

SUPPORTING STATEMENT
United States Patent and Trademark Office
Patent Petitions Related to Application and Reexamination Processing Fees
OMB CONTROL NO. 0651-0059
2021

A. JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the information collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

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 (PTAB); appeals to PTAB are covered in other OMB approved information collections (0651-0063 and 0651-0069). 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 information 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 information 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

Item No.	Item	Statute	Regulation
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1	<p>Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include:</p> <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(b)(3) or 1.57(a)(3) (pre-PLT) • Petition to Accord a Filing Date Under 1.53(e)(2) • Petition for Decision on a Question Not Specifically Provided For Under 1.182 • Petition to Suspend the Rules under 1.183 	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	<p>Petitions (corresponding to the fee) under 37 CFR 1.17(g):</p> <ul style="list-style-type: none"> • Petition to Access an Assignment Record Under 1.12(c) • Petition for Access to an Application Under 1.14(i) • Petition for Expungement of Information Under 1.59(b) • Petition to Suspend Action in an Application Under 1.103(a) 	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	<p>Petitions (corresponding to the fee) under 37 CFR 1.17(h):</p> <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs Under 1.84(a)(2) • Petition for Entry of a Model or Exhibit Under 1.91(a) • Petition to Withdraw an Application from Issue Under 1.313 • Petition to Defer Issuance of a Patent Under 1.314 	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 to Make Special Under Accelerated Examination Program	35 U.S.C. § 2(b)(2)	37 CFR 1.102
5	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)
6	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)

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new information collection, indicate the actual use the agency has made of the information received from the current information collection.

The information collected, maintained, and used in this information 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 information collection contains a total of five forms, insofar as EFS-Web versions are counted as separate forms. Table 2 shows 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

Item No.	Form and Function	Form No.	Needs and Uses
1	Petitions (requiring the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(b)(3) or 1.57(a)(3) (pre-PLT) • Petition to Accord a Filing Date Under 1.53(e)(2) • Petition for Decision on a Question Not Specifically Provided For Under 1.182 • Petition to Suspend the Rules Under 1.183 	PTO/AIA/17P (Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal)	<ul style="list-style-type: none"> • Used by the applicant to request agreement to a filing date. • Used by the public to request a decision on a question not specifically provided for. • Used by the applicant to ask for suspension of the rules. • Used by the USPTO to agree to a filing date. • Used by the USPTO to grant a decision on a question not specifically provided for. • Used by the USPTO to agree to a suspension of the rules.
2	Petitions (requiring the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record Under 1.12(c) • Petition for Access to an Application Under 1.14(i) • Petition for Expungement of Information Under 1.59(b) • Petition to Suspend Action in an Application Under 1.103(a) 	PTO/AIA/17P (Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal)	<ul style="list-style-type: none"> • Used by the applicant to request access to an assignment record. • Used by the applicant to request access to an application. • Used by the applicant to request expungement and return of information. • Used by the applicant to request to suspend action in an application. • Used by the USPTO to grant access to an assignment record. • Used by the USPTO to grant access to an application. • Used by the USPTO to expunge and return information. • Used by the USPTO to suspend action on an application.
3	Petitions (requiring the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs Under 1.84(a)(2) • Petition for Entry of a Model or Exhibit Under 1.91(a) • Petition to Withdraw an Application from Issue 1.313 • Petition to Defer Issuance of a Patent Under 1.314 	PTO/AIA/17P (Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal) PTO/SB/140 (Petition to Withdraw an Application From Issue)	<ul style="list-style-type: none"> • Used by an applicant to submit color drawings or photographs. • Used by an applicant to submit a model or exhibit. • Used by an applicant to request withdrawal of an application from issue before paying the issue fee. • Used by an applicant to request withdrawal of an application from issue after paying the issue fee. • Used by an applicant to request permission to defer issuance of a patent. • Used by the USPTO to accept color drawings or photographs from an applicant. • Used by the USPTO to accept a model or exhibit. • 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. • 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. • Used by the USPTO to defer issuance of a patent.
4	Petitions to Make Special Under Accelerated Examination Program (Ref C)	PTO/SB/28 (EFS-Web only)	<ul style="list-style-type: none"> • Used by the applicant to assist in meeting the requirements necessary to request accelerated examination. • Used by the applicant to increase the likelihood of a filing of a grantable request for accelerated examination. • Used by the USPTO to assist in the expeditious processing of the petitions to make special.

Item No.	Form and Function	Form No.	Needs and Uses
5	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c) (Ref D)	PTO/AIA/24a	<ul style="list-style-type: none"> • Used by the applicant to expressly request abandonment of an application to avoid publication of the application. • Used by the USPTO to expressly abandon the application prior to its publication.
6	Petition for Extension of Time Under 37 CFR 1.136(b) (Ref E)	PTO/SB/23	<ul style="list-style-type: none"> • Used by the applicant to request an extension of time when extensions are not otherwise available to the applicant under 1.136(a). • Used by the USPTO to determine whether the reason for requesting an extension under 1.136(b) is sufficient for granting it. • 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.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The USPTO collects the submissions in this information collection via Electronic Filing System (EFS-Web), paper, by mail, facsimile, or hand delivery... The Legal Framework for EFS-Web, which is available at 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 information collection.

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.

EFS-Web is the USPTO's web-based patent application and document submission system that 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. 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.

To protect the confidentiality, authenticity, and integrity of electronic submissions, the USPTO employs Public Key Infrastructure (PKI) technology for secure electronic communications with its customers. 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.

To provide emergency options to applicants the USPTO introduced EFS-Web Contingency Option, which 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 provisional patent applications, nonprovisional utility and design patent applications, and national stage applications under 35 U.S.C. § 371.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is collected during the pendency of a patent application. It does not duplicate information or collection of data found elsewhere.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

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. Describe the consequence to Federal program or policy activities if the information collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

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. Explain any special circumstances that would cause an information collection to be conducted in a manner:**
 - requiring respondents to report information to the agency more often than quarterly;**
 - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
 - requiring respondents to submit more than an original and two copies of any document;**
 - requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances associated with this collection of information.

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The 60-Day *Federal Register* Notice was published on October 1, 2020 (85 Fed. Reg. 61937). The public comment period ended on November 30, 2020. No public comments were received.

In addition, the USPTO has long-standing relationships with groups from whom patent application information is collected, such as the Patent Public Advisory Council and the American Intellectual Property Law Association, as well as patent bar associations, independent inventors groups, and users of our public search facilities. Views expressed by these groups are considered when evaluating information collection burdens and when developing proposals for information collection requirements.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the information collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

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. For secure electronic access to PAIR, the USPTO employs digital certificates and PKI technology to permit only authorized individuals to access private patent application information and to maintain the confidentiality and integrity of the information as it is transmitted over the Internet. 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. The entire file of a reexamination proceeding is available to the public.

To further define the boundaries of the confidentiality of patent applications in light of the eighteen-month publication of patent applications introduced under the American Inventors Protection Act of 1999, the USPTO amended 37 CFR 1.14 to maintain the confidentiality of applications that have not been published as a U.S. patent application. As amended, 37 CFR 1.14 provides that the public can obtain status information about the application, such as whether the application is pending, abandoned, or patented, whether the application has been published under 35 U.S.C.122(b), and the application "numerical identifier." This information can be supplied to the public under certain conditions. The public can also receive copies of an application-as-filed and the file wrapper, as long as it meets certain criteria.

Applications filed through EFS-Web are maintained in confidence, as required by 35 U.S.C. §122(a), until the application is published or a patent is issued. The confidentiality, security, integrity, authenticity, and non-repudiation of patent applications submitted electronically through EFS-Web are maintained using PKI technology and digital certificates for registered users. Applications electronically-filed by non-registered users are protected using TLS or SSL protocols. The USPTO posts issued patent and application publications on its Web site. The information covered under this information collection will not be released to the public unless it is part of an issued patent or application publication. Patent applicants and/or their designated representatives can view the current status of their patent application through the Patent Application Information Retrieval (PAIR) system. Access to patent applications that are maintained in confidence under 35 U.S.C. §122(a) is restricted to the patent applicant and/or their designated representatives by the use of digital certificates, which maintain the

confidentiality and integrity of the information transmitted over the Internet. The public can view the status and history information for published applications and granted patents via PAIR.

The USPTO is required by Title 35 of the United States Code, including 35 U.S.C. § 131, to examine applications for patents. This information is collected on petitions and applications for patent products.

Patent Application information collection activities are covered under the Statement of Records Notice (SORN COMMERCE/PAT-TM-7 Patent Application Files, available at Federal Register /Vol. 78, No. 61 / Friday, March 29, 2013 /Notices 19243.

<https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>.

This SORN identifies the categories of individuals covered by the system containing applicants for patent, including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent. Categories of records in the system comprises the following: Oath or declaration of applicant including name, citizenship, residence, post office address and other information pertaining to the applicant's activities in connection with the invention for which a patent is sought. Statements containing various kinds of information with respect to inventors who are deceased or incapacitated, or who are unavailable or unwilling to make application for patent.

The information obtained is protected from disclosure to third parties in accordance with the Privacy Act. However, routine uses of this information may include disclosure to the following: to law enforcement and investigation in the event that the system of records indicates a violation or potential violation of law; to a Federal, state, local, or international agency, in response to its request; to an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law; to non-federal personnel under contract to the agency; to a court for adjudication and litigation; to the Department of Justice for Freedom of Information Act (FOIA) assistance; to members of congress working on behalf of an individual; to the Office of Personnel Management (OPM) for personnel research purposes; to National Archives and Records Administration for inspection of records, and to the Office of Management and Budget (OMB)for legislative coordination and clearance. Failure to provide any part of the requested information may result in an inability to process requests for access and information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

None of the required information is considered to be of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.**
- **Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

Table 3 and table 4 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 40,922 responses to this information collection per year, with approximately 99% 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% of petitions and petition fee transmittals will be submitted by small entities and 3% 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 information 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. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 72,959 hours per year.

- **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 information collection, with the exception of two petitions that are prepared by para-professionals/paralegals. The professional hourly rate for attorneys in private firms is \$400. The professional rate used in this submission is the median rate for attorneys in private firms published in the 2019 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. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection is \$29,183,600 per year.

Table 3: Total Hourly Burden For Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate ¹ (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = c	(d)	(c) x (d) = e
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(a) • Petition to Accord a Filing Date Under 1.53(e) • Petition for Decision on a Question Not Specifically Provided For • Petition to Suspend the Rules • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	4,146	4,146	4	16,584	\$400	\$6,633,600

¹ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = c	(d)	(c) x (d) = e
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record • Petition for Access to an Application • Petition for Expungement and Return of Information • Petition to Suspend Action in an Application • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	10,313	10,313	2	20,626	\$400	\$8,250,400
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs • Petition for Entry of a Model or Exhibit • Petition to Withdraw an Application from Issue • Petition to Defer Issuance of a Patent • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	23,866	23,866	1	23,866	\$400	\$9,546,400
4	Petitions to Make Special Under Accelerated Examination Program (EFS-Web only)	798	798	12	9,576	\$400	\$3,830,400
5	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	570	570	.2	114	\$400	\$45,600

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = c	(d)	(c) x (d) = e
6	Petition for Extension of Time Under 37 CFR 1.136(b)	1	1	.5	1	\$400	\$400
	Total	39,694	39,694	- - -	70,767	- - -	\$28,306,800

Table 4: Total Hourly Burden For Individuals And Households Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate ² (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = c	(d)	(c) x (d) = e
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(a) • Petition to Accord a Filing Date Under 1.53(e) • Petition for Decision on a Question Not Specifically Provided For • Petition to Suspend the Rules • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	128	128	4	512	\$400	\$204,800

² 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hour/year) (a) x (b) = c	Rate (\$/hour) (d)	Estimated Annual Burden (c) x (d) = e
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record • Petition for Access to an Application • Petition for Expungement and Return of Information • Petition to Suspend Action in an Application • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	319	319	2	638	\$400	\$255,200
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs • Petition for Entry of a Model or Exhibit • Petition to Withdraw an Application from Issue • Petition to Defer Issuance of a Patent • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	738	738	1	738	\$400	\$295,200
4	Petitions to Make Special Under Accelerated Examination Program (EFS-Web only)	25	25	12	300	\$400	\$120,000
5	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	18	18	.2	4	\$400	\$1,600
	Total	1,228	1,228	- - -	2,192	- - -	\$876,800

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

There are no operation or maintenance costs associated with this information collection. However, there are postage costs associated with this information collection.

Filing Fees

There are fees associated with the submission of petitions, for a total of \$1,594, outlined in table 5 below.

Table 5: Annual Non-Hour Filing Cost

Item No.	Item	Estimated Annual Responses	Estimated Cost	Estimated Non-Hour Cost Burden
		(a)	(b)	(a) x (b) = (c)
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (large entity)	1,089	\$420	\$457,380
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (small entity)	840	\$210	\$176,400
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (micro entity)	208	\$105	\$21,840
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (large entity)	4,739	\$220	\$1,042,580
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (small entity)	515	\$110	\$56,650
2	Petitions requiring the petition fee set forth in 37	62	55	\$3,410

	CFR 1.17 (g) (Group II) (micro entity)			
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (large entity)	8,310	\$140	\$1,163,400
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (small entity)	3,777	\$70	\$264,390
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (micro entity)	214	\$35	\$7,490
	Total		---	\$3,193,540

Postage Costs

The public may submit the petitions and petition fee transmittals in this information 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.

The USPTO has estimated that the vast majority of these submissions will weigh around 4 ounces. The average cost for a four ounce 2-Day Priority Mail legal flat rate envelope shipped first-class via USPS is \$8.05. The USPTO estimates that 198 responses will be mailed to the USPTO per year, for a total postage cost of \$1,594. The estimated postage costs are outlined in Table 6 below:

Table 6: Annual Non-Hour Postage Cost

Item No.	Item	Estimated Annual Responses (a)	Estimated Cost (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(a) • Petition to Accord a Filing Date Under 1.53(e) • Petition for Decision on a Question Not Specifically Provided For • Petition to Suspend the Rules 	22	\$8.05	\$177.10
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record • Petition for Access to an Application • Petition for Expungement and Return of Information • Petition to Suspend Action in an Application 	53	\$8.05	\$427
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs • Petition for Entry of a Model or Exhibit • Petition to Withdraw an Application from Issue (PTO/SB/140) • Petition to Defer Issuance of a Patent 	123	\$8.05	\$990.15
	Total	198	---	\$1,594

Total

The total (non-hour) respondent cost burden for this information collection is estimated to be \$3,195,134 per year, which includes \$3,193,540 in fees and \$1,594 in postage.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

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 information collection. The hourly rate for a GS-5, step 1, is currently \$19.01 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 \$24.71 (\$19.01 + \$5.70).

Table 7 calculates the processing hours and costs of this information collection to the Federal Government:

Table 7: Total Hourly Burden For The Federal Government

Item No.	Item	Estimated Time For Response (hours)	Estimated Annual Responses (year)	Estimated Annual Burden (hour/year)	Rate (\$/hour)	Estimated Annual Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(a) • Petition to Accord a Filing Date Under 1.53(e) • Petition for a Decision on a Question Not Specifically Provided For • Petition to Suspend the Rules 	0.30	4,274	1,282	\$24.71	\$31,678
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record • Petition for Access to an Application • Petition for Expungement and Return of Information • Petition to Suspend Action in an Application 	0.20	10,632	2,126	\$24.71	\$52,533
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs • Petition for Entry of a Model or Exhibit • Petition to Withdraw an Application from Issue (PTO/SB/140) • Petition to Defer Issuance of a Patent 	0.10	24,604	2,460	\$24.71	\$60,787

Item No.	Item	Estimated Time For Response (hours) (a)	Estimated Annual Responses (year) (b)	Estimated Annual Burden (hour/year) (a) x (b) =(c)	Rate (\$/hour) (d)	Estimated Annual Burden (c) x (d) = (e)
4	Petitions to Make Special Under Accelerated Examination Program (PTO/SB/28) (EFS-Web only)	0.50	823	412	\$24.71	\$10,181
5	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	0.10	588	59	\$24.71	\$1,458
6	Petition for Extension of Time Under 37 CFR 1.136(b)	0.20	1	1	\$24.71	\$24.71
	Totals	- - -	40,922	6,340		\$156,671

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

A. Proposed Changes in information collection

ICR Summary of Burden:

	Requested	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Previously Approved
Annual Number of Responses	40,922	-26,802	7,514	60,210
Annual Time Burden (Hr)	72,959	25,811	4,953	42,195
Annual Cost Burden (\$)	3,195,134	-1,516,742	1,427,782	3,284,094

This renewal removes two items from the information collection including:

- Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19
- Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal

The second item (Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal) has been incorporated/merged into other items within this information collection. Much of the resulting decrease in responses and increase in burden hours is due to this change. These items were merged in order to better reflect the actions being taken regarding petition and the connections between certain petitions and payments.

Changes in responses and burden hours

For this renewal, the USPTO estimates that the annual responses will decrease by 19,288 (from 60,210 to 40,922) and the total burden hours will increase by 30,763 (from 42,195 to 72,959) from the currently approved burden for this information collection. These changes are due to program changes and agency estimates resulting in lines of the information collection being merged.

Changes in annual (non-hour) costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will decrease by \$88,960 (from \$3,284,094 to \$3,195,134). This decrease is the result of natural fluctuation in the items being submitted as well as certain program changes to the fee amounts due to recent fee adjustments.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

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 supporting statement is planned.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The forms in this information collection will display the OMB Control Number and the OMB expiration date.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

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.

