

RE: "Notice, Agency Information Collection Activities; Proposals, Submissions, and Approvals: Patent Cooperation Treaty," 84 FR 16658 94/22/2019), comments on a proposed extension of an existing collection: 0651-0021 (Patent Cooperation Treaty).

To: Marcie Lovett, Chief, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Dear Ms. Lovett:

I provide my comments in response to the notice identified above. I am a registered patent attorney, and I have significant experience filing PCT applications directly in the USPTO using EFS. I also have significant experience filing PCT applications directly with the IB (WIPO) using ePCT. WIPO oversees the PCT system worldwide, and ePCT is WIPO's online PCT filing system.

In summary, I believe that the estimated time for users to complete actions specified in the aforementioned Notice are lower than the actual times to complete actions. Consequently, your estimate of the costs to users associated with completing those actions is incorrectly lower than actual costs. You state on 84 FR 16659 that your estimates are for the time to **"gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO."**

I list below, the IC No, Item, your estimate (in minutes), and then my estimate (in minutes). My estimates are based upon my personal experience in personally filing many PCT applications online using the USPTO's EFS filing system. And I am quite experienced with using EFS since I have filed, probably more than 1000 documents using that system.

**IC No.; Item; Your estimate; my estimate**

- 1; Request and Fee Calculation Sheet (Annex and Notes); 1; 60;
- 2; Description/claims/drawings/ abstracts; 3; 60.
- 3; Application Data Sheet (35 U.S.C. 371 applications); 23; 30;
- 4; Transmittal Letter to the United States Receiving Office (RO/ US); 15; 20;
- 5; Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371; 15; 20
6. PCT/Model of Power of Attorney; 15 (No comment)
- 7;.PCT/Model of General Power of Attorney; 15; (no comment)
- 8; Indications Relating to a De-positated Microorganism; 15; (no comment)
- 9; Response to invitation to correct defects; 2; 60
- 10; Request for rectification of obvious errors; 30; 60
- 11; Demand and Fee Calculation Sheet (Annex and Notes); 1; 15
- 12; Amendments (Article 34); 1; 30
- 13; Fee Authorization; 15
- 14; Requests to transmit copies of international application; 15 (no comment)
- 15; Withdrawal of international application; 15 (No comment)
- 16; English Translations after thirty months from priority date. 2; 30
- 17; Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(a).; 4; 60
- 18; Petitions to the Commissioner for international applications; 4; 60.
- 19; Petitions to the Commissioner in national stage examination.; 4; 60
- 20; Acceptance of an unintentionally delayed claim for priority (37 CFR 1.78(a)(3)); 2; 60
- 21; Request for the restoration of the right of priority; 2; 60.

I make the following general comments regarding why your estimates may be inaccurately too low in all instances.

First, I suspect your estimates do not account for the time it takes any user to log in to EFS as part of submitting *any* paper; including averaging in the times when EFS fails to respond, or when MyUSPTO fails to respond. I suggest that you can quantify this time issue in some respects by speaking with your own EBC customer representatives and discuss with them how long they spend with each user having a logon problem, and how often they receive calls from users noting EFS web or MyUSPTO is in fact down, despite PTO indications to the contrary, and how often they or others at the USPTO notice that someone on an Oppedahl list service notes that EFS or PAIR do not seem to be working.

Second, I suspect your estimates do not account for the peculiar-to-USPTO-EFS document validity requirements required for EFS to accept any uploaded document. Specifically, the EFS naming convention, and the validation rule in EFS that requires all fonts be embedded. These requirements often result in aborted filings for documents that fail these requirements and have to be reprocessed by the user before the user again starts an aborted filing process.

Third, your estimate for all sorts of petitions seem to suggest that they are merely mechanical actions. However, your specification for the "Estimated Time" states that this is the time to for **"gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO."** In order to file a petition, a registered practitioner must first conduct an investigation to ascertain the facts supporting the petition, particularly any petition of the type requiring the failure to act was "unintentional." Those investigations at a minimum require either a review of existing documents, and normally require communications with other entities. Failure to conduct that investigation would be a violation of the PTO rules on attorney conduct and therefore is mandatory information gathering. Those communications or file review, alone, normally take more than the two to four minutes that you estimate.

Fourth, you specify at least 7 items that you estimate take one or two minutes. I point out that merely logging on to EFS web, identifying and entering a suitable document description, locating and uploading a file to EFS web, submitting the file, and saving the electronically generated filing receipt or otherwise confirming the filing was successful, takes more than 2 minutes under the best of circumstances.

Accordingly, I submit that all of your estimates for the time to **"gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO,"** that I reviewed and provided time my estimates on, are significantly too low.

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