases in estimated hourly rates.** The 2013 renewal used an estimated rate of \$371 per hour for respondents to this collection. For the current renewal, the USPTO is using updated hourly rates of \$410 for attorneys.

- **No change in estimated burden hours.** The total estimated burden hours have remained at 500 from the 2013 renewal to the current renewal.

Changes in Annual (Non-hour) Costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$4,968.50 (from \$743,096 to 748,064.50).

16. Project Schedule

The USPTO does not plan to publish this information for statistical use or any other purpose.

17. Display of Expiration Date of OMB Approval

There are no forms in this information collection. Therefore, the display of the OMB Control Number and the expiration date is not applicable.

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.