**JUSTIFICATION OF NONMATERIAL/NONSUBSTANTIVE CHANGE**

**Patent Trial and Appeal Board (PTAB) Action**

**OMB Control Number 0651-0063**

Background

The United States Patent and Trademark Office (USPTO) is submitting this request to update the current inventory of information collection 0651-0033 Patent Trial and Appeal Board (PTAB) Action. The fees in 0651-0063 had been moved into collection 0651-0072 America Invents Act Section 10 Patent Fee Adjustments (approved by OMB in January, 2013). This request is to return these fees to 0651-0063 from 0651-0072 to provide appropriate accounting of the fees with the discontinuation of 0651-0072.

This request is only to return the affected fees to the annual (non-hour) cost burden. The table below details the fees that have been moved to 0651-0063 and are to be removed from 0651-0072, pending its discontinuation.

**Fees for Respondents – Annual (Non-hour) Cost Burden**

|  |  |  |
| --- | --- | --- |
| **Item** | **Responses** | **Cost** |
| 0063 Filing a Brief in Support of an Appeal | 22,731 | $0.00 |
| 0063 Filing a brief in support of an appeal in an inter partes reexamination proceeding | 774 | $1,380,500.00 |
| 0063 Forwarding an Appeal in an Application or Ex Parte Reexamination Proceeding to the Board | 14,574 | $25,278,000.00 |
| 00XX For each additional invention to be examined (see 37 CFR 1.19 (b)) | 5 | $4,200.00 |
| 00XX Notice of appeal | 40,230 | $28,512,400.00 |
| 00XX request for oral hearing | 1,521 | $1,746,875.00 |
| **Total** | **79,735** | **$56,921,975.00** |

Summary of Changes

The addition of $56,921,975 in fees to collection 0651-0063 is to account for these fees following the discontinuation of collection 0651-0072.

Changes in Burden

|  |  |  |  |
| --- | --- | --- | --- |
| **Burden Type** | **Currently Approved** | **Proposed Change** | **New Estimate** |
| Responses | 0 | 79,735 | 79,735 |
| Fees | $0.00 | $56,921,975.00 | $56,921,975.00 |

Adding these fees to 0651-0063 (that are currently accounted for in the discontinued 0651-0072) will increase the annual (non-hour) cost estimates originally reported for in the renewal.

Consequently, this collection takes a net burden increase of $56,921,975 in annual (non-hour) costs as a program change.

The 0651-0063 revised total burden is as follows:

* 79,735 responses
* $56,921,975 in annual (non-hour) fees