

SUPPORTING STATEMENT
United States Patent and Trademark Office
Post Allowance and Reissue
OMB CONTROL NUMBER 0651-0033
2023

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.**

This collection of information covers the submission of issue fee payments, requests for certificates of correction, and reissue applications to the United States Patent and Trademark Office (USPTO). The USPTO is required by 35 U.S.C. 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. When an application for a patent is allowed by the USPTO, the USPTO issues a notice of allowance and the applicant must pay the specified issue fee within three months to avoid abandonment of the application. If the appropriate fees are paid within the proper time period, the USPTO can then issue the patent. The rules outlining the procedures for payment of the issue fee and issuance of a patent are found at 37 CFR 1.18,1.311, and 1.314.

This collection of information also covers several transactions that may be taken after issuance of a patent.

Pursuant to 35 U.S.C. 254 and 255, a certificate of correction may be requested to correct an error or errors in an issued patent. If the USPTO determines that the request should be approved, the USPTO will issue a certificate of correction.

For an original patent that is believed to be wholly or partly inoperative or invalid, the original patentee, or the current patent owner if there has been a subsequent assignment, may apply for reissue of the patent. The reissue application process requires, among other items, provision of an oath or declaration specifically identifying at least one error being relied upon as the basis for reissue and stating the reason for the belief that the original patent is wholly or partly inoperative or invalid (e.g., a defective specification or drawing, or claiming more or less than the patentee had the right to claim in the patent). The rules outlining reissue application procedures are found at 37 CFR 1.171–1.173 and 1.175-1.78.

The information in this information collection can be submitted using the USPTO patent electronic filing system for patent applications and related documents.

Table 1 provides the specific statutes and regulations authorizing the USPTO to collect the information discussed above:

Table 1: Information Requirements

Item No.	Requirement	Statute	Regulation
1	Certificate of Correction	35 U.S.C. 254 and 255	37 CFR 1.322-1.324
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))	35 U.S.C. 255	37 CFR 1.323, 1.20(a), 1.17(i), and 3.81(b)
3	Reissue Documentation	35 U.S.C. 115, 251, and 252	37 CFR 1.47 (pre-AIA), 1.63-1.64, and 1.171-1.179
4	Reissue Patent Application Transmittal	35 U.S.C. 115, 251, and 252	37 CFR 1.47 (pre-AIA), 1.63-1.64, 1.171-1.173, and 1.175-1.178
5	Reissue Application Declaration by the Inventor or the Assignee or Substitute Statement in Lieu of an Oath or Declaration for Reissue Patent Application (35 U.S.C. § 115(d) and 37 CFR 1.64)	35 U.S.C. 115, 251, and 252	37 CFR 1.47 (pre-AIA), 1.63-1.64, 1.171-1.173, and 1.175-1.178
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175)	35 U.S.C. 115, 251, and 252	37 CFR 1.47 (pre-AIA), 1.63-1.64, 1.67, 1.171-1.173, and 1.175-1.178
7	Reissue Application: Consent of Assignee; Statement of Non-Assignment	35 U.S.C. 115, 251, and 252	37 CFR 1.47 (pre-AIA), 1.63-1.64, 1.171-1.173, and 1.175-1.178
8	Reissue Application Fee Transmittal Form	35 U.S.C. 115, 251, and 252	37 CFR 1.47 (pre-AIA), 1.63-1.64, 1.171-1.173, and 1.175-1.178
9	Issue Fee Transmittal	35 U.S.C. 41(a)(4) and 151	37 CFR 1.18 and 1.311-1.316

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 public uses this information collection to request corrections of errors in issued patents, to submit applications for reissue patents, and to submit issue fee payments.

The information in this information collection can be submitted using The USPTO patent electronic filing system, the USPTO's online filing system for patent applications and related documents.

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 OMB quality guidelines.

Table 2 outlines how this collection of information is used by the public and the USPTO:

Table 2: Needs and Uses

Item No.	Form and Function	Form No.	Needs and Uses
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1	Certificate of Correction	PTO/SB/44	<ul style="list-style-type: none"> Used by the patentee to list the number of the patent to be corrected and the corrections to be made. Facilitates matching the patent or patent file with other identifying information in order to make the appropriate corrections. Used by the USPTO to determine whether the indicated corrections should be approved.
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))	ePetition (no form associated)	<ul style="list-style-type: none"> Used by the public to request, after the date of payment of the issue fee, that an application be issued in the name of the assignee, where the assignment was submitted for recordation before issuance of the patent. Used by the public to request that a patent be corrected to state the name of the assignee, where the assignment was submitted for recordation before issuance of the patent. Used by the public to pay the appropriate fee. Used by the USPTO to determine whether the indicated requests should be granted.
3	Reissue Documentation	No Form Associated	<ul style="list-style-type: none"> Used by the patentee to submit to the USPTO the remainder of the documentation and information necessary for a reissue patent that is not collected on one of the existing forms. Used by the USPTO to finish processing a request for a reissue application.
4	Reissue Patent Application Transmittal	PTO/AIA/50	<ul style="list-style-type: none"> Provides a checklist for the patentee to ensure that the requirements for a reissue application submission are met. Allows the USPTO to identify the type of patent and patent number in order to quickly associate the patent file with the reissue documents.
5	Reissue Application Declaration by the Inventor or the Assignee or Substitute Statement in Lieu of an Oath or Declaration for Reissue Patent Application (35 U.S.C. § 115(d) and 37 CFR 1.64)	PTO/AIA/05/06 PTO/AIA/07	<ul style="list-style-type: none"> Used by the inventor, assignee, or person executing a substitute statement to indicate why the reissue applicant believes the original patent to be wholly or partly inoperative or invalid, to identify at least one error being relied upon as the basis for reissue, and to identify a claim that the application seeks to broaden if the reissue application seeks to enlarge the scope of the claims of the patent. Used by the USPTO to ensure that the requirements of 37 CFR 1.63, 1.64, and 1.175 are met in order to reissue the patent.
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (pre-AIA 37 CFR 1.175(c))	PTO/SB/51 PTO/SB/51S PTO/SB/52	<ul style="list-style-type: none"> Used by the applicant for a reissue application filed before September 2012 to unambiguously state that every error corrected subsequent to the filing of the last filed reissue oath/declaration arose "without deceptive intent." Used by the USPTO to ensure that the requirements of 37 CFR 1.63 and 1.175 are met in order to reissue the patent.
7	Reissue Application: Consent of Assignee; Statement of Non-Assignment	PTO/SB/53 PTO/AIA/53	<ul style="list-style-type: none"> Enables the assignee(s) to consent to filing a reissue application. Used by the USPTO to confirm that all assignees and inventors owning an undivided interest in the original patent consent to the filing of the reissue application.
8	Reissue Application Fee Transmittal Form	PTO/SB/56	<ul style="list-style-type: none"> Used by the applicant or the applicant's representatives to calculate the reissue application fee. Used by the USPTO to determine whether the appropriate reissue application fee has been paid.
9	Issue Fee Transmittal	PTOL-85B	<ul style="list-style-type: none"> Used by the public to submit an issue fee payment to the USPTO, on paper or electronically. Used by the USPTO to determine whether all of the appropriate information is included at the time of payment of the issue fee, such as assignments, small entity status, method of payment, and certificate of mailing (if applicable).

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological information 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 information collection. Also describe any consideration of using information technology to reduce burden.**

Customers may submit the items in this information collection electronically through the USPTO patent electronic filing system, the USPTO's online filing system for patent applications and related documents. The USPTO patent electronic filing system allows customers to file requests for certificates of correction, issue fee transmittals, reissue patent applications, and associated documents through their standard Web browser without downloading special software, changing their documentation preparation tools, or altering their workflow processes. Customers may create their requests using the tools and processes that they already use and then convert those documents into standard PDF files that are submitted through the USPTO patent electronic filing system to the USPTO, or they may use an ePetition where provided by the USPTO. Fillable PDF forms, including the Issue Fee Transmittal form (PTOL-85B), that can be submitted through the USPTO patent electronic filing system, may be downloaded from the USPTO Web site and do not require special PDF creation software.

Registered and unregistered users can file documents securely through the USPTO patent electronic filing system. The documents of registered users are protected using a Public Key Infrastructure (PKI) system and digital certificates, which provide authentication and encryption security. Even for filers who are not registered, the documents are submitted to the USPTO patent electronic filing system using Transport Layer Security (TLS) or Secure Socket Layer (SSL) protocol.

The USPTO patent electronic filing system 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. Users can access the USPTO patent electronic filing system from any computer with an Internet connection. Since the USPTO patent electronic filing system is hosted on the USPTO's secure servers and not on the individual's personal computer, USPTO staff can update the USPTO patent electronic filing system without requiring any action from the user. Customers can submit issue fee payments and other requests in real time. The PDF forms can be passed around to multiple users for collaboration.

The USPTO patent electronic filing system integrates with the Patent Application Information Retrieval (PAIR) system, the USPTO's online database that is available through the USPTO Web site. PAIR uses digital certificates to permit only authorized individuals to access information about pending patent applications and to maintain the confidentiality and integrity of the information as it is transmitted over the Internet. Information for issued patents, certificates of correction, and reissue applications is available to the general public.

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 only when an applicant submits an issue fee payment for a patent application allowed by the USPTO, when the patentee or others apply for reissue of a patent, or when the patentee or others request a certificate of correction to correct errors contained in the patent. This information is not collected elsewhere and does not result in a duplication of effort.

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

USPTO estimates that approximately 25% of this information collection will be submitted by small businesses or other small entities (of which 3% are micro entities). Pursuant to section 10(b) of the Leahy-Smith America Invents Act (AIA), the USPTO provides a 50% reduction in the fees for certain patent filings by small entity applicants, such as persons, small businesses, and nonprofit organizations who meet the definition of a small entity provided at 37 CFR 1.27(a). Also pursuant to section 10(b) of the AIA, the USPTO provides a 75% reduction in the fees set or adjusted under section 10(a) of the Act for certain patent filings by applicants who meet the definition of a micro entity provided at 35 U.S.C. § 123 and 37 CFR 1.29.

This information collection involves payment of fees by customers who may qualify as small entities or micro entities. No significant burden is placed on small or micro entities, in that small entities must only properly establish themselves as such in order to obtain these benefits, and micro entities must only provide a proper certification of micro entity status.

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 when the public submits a related request for a certificate of correction, a reissue patent application, or an issue fee payment. If the information was not collected, the USPTO would not be able to comply with the statutes and regulations governing the issuance of patents, correction of patents, and reissue applications. This information could not be collected less frequently.

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 information 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 Notice was published in the Federal Register on November 22, 2022 (87 FR 71307).¹ . Additionally, a Notice of Correction was published on November 28, 2022 (87 FR 72970) in order to correct the comment period closing date.² The comment period ended on January 23, 2023. During that time, no public comments were received.

¹ <https://www.govinfo.gov/content/pkg/FR-2022-11-22/pdf/2022-25362.pdf>.

² <https://www.govinfo.gov/content/pkg/FR-2022-11-28/pdf/C1-2022-25362.pdf>.

The USPTO has long-standing relationships with groups from whom patent application information is collected, such as the American Intellectual Property Law Association, as well as patent bar associations, independent inventor groups, and users of our public search facilities. Their views are expressed in regularly scheduled meetings and considered in developing proposals for information collection requirements. There have been no comments or concerns expressed by these or similar organizations concerning the time to provide the information required under this program.

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.

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 (37 CFR 1.11(a) and 1.217). The entire file of a reissue application is available to the public.

Applications filed through the USPTO patent electronic filing system are maintained in confidence as required by 35 U.S.C. 122(a) until the application is published or issued as a patent. The confidentiality, security, integrity, authenticity, and non-repudiation of patent applications submitted electronically through the USPTO patent electronic filing system 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 patents 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, or unless one or more specific conditions for power to inspect or access are met pursuant to 37 CFR 1.14(c)-(j). Patent applicants and/or their designated representatives can view the current status of their patent application through the Patent Application Information Retrieval (PAIR) system.

The Privacy Act of 1974 (P.L. 93-579) requires that an applicant be given certain information in connection with submissions related to a patent application or issued patent. The USPTO collects information under authority of 35 U.S.C. 2. The purpose of the USPTO's system of records is to carry out the duties of the USPTO to examine

patent applications and issue patents, including the collection of the inventor's oath or declaration under 35 U.S.C. 115. The information in this system of records is used to manage all applicant records 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 or has been granted.

The information, in this system of records, is protected from disclosure to third parties in accordance with the Privacy Act. However, routine uses of this information may include publication under 35 U.S.C. 112(a) as noted above, and disclosure to the following: to law enforcement 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 a Member of Congress working on behalf of an individual to whom the record pertains, when the individual has requested the Member's assistance with respect to the subject matter of the record; 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 related to patent applications or issued patents.

Categories of individuals covered by the system include applicants for patent, including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

The applicable Privacy Act System of Records Notice for this information is COMMERCE/PAT-TM-7 Patent Application Files, available at the Federal Register at 78 FR 19243 (March 29, 2013).³

- 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 in this information collection is considered to be sensitive.

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

³ <https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>.

- **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'.**

Tables 3 and 4 calculate the burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**

The respondents to this information collection include the private (97%) and individuals and households (3%). The USPTO estimates that it will receive approximately 426,301 responses per year under this information collection, with approximately 21% of these responses submitted by small entities (20%) and micro entities (1%). Approximately 91% of the total responses for this information collection will be submitted electronically, including 100% of the Petitions to Correct Assignee After Payment of Issue (37 CFR 3.81(b)) (PTO/SB/141).

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected by these items.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public from 30 minutes (0.5 hours) to 5.3 hours to gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 373,568 hours per year.

- **Cost Burden Calculation Factors**

The USPTO uses a professional rate of \$435 per hour for respondent cost burden calculations, which is the mean rate for attorneys in private firms as shown in the 2021 *Report of the Economic Survey* published by the Committee

on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA). The USPTO expects that the information in this information collection will be prepared for by attorneys. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection is \$162,502,080 per year.

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) x (b) = (c)	Estimated time per response (hour) (d)	Estimated burden (hour/year) (c) x (d) = (e)	Hourly Cost Burden Rate ⁴ (f)	Total Annual Cost for Time Spent (e) x (f) = (g)
1	Certificate of Correction (PTO/SB/44)	58,200	1	58,200	1.3 (80 minutes)	75,660	\$435	\$32,912,100
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	534	1	534	0.8 (46 minutes)	427	\$435	\$185,745
3	Reissue Documentation	698	1	698	5.3 (318 minutes)	3,699	\$435	\$1,609,065
4	Reissue Patent Application Transmittal	698	1	698	0.5 (30 minutes)	349	\$435	\$151,815
5	Reissue Application Declaration by the Inventor or the Assignee (PTO/SB/51/52, PTO/AIA/05/06) or Substitute Statement in Lieu of an Oath or Declaration for Reissue Patent Application (35 U.S.C. 115(d) and 37 CFR 1.64) (PTO/AIA/07)	1,175	1	1,175	0.8 (46 minutes)	940	\$435	\$408,900

⁴ 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour.

6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	30	1	30	0.6 (36 minutes)	18	\$435	\$7,830
7	Reissue Application: Consent of Assignee; Statement of Non-assignment (PTO/SB/53, PTO/AIA/53)	889	1	889	0.5 (30 minutes)	445	\$435	\$193,575
8	Reissue Application Fee Transmittal Form (PTO/SB/56)	698	1	698	0.5 (30 minutes)	349	\$435	\$151,815
9	Issue Fee Transmittal (PTOL-85B)	350,588	1	350,588	0.8 (46 minutes)	280,470	\$435	\$122,004,450
	Totals	413,510	---	413,510	---	362,357	---	\$157,625,295

Table 3: Burden Hour/Burden Cost to Private Sector Respondents

Table 4: Burden Hour/Burden Cost to Individual and Household Respondents

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) x (b) = (c)	Estimated time per response (hour) (d)	Estimated burden (hour/year) (c) x (d) = (e)	Hourly Cost Burden Rate ⁵ (f)	Total Annual Cost for Time Spent (e) x (f) = (g)
1	Certificate of Correction (PTO/SB/44)	1,800	1	1,800	1.3 (80 minutes)	2,340	\$435	\$1,017,900
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	16	1	16	0.8 (46 minutes)	13	\$435	\$5,655
3	Reissue Documentation	22	1	22	5.3 (320 minutes)	117	\$435	\$50,895
4	Reissue Patent Application Transmittal	22	1	22	0.5 (30 minutes)	11	\$435	\$4,785

⁵ Ibid.

5	Reissue Application Declaration by the Inventor or the Assignee (PTO/SB/51/52, PTO/AIA/05/06) or Substitute Statement in Lieu of an Oath or Declaration for Reissue Patent Application (35 U.S.C. 115(d) and 37 CFR 1.64) (PTO/AIA/07)	37	1	37	0.8 (46 minutes)	30	\$435	\$13,050
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	1	1	1	0.6	1	\$435	\$435
7	Reissue Application: Consent of Assignee; Statement of Non-assignment (PTO/SB/53, PTO/AIA/53)	28	1	28	0.5	14	\$435	\$6,090
8	Reissue Application Fee Transmittal Form (PTO/SB/56)	22	1	22	0.5	11	\$435	\$4,785
9	Issue Fee Transmittal (PTOL-85B)	10,843	1	10,843	0.8 (46 minutes)	8,674	\$435	\$3,773,190
	Totals	12,791	---	12,791	---	11,211	---	\$4,876,785

- 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.
 - Generally, estimates should not include purchases of equipment or services, or portions therefor, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

This information collection has annual non-hour cost burden in the form of filing fees and postage costs. However, this information collection has no capital start-up, maintenance, or recordkeeping costs.

Fees

There are filing fees associated with the requirements of this information collection, listed in the table below. USPTO increased its fees since the last renewal, as part of Final Rule 0651-AD31, overall 28 fees were increased; please see the footnote link for more information.⁶

In conjunction with upcoming rulemaking the USPTO reexamined the estimated fee volumes associated with items in this information collection. As a result, the USPTO revised downwards the fee volumes associated with the Utility issue fees estimates in the 60-Day Notice was published in the Federal Register on November 22, 2022 (87 FR 71307).⁷ The revised number estimates 61,024 fewer respondents paying the fees and overall a \$64,486,800 reduction in the fee cost burdens. This reduction is already reflected in the estimates included in this supporting statement and OMB submissions.

⁶ <https://www.govinfo.gov/content/pkg/FR-2020-08-03/pdf/2020-16559.pdf#page=1>

⁷ <https://www.govinfo.gov/content/pkg/FR-2022-11-22/pdf/2022-25362.pdf>.

Table 5: Filing Fees

Item No.	Type of Cost	Estimated Annual Responses	Amount	Totals
1	Certificate of correction (Undiscounted entity)	9,521	\$160	\$1,523,360
1	Certificate of correction (Small entity)	2,394	\$160	\$383,040
1	Certificate of correction (Micro entity)	90	\$160	\$14,400
3	Basic filing fee – Reissue (Undiscounted entity)	1,501	\$320	\$480,320
3	Basic filing fee – Reissue (Small entity)	528	\$160	\$84,480
3	Basic filing fee – Reissue (Micro entity)	65	\$80	\$5,200
3	Basic Filing Fee – Reissue (Design CPA) (Undiscounted entity)	25	\$320	\$8,000
3	Basic Filing Fee – Reissue (Design CPA) (Small entity)	5	\$160	\$800
3	Basic Filing Fee – Reissue (Design CPA) (Micro entity)	5	\$80	\$400
3	Reissue Search Fee or Reissue Design CPA Search Fees (Undiscounted entity)	1,544	\$700	\$1,080,800
3	Reissue Search Fee or Reissue Design CPA Search Fees (Small entity)	580	\$350	\$203,000
3	Reissue Search Fee or Reissue Design CPA Search Fees (Micro entity)	72	\$175	\$12,600
3	Reissue independent claims in excess of three (Undiscounted entity)	561	\$480	\$269,280
3	Reissue independent claims in excess of three (Small entity)	176	\$240	\$42,240
3	Reissue independent claims in excess of three (Micro entity)	21	\$120	\$2,520
3	Reissue claims in excess of 20 (Undiscounted entity)	4,531	\$100	\$453,100
3	Reissue claims in excess of 20 (Small entity)	1,495	\$50	\$74,750
3	Reissue claims in excess of 20 (Micro entity)	115	\$25	\$2,875
3, 4	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Undiscounted entity)	46	\$420	\$19,320
3, 4	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Small entity)	10	\$210	\$2,100
3, 4	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Micro entity)	8	\$105	\$840
3	Reissue Examination Fee or Reissue Design CPA Examination Fee (Undiscounted entity)	1,542	\$2,320	\$3,577,440
3	Reissue Examination Fee or Reissue Design CPA Examination Fee (Small entity)	577	\$1,160	\$669,320
3	Reissue Examination Fee or Reissue Design CPA Examination Fee (Micro entity)	70	\$580	\$40,600
9	Utility issue fee (Undiscounted entity)	247,012	\$1,200	\$296,414,400
9	Utility issue fee (Small entity)	67,368	\$600	\$40,420,800
9	Utility issue fee (Micro entity)	8,102	\$300	\$2,430,600
9	Design issue fee (Undiscounted entity)	18,674	\$740	\$13,818,760

9	Design issue fee (Small entity)	14,600	\$370	\$5,402,000
9	Design issue fee (Micro entity)	6,228	\$185	\$1,152,180
9	Plant issue fee (Undiscounted entity)	641	\$840	\$538,440
9	Plant issue fee (Small entity)	598	\$420	\$251,160
9	Plant issue fee (Micro entity)	7	\$210	\$1,470
9	Reissue issue fee (Undiscounted entity)	448	\$1,200	\$537,600
9	Reissue issue fee (Small entity)	120	\$600	\$72,000
9	Reissue issue fee (Micro entity)	6	\$300	\$1,800
	Total Filing Fees	389,286	- - -	\$369,991,995

Postage

Customers may incur postage costs when submitting the information in this information collection to the USPTO by mail. The USPTO expects that approximately 1% of the 426,301 responses in this information collection will be submitted by mail, resulting in 4,263 mailed submissions. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$9.25 and that approximately submissions will be mailed to the USPTO per year. Therefore, the USPTO estimates that postage costs in this collection will be \$39,433.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees (\$369,991,995) and postage costs (\$39,433) is \$370,031,428 per year.

- 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 USPTO staff approximately 10 minutes (0.17 hours) to 1 hour to process the information in this information collection, depending on the type and amount of information submitted. The information in this information collection is processed by GS-5, step 1 employees at an estimated cost of \$25.47 per hour (GS-5/1 hourly rate of \$19.59 with 30% (\$5.88) added for benefits and overhead) and GS-7, step 1 employees at an estimated cost of \$31.55 per hour (GS-7/1 hourly rate of \$24.27 with 30% (\$7.28) added for benefits and overhead). The USPTO expects that the electronic version of the Issue Fee Transmittal form will be processed automatically without any direct staff time required.

Table 6 calculates the burden hours and costs to the Federal Government for processing this information collection:

Table 6: Burden Hour/Burden Cost to the Federal Government

Item No.	Item	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (a x b) = (c)	Rate ⁸ (\$/hr) (d)	Total Cost (\$/yr) (c x d) = (e)
1	Certificate of Correction (PTO/SB/44)	60,000	0.50	30,000	\$31.55	\$946,500
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	550	0.30	165	\$31.55	\$5,206
3	Reissue Documentation	720	1	720	\$25.47	\$18,338
4	Reissue Patent Application Transmittal (PTO/SB/50, PTO/AIA/50)	720	1	720	\$25.47	\$18,338
5	Reissue Application Declaration by the Inventor or the Assignee (PTO/SB/51/52, PTO/AIA/05/06) or Substitute Statement in Lieu of an Oath or Declaration for Reissue Patent Application (35 U.S.C. 115(d) and 37 CFR 1.64) (PTO/AIA/07)	1,212	0.30	364	\$25.47	\$9,271
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	31	0.30	9	\$25.47	\$229
7	Reissue Application: Consent of Assignee; Statement of Non-assignment (PTO/SB/53, PTO/AIA/53)	917	0.30	275	\$25.47	\$7,004
8	Reissue Application Fee Transmittal Form (PTO/SB/56)	720	0.30	216	\$25.47	\$5,502
9	Issue Fee Transmittal	361,431	0.17	61,443	\$25.47	\$1,564,953
	Totals	426,301	---	93,912	---	\$2,575,342

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

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	426,301	0	0	34,152	0	392,149
Annual Time Burden (Hr)	373,568	0	0	42,134	0	331,434
Annual Cost Burden (\$)	370,031,428	0	58,250,770	5,511,879	0	306,268,779

⁸ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf.

Changes since the 60 day notice

In conjunction with upcoming rulemaking the USPTO reexamined the estimated fee volumes associated with items in this information collection. As a result, the USPTO revised downwards the fee volumes associated with the Utility issue fees estimates in the 60-Day Notice was published in the Federal Register on November 22, 2022 (87 FR 71307).⁹ The revised number estimates 61,024 fewer respondents paying the fees and overall a \$64,486,800 reduction in the fee cost burdens. This reduction is already reflected in the estimates included in this supporting statement and OMB submissions.

Estimated Annual Responses and Hourly Burdens due to Adjustment in Agency Estimate

The increase in the number of responses (+34,152) and burden hours (+42,134) is due to the estimated normal fluctuation in the number of responses for the items in this information collection. The USPTO continues to see an increasing number of respondents using options in this information collection when filing patent applications. This increase of 9% is similar to previous increases (7%: 2020).

Change in Annual (Non-hour) Costs due to Program Change due to Agency Discretion

As part of this renewal, USPTO is also updating the fee associated with these items. USPTO increased its fees since the last renewal, as part of Final Rule 0651-AD31.¹⁰ These fee changes result in \$58,250,770 being added to the information collection. This accounts for the previously approved 331,434 respondents, and the increase in respondents, paying slightly increased fees. (The USPTO is currently at work implementing a fee reduction that will place in FY2023 that will offset some of this fee increase.)

Change in Annual (Non-hour) Costs due to Adjustment in Agency Estimate

The USPTO estimates an increase (+5,748,535) for the total annual (non-hour) costs due to increases in the number of respondents paying filing fees. This increase of (2%) is reflective of the increased use of the patent filing options.

While USPTO increased its estimates for postage costs to reflect more accurate respondent burden the overall number of respondents mailing items resulted in a postage cost decrease of -\$236,656.

When the postage costs and respondent volume related costs are combined there is overall increase, in agency adjustment, for renewal of \$5,511,879.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical

⁹ <https://www.govinfo.gov/content/pkg/FR-2022-11-22/pdf/2022-25362.pdf>.

¹⁰ <https://www.govinfo.gov/content/pkg/FR-2020-08-03/pdf/2020-16559.pdf#page=1>.

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.

No special publications of the items in this information collection are planned. However, information regarding patents with certificates of correction, reissue applications filed, and reissue patents granted is published weekly in the Official Gazette of the United States Patent and Trademark Office on the USPTO Web site.¹¹

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 expiration date for OMB approval of this information collection.

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

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. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.

¹¹ <https://www.uspto.gov/learning-and-resources/official-gazette>.