**JUSTIFICATION FOR NONMATERIAL/NONSUBSTATNIVE CHANGE**

**Patent Term Extension**

**OMB Control Number 0651-0020**

Background

The United States Patent and Trademark Office (USPTO) administers the Leahy-Smith America Invents Act (AIA), which sets or adjusts patent fees established, authorized, or charged under Title 35, United States Code (U.S.C.). Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials related to the patent and trademark processes. Section 10 authorities also includes flexibility to set individual fees in a way that furthers key policies factors, while taking into account the cost of the respective services.

This request is to update the fees attached to collection 0651-0020 (Patent Term Extension) that are affected by the rulemaking NPRM RIN 0651–AD31. There are five forms being adjusted as a result of the 2020 Patent Biennial Fee Review.

**Table 1: Increases in Fee Amounts**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC #** | **Item** | **Current Fee Amount** | **Proposed Fee Amount** | **Changes in Fee Amount** |
| 1 | Filing an application for patent term adjustment | $200 | $210 | $10 |
| 2 | Request for reinstatement of term reduced | $400 | $420 | $20 |
| 3 | Extension of term of patent | $1,120 | $1,180 | $60 |
| 4 | Initial application for interim extension (see 37 CFR 1.790) | $420 | $440 | $20 |
| 5 | Subsequent application for interim extension (see 37 CFR 1.790) | $220 | $230 | $10 |

**Table 2: Proposed Burden Change**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC #** | **Item** | **Responses** | **Proposed Fee** | **Proposed Cost** |
| 1 | Filing an application for patent term adjustment | 1,200 | $210 | $252,000.00 |
| 2 | Request for reinstatement of term reduced | 10 | $420 | $4,200.00 |
| 3 | Extension of term of patent | 95 | $1,180 | $112,100.00 |
| 4 | Initial application for interim extension (see 37 CFR 1.790) | 2 | $440 | $880.00 |
| 5 | Subsequent application for interim extension (see 37 CFR 1.790) | 1 | $230 | $230.00 |
|  | **Totals** | **1,308** |  | **$369,410.00** |

**Table 3: Changes in Burden**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC #** | **Item** | **Current Fee Amount** | **Proposed Fee Amount** | **Changes in Fee Amount** |
| 1 | Filing an application for patent term adjustment | $240,000.00 | $252,000.00 | $12,000.00 |
| 2 | Request for reinstatement of term reduced | $4,000.00 | $4,200.00 | $200.00 |
| 3 | Extension of term of patent | $106,400.00 | $112,100.00 | $5,700.00 |
| 4 | Initial application for interim extension (see 37 CFR 1.790) | $840 | $880.00 | $40 |
| 5 | Subsequent application for interim extension (see 37 CFR 1.790) | $220.00 | $230.00 | $10.00 |
|  | **Totals** | **$351,460** | **$369,410.00** | **$17,950.00** |

Summary of Changes

The Patent Fee Review results in five fees being updated and an increase of $17,950 in non-hourly costs to collection 0651-0020.

Changes in Burden

|  |  |  |  |
| --- | --- | --- | --- |
| **Burden Type** | **Current Amount** | **Proposed Change** | **New Estimate** |
| Non-Hourly Costs | $351,505.08 | $17,950.00 | $369,455.08 |

0651-0020’s revised total burden is as follows:

* $369,435.08 in annual (non-hourly) costs