

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Patent Petitions Related to Application and Reexamination Processing Fees**  
**OMB CONTROL NO. 0651-0059**  
**(September 2017)**

**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 also is 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.

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 must be accompanied by the fee set forth in 37 CFR 1.17(f), (g), or (h). This collection also covers the transmittals for the petitions fees.

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**

	Requirement	Statute	Rule
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(b)(3) or 1.57(a)(3) (pre-PLT)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)(2)</li> <li>• Petition for Decision on a Question Not Specifically Provided For Under 1.182</li> <li>• Petition to Suspend the Rules under 1.183</li> </ul>	35 U.S.C. §§ 131 and 132	37 CFR 1.17(f), 1.53(e)(2), 1.57(a)(3) (pre-PLT), 1.57(b)(3), 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 Under 1.12(c)</li> <li>• Petition for Access to an Application Under 1.14(i)</li> <li>• Petition for Expungement of Information Under 1.59(b)</li> <li>• Petition to Suspend Action in an Application Under 1.103(a)</li> </ul>	35 U.S.C. §§ 131 and 132	37 CFR 1.12(c), 1.14(i), 1.17(g), 1.59(b), and 1.103(a)
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 Under 1.84(a)(2)</li> <li>• Petition for Entry of a Model or Exhibit Under 1.91(a)</li> <li>• Petition to Withdraw an Application from Issue Under 1.313</li> <li>• Petition to Defer Issuance of a Patent Under 1.314</li> </ul>	35 U.S.C. §§ 131 and 132	37 CFR 1.17(h), 1.84(a)(2), 1.91(a), 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(g)
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), 1.211(a)(1), and 1.211(a)(1) (pre-AIA)
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(b)
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 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 USPTO information quality guidelines.

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>
<b>1</b>	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(b)(3) or 1.57(a)(3) (pre-PLT)</li> <li>• Petition to Accord a Filing Date Under 1.53(e)(2)</li> <li>• Petition for Decision on a Question Not Specifically Provided For Under 1.182</li> <li>• Petition to Suspend the Rules Under 1.183</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>
<b>1</b>	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>
<b>2</b>	Petitions (requiring the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> <li>• Petition to Access an Assignment Record Under 1.12(c)</li> <li>• Petition for Access to an Application Under 1.14(i)</li> <li>• Petition for Expungement of Information Under 1.59(b)</li> <li>• Petition to Suspend Action in an Application Under 1.103(a)</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>
<b>2</b>	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>

	<b>Form and Function</b>	<b>Form #</b>	<b>Needs and Uses</b>
<b>3</b>	Petitions (requiring the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> <li>• Petition for Accepting Color Drawings or Photographs Under 1.84(a)(2)</li> <li>• Petition for Entry of a Model or Exhibit Under 1.91(a)</li> <li>• Petition to Withdraw an Application from Issue 1.313</li> <li>• Petition to Defer Issuance of a Patent Under 1.314</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>
<b>3</b>	EFS-Web Petitions (requiring the fee) Under 37 CFR 1.17(h) (Ref B) <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>
<b>4</b>	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	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>
<b>4</b>	EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	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>
<b>5</b>	Petitions to Make Special Under Accelerated Examination Program (Ref C)	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>

	Form and Function	Form #	Needs and Uses
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 July 25, 2017 (82 Fed. Reg. 29800). The public comment period ended on September 25, 2017. No public comments were received.

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the American Intellectual Property Law Association (AIPLA), as well as patent bar associations, 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 40,560 responses to this information collection per year, with approximately 98% (39,749) submitted electronically through EFS-Web, including 100% of the petitions to make special under accelerated examination, which must be submitted electronically through EFS-Web. The USPTO estimates that 26% (10,546) of petitions and petition fee transmittals will be submitted by small entities and 3% (1,216) by micro 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 \$438, while the hourly rate for paraprofessionals/paralegals in private firms is \$145. The professional rate used in this submission is the median rate for attorneys in private firms published in the 2017 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 2016 National Utilization and Compensation Survey Report published by the National Association of Legal Assistants (NALA). 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	50	200.00	\$438.00	\$87,600.00
1	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(f)	4.00	2,750	11,000.00	\$438.00	\$4,818,000.00
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>	2.00	100	200.00	\$438.00	\$87,600.00
2	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(g)	2.00	5,000	10,000.00	\$438.00	\$4,380,000.00
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</li> <li>• Petition to Defer Issuance of a Patent</li> </ul>	1.00	250	250.00	\$438.00	\$109,500.00
3	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(h)	1.00	11,500	11,500.00	\$438.00	\$5,037,000.00
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1.00	5	5.00	\$145.00	\$725.00
4	EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1.00	50	50.00	\$145.00	\$7,250.00

	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
5	Petitions to Make Special Under Accelerated Examination Program (EFS-Web only)	12.00	600	7,200.00	\$438.00	\$3,153,600.00
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.20	10	2.00	\$145.00	\$290.00
6	EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.20	490	98.00	\$438.00	\$42,924.00
7	Petition for Extension of Time Under 37 CFR 1.136(b)	0.50	5	2.50	\$438.00	\$1,095.00
7	EFS-Web Petition to Extension of Time Under 37 CFR 1.136(b)	0.50	100	50.00	\$438.00	\$21,900.00
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	0.08	400	33.33	\$438.00	\$14,600.00
8	EFS-Web Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	0.08	19,250	1,604.17	\$438.00	\$702,625.00
	<b>Total</b>	- - -	<b>40,560</b>	<b>42,195.00</b>	- - -	<b>\$18,464,709.00</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, except for the petitions to make special under accelerated examination, which must be submitted electronically through EFS-Web. 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 around 4 ounces. Therefore, the USPTO is conservatively estimating that these submissions will be mailed in large mailing envelopes by first-class postage at a rate of \$1.64. 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 820 responses will be mailed to the USPTO per year, for a total postage cost of \$1,344.80. 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**

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	Item	Responses (a)	Postage Costs (b)	Total Cost (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>	50	\$1.64	\$82.00
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>	100	\$1.64	\$164.00
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>	250	\$1.64	\$410.00
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	5	\$1.64	\$8.20
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	10	\$1.64	\$16.40
7	Petition for Extension of Time Under 37 CFR 1.136(b)	5	\$1.64	\$8.20
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	400	\$1.64	\$656.00
	<b>Total</b>	<b>820</b>	<b>---</b>	<b>\$1,344.80</b>

## Filing Fees

There are fees associated with the submission of petitions, for a total of \$3,146,250.00, outlined in table 5 below.

**Table 5: Filing Fees – Non-Hour Cost Burden for Patent Petitions Related to Application and Reexamination Processing Fees**

IC No	Item	Responses (a)	Postage Costs (b)	Total Cost (a) x (b)
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (large entity)	1,400	\$400	\$560,000.00
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (small entity)	1,150	\$200	\$230,000.00
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (micro entity)	250	\$100	\$25,000.00
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (large entity)	4,500	\$200	\$900,000.00
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (small entity)	550	\$100	\$55,000.00
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (micro entity)	50	\$50	\$2,500.00
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (large entity)	8,000	\$140	\$1,120,000.00

	entity)			
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (small entity)	3,500	\$70	\$245,000.00
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (micro entity)	250	\$35	\$8,750.00
	<b>Total</b>	<b>19,650</b>	<b>---</b>	<b>\$3,146,250.00</b>

### Total

The total (non-hour) respondent cost burden for this collection is estimated to be \$3,147,594.80 per year, which includes \$3,146,250.00 in fees and \$1,344.80 in postage.

### **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 \$17.38 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 \$22.59 (\$17.38 + \$5.21).

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**

IC No.	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	50	15.00	\$21.43	\$338.85
1	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(f)	0.30	2,750	825.00	\$21.43	\$18,636.75

IC No.	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
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	100	20.00	\$22.59	\$451.80
2	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(g)	0.20	5,000	1,000.00	\$22.59	\$22,590.00
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>	0.10	250	25.00	\$22.59	\$564.75
3	EFS-Web Petitions (corresponding to the fee) Under 37 CFR 1.17(h)	0.10	11,500	1,150.00	\$22.59	\$25,978.50
4	Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	0.10	5	0.50	\$22.59	\$11.30
4	EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	0.10	50	5.00	\$22.59	\$112.95
5	Petitions to Make Special Under Accelerated Examination Program (PTO/SB/28) (EFS-Web only)	0.50	600	300.00	\$22.59	\$6,777.00
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.10	10	1.00	\$22.59	\$22.59
6	EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.10	490	49.00	\$22.59	\$1,106.91
7	Petition for Extension of Time Under 37 CFR 1.136(b)	0.20	5	1.00	\$22.59	\$22.59
7	EFS-Web Petition for Extension of Time Under 37 CFR 1.136(b)	0.20	100	20.00	\$22.59	\$451.80

IC No.	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
8	Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal (PTO/SB/17P)	0.08	400	33.33	\$22.59	\$753.00
8	EFS-Web Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal	0.08	19,250	1604.17	\$22.59	\$36,238.13
	<b>Totals</b>	- - -	<b>40,560</b>	<b>5,049.00</b>		<b>\$114,056.91</b>

## 15. Reason for Change in Burden

### A. Changes in collection since OMB approval in 2014

OMB Previously approved the renewal of this information collection in October 2014. The current collection contains:

- 33,119 responses
- 35,596 burden hours
- \$13,832,658.00 in respondent hourly cost burden
- \$9,945.00 in annual (non-hour) costs

#### Changes due to rulemaking activity

In April 2015 a change worksheet updated form PTO/SB/17p to reflect changes made to the text of 37 CFR 1.17(f) and (g).

#### Changes due to agency adjustments

In February 2016 a change worksheet moved fees from collection 0651-0072 (America Invents Act Section 10 Patent Fee Adjustments) to this collection. This resulted in \$4,025,560 in fees being added into the collection. 0651-0072 has been discontinued.

#### Changes since the 60-day notice

Since the publication of the 60-day notice in the Federal Register on July 25, 2017, the attorney rate has been updated to \$438, based upon the new AIPLA 2017 Report of the Economic Survey. Additionally, the paralegal rate has increase to \$145, based on the 2016 National Utilization and Compensation Survey Report. This has increased the respondent hourly cost burden from \$17,284,617.00 to \$18,464,709.00.

### B. Changes proposed in this request to OMB

The proposed collection, as outlined in the tables above seeks to modify the existing collection. The proposed collection contains an estimated:

- 40,560 responses (The OMB submission for this collection includes 19,650 responses from the fee table (Table 5) that are not included in this figure.)
- 42,195 burden hours
- \$18,464,709.00 in respondent hourly cost burden
- \$3,147,594 in annual (non-hour) costs

#### Change in respondent cost burden

The total respondent cost burden for this collection has increased by \$4,632,051 (from \$13,832,658.00 to \$18,464,709.00) from the previous renewal of this collection in October 2014:

- Increases in estimated hourly rates. The 2014 renewal used an estimated rate of \$389 per hour for attorneys and \$125 for paraprofessionals. For the current renewal, the USPTO is using updated hourly rates of \$438 for attorneys and \$145 for paraprofessionals.
- Increases in estimated burden hours. The total estimated burden hours have increased from 35,596 in the 2014 renewal to 42,195 for the current renewal due to overall increases in estimated annual responses.

#### Changes in responses and burden hours

For this renewal, the USPTO estimates that the annual responses will increase by 7,441 (from 33,119 to 40,560) and the total burden hours will increase by 6,599 (from 35,596 to 42,195) from the currently approved burden for this collection. These changes are due to agency estimates.

#### Changes in annual (non-hour) costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$3,137,649.80 (from \$9,945.00 to \$3,147,594.80), due to the return of the filing fees previously located in 0651-0072.

### **16. Project Schedule**

Plant and utility patents granted are published weekly in the *Official Gazette of the United States Patent and Trademark Office*. 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 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