

SUPPORTING STATEMENT
United States Patent and Trademark Office
Patent Processing
OMB CONTROL NUMBER 0651-0031
2024

A. JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the 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 to examine an application for patent and, when appropriate, issue a patent. The USPTO is also 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 (“eighteen-month publication”). Certain situations may arise which require that additional information be supplied in order for the USPTO to further process the patent or application. The USPTO administers the statutes through various sections of the rules of practice in 37 CFR Part 1.

During the processing of an application for a patent, the applicant or applicant’s representative may submit additional information to the USPTO concerning the examination of a specific application. For example, the applicant or applicant’s representative may submit: information disclosure statements, petitions for extension of time, express abandonments of applications and petitions to revive abandoned applications, disclaimers, pre-appeal requests for review, petitions to make special, requests for expedited examination of design applications, requests for continued examination, requests to inspect, copy, and access patent applications, and certain transmittal forms. Table 1 provides a complete listing of the items covered in this information collection.

The information in this collection is used by the USPTO to continue the processing of the patent or application to ensure that applicants are complying with the patent regulations and to aid in the prosecution of the application.

Table 1 provides the specific statutes and rules requiring the USPTO to collect the information discussed above:

Table 1: Information Requirements

Item No.	Requirement	Statute	Regulation
1	Information Disclosure Statements	35 U.S.C. 2(b)(2)	37 CFR 1.56, 1.97 and 1.98
2	Transmittal Form	35 U.S.C. 2(b)(2)	37 CFR 1.4, 1.5, 1.48, 1.111, 1.116, 1.121, 1.125, 1.133 and 1.291
3	Petitions for Extension of Time under 37 CFR 1.136(a)	35 U.S.C. 2(b)(2), 41(a)(8), 131 and 132	37 CFR 1.136(a)
4	Express Abandonment under 37 CFR 1.138	35 U.S.C. 2(b)(2), 131 and 132	37 CFR 1.138
5	Statutory Disclaimers	35 U.S.C. 253	37 CFR 1.321

Item No.	Requirement	Statute	Regulation
6	Request for Expedited Examination of a Design Application	35 U.S.C. 2(b)(2)	37 CFR 1.155
7	Petition for Revival of an Application for Patent Abandoned Unintentionally	35 U.S.C. 41(a)(7), 111, 133, 151 and 371(d)	37 CFR 1.137
8	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	35 U.S.C. 2(b)(2)	37 CFR 1.137 and 1.213
9	Requests to Access, Inspect, and Copy	35 U.S.C. 122	37 CFR 1.14
10	Deposit Account Order Form	35 U.S.C. 2(b)(2)	37 CFR 1.25
11	Certificates of Mailing or Transmission	35 U.S.C. 2(b)(2) and 21(a)	37 CFR 1.8
12	Statement under 37 CFR 3.73(c)	35 U.S.C. 2(b)(2)	37 CFR 3.73(c)
13	Non-publication Request	35 U.S.C. 122(b)(2)(B)(i)	37 CFR 1.213(a)
14	Rescission of Previous Non-publication Request (35 U.S.C. 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii))	35 U.S.C. 122(b)(2)(B)(ii) and 122(b)(2)(B)(iii)	37 CFR 1.213(b)
15	Electronic Filing System (EFS) Copy of Application for Publication	35 U.S.C. 122(b) and 122(b)(2)(B)(v)	37 CFR 1.215, 1.217, 1.219 and 1.221
16	Copy of File Content Showing Redactions	35 U.S.C. 122(b)	37 CFR 1.217(d)
17	Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	35 U.S.C. 2(b)(2)	37 CFR 1.251
18	Request for Continued Examination (RCE) Transmittal	35 U.S.C. 132(b)	37 CFR 1.114
19	Request for Suspension of Action or Deferral of Examination under 37 CFR 1.103(b), (c), or (d)	35 U.S.C. 2(b)(2) and 131	37 CFR 1.103(b), (c) or (d)
20	Request for Voluntary Publication or Republication (includes publication fee for republication)	35 U.S.C. 2(b)(2)	37 CFR 1.221
21	Applicant-Initiated Interview Request Form	35 U.S.C. 2(b)(2)	37 CFR 1.133
22	Processing Fee under 37 CFR 1.17(i) Transmittal	35 U.S.C. 2(b)(2)	37 CFR 1.17(i)
23	Request to Retrieve Electronic Priority Application(s) under 37 CFR 1.55(d)	35 U.S.C. 2(b)(2)	37 CFR 1.55(d)
24	Authorization or Rescission of Authorization to Permit Access to Application-as-filed by Participating Offices under 37 CFR 1.14(h)	35 U.S.C. 2(b)(2)	37 CFR 1.14(h)
25	Petition for Express Abandonment to Obtain a Refund	35 U.S.C. 41(d)(1)(D)	37 CFR 1.138(d)
26	Pre-appeal Brief Request for Review	35 U.S.C. 2(b)(2) and 134	37 CFR 41.32
27	Request for Corrected Filing Receipt	35 U.S.C. 2(b)(2)	37 CFR 1.54, 1.76(a), 1.48(a) and (c)
28	Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1)	35 U.S.C. 2(b)(2)	37 CFR 1.102(c)(1)
29	Filing a Submission after Final Rejection (see 37 CFR 1.129(a))	35 U.S.C. 2(b)(2), 102, 103, and 132	37 CFR 1.129
30	Correction of Inventorship after First Office Action on the Merits	35 U.S.C. 111(b) and 116	37 CFR 1.48
31	Request for Correction in a Patent Application Relating to Inventorship or an Inventor Name, or Order of Names, Other than in a Reissue Application (37 CFR 1.48)	35 U.S.C. 111(b) and 116	37 CFR 1.48
32	Request to Correct or Update the Name of the Applicant Under 37 CFR 1.46(c)(1), or Change the Applicant under 37 CFR 1.46(c)(2).	35 U.S.C. 111(b) and 116	37 CFR 1.46(c)(1), 37 CFR 1.46(c)(2)

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.

Table 2 outlines how the information for Patent Processing is used by the public and by the USPTO:

Table 2: Needs and Uses

Item No.	Form/Function	Form No.	Needs and Uses
1	Information Disclosure Statement	PTO/SB/08a PTO/SB/08b e-IDS	<ul style="list-style-type: none"> Used by the applicant to meet the applicant's duty of disclosure under 37 CFR 1.56. Used by the USPTO to consider the information disclosed and when printing the patent document.
2	Transmittal Form	PTO/SB/21	<ul style="list-style-type: none"> Used by the applicant to indicate what type of correspondence is being submitted. Used by the USPTO to determine the specific contents of the communication. Used by the USPTO to facilitate the routing of papers to the most appropriate USPTO locations.
3	Petition for Extension of Time under 37 CFR 1.136(a)	PTO/SB/22 PTO/AIA/22	<ul style="list-style-type: none"> Used by the applicant to request an extension of time. Used by the USPTO to determine whether the reason for requesting an extension 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.
4	Express Abandonment under 37 CFR 1.138	PTO/SB/24 PTO/AIA/24	<ul style="list-style-type: none"> Used by the applicant to expressly abandon an application. Used by the USPTO to determine whether the application is expressly abandoned. Used by the USPTO to determine whether an application has been expressly abandoned in favor of a continuation or divisional application.
5	Statutory Disclaimer	PTO/AIA/25 PTO/SB/25 PTO/SB/25a PTO/AIA/26 PTO/SB26 PTO/SB/26a PTO/SB/43 PTO/AIA/63 PTO/SB/63	<ul style="list-style-type: none"> Used by the applicant or assignee to disclaim the entire term or part of a term of a patent or a patent to be granted. Used by the USPTO to determine whether all owners have provided the required terminal disclaimer and to determine the length of the patent term to which the patentee is entitled. Used by the Certificate of Corrections branch of the USPTO for determining whether regulatory compliance has been met, for recording the disclaimer, and for providing the disclaimer data for printing.
6	Request for Expedited Examination of a Design Application	PTO/SB/27	<ul style="list-style-type: none"> Used by the applicant to request expedited examination of a design application. Used by the USPTO to ensure that all of the required information to expedite examination is provided and to process the request.

Item No.	Form/Function	Form No.	Needs and Uses
7	Petition for Revival of an Application for Patent Abandoned Unintentionally	PTO/SB/64 ePetition	<ul style="list-style-type: none"> Used by the applicant to request that an application that was unintentionally abandoned be revived. Used by the USPTO to ensure that applicant has included all the proper documentation and fees necessary to revive an unintentionally-abandoned application.
8	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	PTO/SB/64a	<ul style="list-style-type: none"> Used by the applicant to revive an application for patent abandoned for failure to timely notify the office of a foreign or international filing. Used by the USPTO to revive an application for patent abandoned for failure to timely notify the office of a foreign or international filing.
9	Requests to Access, Inspect, and Copy	PTO/SB/67 PTO/SB/68	<ul style="list-style-type: none"> Used by the public to request permission to inspect and/or make copies in accordance with regulations. Ensures that applications are maintained in confidence in accordance with regulations. Used by the USPTO to determine that the persons requesting permission to inspect and/or make copies are authorized to do so. Used by the USPTO to verify that the application requested is abandoned and that it has been referred to in the referenced U.S. patent.
10	Deposit Account Order Form	PTO/SB/91	<ul style="list-style-type: none"> Used by the public to order goods or services using an established deposit account. Used by the USPTO to process orders for articles or services, and to identify the deposit account to which an order should be charged.
11	Certificate of Mailing or Transmission	PTO/SB/92	<ul style="list-style-type: none"> Used by the applicant as evidence of the date for replies to actions by the USPTO. Used by the USPTO to determine the timeliness of replies by an applicant to actions by the USPTO.
12	Statement Under 37 CFR 3.73(c)	PTO/SB/96 PTO/AIA/96	<ul style="list-style-type: none"> Used by the applicant to show that this person has their authority to take actions on their behalf. Used by the USPTO to determine that the person signing has authority to take action on behalf of an assignee.
13	Non-publication Request under 35 U.S.C. 122(b)(2)(B)(i)	PTO/SB/35	<ul style="list-style-type: none"> Used by the applicant to request that the USPTO not publish the application under 37 U.S.C. 122(b). Used by the USPTO to determine whether the application should be published under 37 U.S.C. 122(b).
14	Rescission of Previous Non-publication Request (35 U.S.C. 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii))	PTO/SB/36	<ul style="list-style-type: none"> Used by the applicant to rescind a previously filed request that the USPTO not publish the application under 35 U.S.C. 122(b)(2)(B)(ii). Used by the applicant to provide notice of a foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii). Used by the USPTO to determine that the application is subject to eighteen-month publication.
15	Electronic Copy of Application for Publication	No Form	<ul style="list-style-type: none"> Used by the applicant to obtain publication of a version of the application different from the application as initially submitted to the USPTO. Used by the applicant to request publication of an application earlier than as provided for by eighteen-month publication or of an application that is not subject to eighteen-month publication. Used by the USPTO to create a publication document as part of the USPTO's publication of the application.

Item No.	Form/Function	Form No.	Needs and Uses
16	Copy of File Content Showing Redactions	No Form	<ul style="list-style-type: none"> Used by the applicant to show redactions to USPTO actions/notices and the applicant's replies. Used by the USPTO to confirm what redactions are made to the copy of application file content that is provided to the public.
17	Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	PTO-2053-A/B PTO-2054-A/B PTO-2055-A/B	<ul style="list-style-type: none"> Used by the applicant to assist the USPTO in reconstructing a current copy of a missing patent or application file. Used by the USPTO to notify the applicant that the application or patent file is unlocatable and to request a copy of the applicant's or patentee's record of the application or patent file (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not) in order to reconstruct the file of an unlocatable application or patent.
18	Request for Continued Examination (RCE) Transmittal	PTO/SB/30	<ul style="list-style-type: none"> Used by the applicant to request continued examination of a previously submitted application. Used by the USPTO to process and initiate continued examination of a previously submitted application.
19	Request for Suspension of Action or Deferral of Examination under 37 CFR 1.103(b), (c), or (d)	PTO/SB/37	<ul style="list-style-type: none"> Used by the applicant to request deferred examination of a patent application for up to three years from the earliest filing date for which a benefit is claimed in applications filed on or before September 16, 2012. Used by the USPTO to process and consider this request for deferral of examination.
20	Request for Voluntary Publication or Republication (includes publication fee for republication)	No Form	<ul style="list-style-type: none"> Voluntary Publication: Used by the applicant to request publication of an application filed prior to November 29, 2000. Republication: Used by the applicant to correct prior application publications containing material errors caused by the USPTO or to correct other data, such as claims that previously published as part of an application publication. Used by the USPTO to publish an application filed prior to November 29, 2000, or to correct prior application publication errors.
21	Applicant Initiated Interview Request Form	PTOL/413A USPTO Automated Interview Request (AIR) Form	<ul style="list-style-type: none"> Used by the applicant to request an interview. Used by the applicant to assist in the preparation of a written record of the interview. Used by the USPTO to allow the examiner to prepare in advance for an applicant-initiated interview. Used by the USPTO to allow the examiner to focus on the issue to be discussed in the applicant-initiated interview. Used by the USPTO to identify whether agreement has been reached.
22	Processing Fee under 37 CFR 1.17(i) Transmittal	PTO/SB/17i	<ul style="list-style-type: none"> Used by the applicant to identify the proper fee and thus reduce the potential for any additional work due to mistakes in payment. Used by the USPTO to process the appropriate fees.
23	Request to Retrieve Electronic Priority Application(s)	PTO/SB/38	<ul style="list-style-type: none"> Used by the applicant to request that the USPTO retrieve priority documents from the other participating intellectual property offices. Used by the USPTO to retrieve priority documents from the other participating intellectual property offices.

Item No.	Form/Function	Form No.	Needs and Uses
24	Authorization or Rescission of Authorization to Permit Access to Application-as-filed by Participating Offices	PTO/SB/39	<ul style="list-style-type: none"> Used by the applicant to authorize the USPTO to release confidential documents to other participating intellectual property offices that are important to the prosecution of the patent application. Used by the USPTO to properly release confidential documents to other participating intellectual offices that are important to the prosecution of the patent application.
25	Petition for Express Abandonment to Obtain a Refund	PTO/SB/24B PTO/AIA/24B	<ul style="list-style-type: none"> Used by the applicant to expressly abandon the application for a refund of the search fee if recognized by an appropriate USPTO official prior to examination of the application. Used by the USPTO to expressly abandon the application and to refund the search fee to the applicant if recognized by an appropriate USPTO official prior to examination of the application.
26	Pre-appeal Brief Request for Review	PTO/SB/33 PTO/AIA/33	<ul style="list-style-type: none"> Used by the applicant to request that a panel of examiners formally review the basis of the rejections in their application prior to filing an appeal brief. Used by the USPTO to determine whether an appeal should be maintained.
27	Request for Corrected Filing Receipt	No Form	<ul style="list-style-type: none"> Used by the applicant to request a corrected filing receipt. Used by the USPTO to correct errors in application data.
28	Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c) (1)	PTO/SB/130 ePetition	<ul style="list-style-type: none"> Used by the applicant to petition that an application be made special for advancement of examination by showing that the applicant is 65 years of age, or more. Used by the USPTO to assist in the expeditious processing of the petition to make special based on age.
29	Filing a Submission after Final Rejection (see 37 CFR 1.129(a))	No Form	<ul style="list-style-type: none"> Used by the applicant to have a first or second submission entered and considered on the merits after final rejection under the circumstances identified in 37 CFR 1.129. Used by the USPTO to determine whether to maintain a rejection or objection of a claim of an application.
30	Correction of Inventorship after First Office Action on the Merits	No Form	<ul style="list-style-type: none"> Used by the applicant to request a correction of the inventorship of an application following the first office action. Used by the USPTO to determine whether the inventorship of an application should be corrected following the first office action.
31	Request for Correction in a Patent Application Relating to Inventorship or an Inventor Name, or Order of Names, Other than in a Reissue Application (37 CFR1.48)	PTO/AIA/40	<ul style="list-style-type: none"> Used by the applicant to request a correction of the inventorship of an application. Used by the USPTO to determine whether the inventorship of an application should be corrected.
32	Request to Correct or Update the Name of the Applicant Under 37 CFR 1.46(c)(1), or Change the Applicant under 37 CFR 1.46(c)(2).	PTO/AIA/41	<ul style="list-style-type: none"> Used by the applicant to request a correction or an update to the name of the applicant. Used by the applicant to request a change to the applicant. Used by the USPTO to determine whether the name of the applicant should be corrected or updated. Used by the USPTO to determine whether the applicant should be changed.

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 activity. Also describe any consideration of using information technology to reduce burden.

The USPTO prefers to collect the information in this information collection electronically through the USPTO patent electronic filing system (Patent Center), the USPTO's online filing and viewing system for patent applications and related documents. Patent Center allows customers to electronically file the information in this collection through their standard web browser without downloading special software, changing their documentation preparation tools, or altering their workflow processes. Typically, the customer will prepare the forms or documents as standard Portable Document Format (PDF) files and then upload them to the USPTO servers using the secure Patent Center interface. Patent Center 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 or other paper delivery costs.

The forms associated with this information collection may also be downloaded from the USPTO website in PDF, filled out electronically, and then either printed for mailing or hand delivery to the USPTO Patent Customer Service Window.

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 or term of a patent. This information is not collected elsewhere during the prosecution of a patent application or term of a patent.

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

Items in this collection of information involving the payment of fees will be submitted by small businesses or other small entities, including micro entities. Pursuant to section 10(b) of the Leahy-Smith America Invents Act (AIA), Pub. L. 112-29, as amended by the Unleashing American Innovators Act of 2022 (UAIA), Pub. L. 117-103, the USPTO provides a 60% 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 an 80% 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.

No significant burden is placed on small or micro entities to establish their status and pay the discounted fee. Small entities must only make an assertion of entitlement to small entity status in the manner set forth in 37 CFR 1.27(c)(1) or (c)(3). Micro entities

must only provide a certification of micro entity status complying with the requirements of either 37 CFR 1.29(a) or (d).

- 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 the information were not collected, the USPTO would not be able to comply with 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 publications 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 co activity, 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

On January 29, 2024, the USPTO published a 60-day notice (89 FR. 5500)¹ soliciting public comments on this information collection. In response, the USPTO received one comment.

Additionally, the USPTO published a 30-day notice in the Federal Register on July 17, 2024 (89 Fed. Reg. 58138).² The USPTO received two comments in response to this notice. A summary of comments from both comment periods, grouped by subject matter, and the USPTO's responses follow below.

Terminal Disclaimer Notice of Proposed Rulemaking (NPRM)

Comment: A commenter raised several points regarding the terminal disclaimers and their fee structure, especially in regards to the May 10 Terminal Disclaimer NPRM, "Terminal Disclaimer Practice to Obviate Nonstatutory Double Patenting".³

Response: The commenter's points regarding the Terminal Disclaimer NPRM should be made as comments under the provisions of that rulemaking. The NPRM itself functions as a 60-day notice in terms of providing public notice and the opportunity for comment on the Paperwork Reduction Act estimates listed in that NPRM. Those items and estimates are distinct and separate from those included in this renewal of 0651-0031.

Setting and Adjusting Patent Fees During Fiscal Year 2025, NPRM RIN 0651-AD64 (Patent Fee NPRM)

Comment: The commenter expressed concerns about the fees being proposed under the Patent Fee NPRM. The commenter claimed that the USPTO does not have any approvals for the information collection and burden estimates discussed in the NPRM.

Response: The commenter's points regarding the Patent Fee NPRM should be addressed directly to that public comment process and submitted as comments to that rulemaking notice. The comment process related to this renewal concerns comments on the information collection at issue here, and not the substance of the fee adjustments in the Patent Fee NPRM.

¹ <https://www.govinfo.gov/content/pkg/FR-2024-01-29/pdf/2024-01722.pdf>.

² <https://www.govinfo.gov/content/pkg/FR-2024-07-17/pdf/2024-15704.pdf>.

³ <https://www.govinfo.gov/content/pkg/FR-2024-05-10/pdf/2024-10166.pdf>.

Transition from Private PAIR and EFS-Web to the Patent Center

Comment: The commenter raised concerns about the USPTO's replacement of Private PAIR and EFS-Web with Patent Center. The commenter asserted that Patent Center is unreliable, contains software bugs, has limited features, and that the extra time spent understanding and working around those issues would add time to the application process. The commenter suggested that these issues could add \$300 million in annual public burden as it transitioned over to the new system. The commenter said that therefore the USPTO should increase the estimated annual burden to information collections 0651-0031 and 0651-0032.

Response: Patent Center is the USPTO's web-based tool that incorporates filing, retrieving, and managing patent applications within a single, unified interface. The USPTO debuted alpha and beta versions of Patent Center in March 2018 and October 2019, respectively, to a limited number of external users. The USPTO then held focus sessions with those users for feedback and refinement before making Patent Center generally available to the public in April 2020, as an alternative option to Private PAIR and EFS-Web. In November 2023, the USPTO retired Private PAIR and EFS-Web. Since 2020, the USPTO has held over 240 training sessions with approximately 35,000 attendees. The sessions include live demonstrations and question-and-answer periods, which allows the USPTO to continue to gather feedback and add and improve functionality.

The USPTO has implemented many of the suggestions for improvement it received during Patent Center's extended rollout. For example, user feedback has resulted in improvements, such as:

- facilitated document description selection with type ahead search of keywords;
- saved submission storage for 14 days;
- increased the number of documents that can be filed in one submission to 100;
- ability to switch between attorneys without having to re-authenticate;
- searching by attorney docket number from the Patent Center sign-in page
- displaying the attorney document number on the fee payment page; and
- download documents indicator for correspondence.

The USPTO continues to invite public feedback on Patent Center via IdeaScale® at uspto-emod.ideascale.com by highlighting its availability at the end of DOCX training sessions and on the Patent Center webpage at www.uspto.gov/patents/apply/patent-center. The USPTO has weekly meetings where it reviews the IdeaScale® posts and considers whether to move forward with the suggestions. Consideration on whether to move forward on a suggestion typically includes a discussion with the relevant team and developers to determine whether the suggestion is feasible. When the USPTO decides to act on a suggestion, it creates a user story and adds it to the backlog for implementation. The USPTO similarly considers the user feedback it receives through the question-and-answer periods during the training sessions. Moreover, the USPTO

meets quarterly with the Intellectual Property Organization (IPO) and American Intellectual Property Association (AIPLA), and as needed with the Patent Public Advisory Committee (PPAC), to answer questions, receive feedback, and provide demonstrations as needed.

The USPTO continues to add functionality to Patent Center based on the feedback. For example, the following additional functionalities are planned for implementation in FY 2025:

- completion of all e-petitions for support staff access
- ability to file Design DOCX filing
- ability to file DOCX preliminary amendment in an initial filing
- ability to remove a registration number from multiple customer numbers.

Overall, Patent Center provides many enhancements to the patent application process, including:

- incorporation of filing and application management within a single user interface for enhanced user experience;
- utilization of the same USPTO.gov accounts and sponsorships that are used to log in to EFS-Web and PAIR;
- submission of the specification, claims, abstract and drawings in a single DOCX document without the need to manually separate sections;
- a “drag-and-drop” interface that allows filers to upload multiple files at once;
- separate submission and payment receipts that clearly confirm the status of submitted documents and successful payments; and
- a training mode which acts as an interactive simulation where applicants can safely practice filing their documents.

The commenter’s generic estimation of an annual public burden increase cannot be applied wholesale to the information collection. The USPTO associates burden estimates with specific item lines, or actions, within an information collection. The commenter does not identify any particular item within the present collection that has been impacted by the USPTO’s replacement of Private PAIR and EFS-Web with Patent Center, or specify how the item’s burden estimate should be revised. The substantive requirements for the items in this information collection have not changed, nor has the introduction of Patent Center changed the information being collected by the items in the collection.

The commenter expresses a general concern that Patent Center is “buggy” and, for support, points to information previously provided to the USPTO. Of the information relied on by the commenter, nearly all of it is from prior to the November 2023 retirement of Private PAIR and EFS-Web. The only document relied on by the commenter that contains information subsequent to the November 2023 retirement of Private PAIR and EFS-Web is the list of bugs at patentcenter-tickets.oppedahl.com. None of the “open issues” identified by the webpage could reasonably lead to a general

change in USPTO burden estimates, let alone a specific change in burden to any of the items in the present collection.

The current bugs relate to general functionality that are not related to submission of items to the USPTO nor related to the processing of patents. These items are not connected to the gathering of required information, creation of documents, or submission of items to the USPTO which form the burden estimates for this information collection. For example, a recent “open issue” on the webpage, dating from March 2024, states that the USPTO needs to correct the spelling of “incurred” in the text “Additional charges may be incurred.” Other recent open issues discuss auxiliary features that are being used by attorneys for purposes other than creating and submitting documents.

Neglecting to account for burden under replies to office actions, declarations and affidavits

Comment: The commenter asserted that the USPTO overlooks two large categories of burden: (1) Replies to Office Action (under 37 CFR 1.111, 1.112, and 1.116), and (2) Declarations and Affidavits (under 37 CFR 1.130 to 1.132). The commenter argued that these items are not exempt from the PRA and should be accounted for in this information collection.

Response: The USPTO disagrees that the items identified by the commenter are not exempt from the PRA. In July 2013, OMB considered the precise items raised by the commenter and determined that these items are not subject to the PRA. Separately, in 2021, the United States Court of Appeals for the Ninth Circuit held that “the Rules [covering the “replies to Office actions and “declarations and affidavits” categories identified by the commenter] do not impose collections subject to the PRA.” Hyatt v. Office of Mgmt. & Budget, 998 F.3d 423, 431 (9th Cir. 2021). In light of the above, it would be inappropriate to include the identified items in this information collection.

Revised MPEP guidance on restriction practice

60-day notice comment: In response to the 60-day notice for the renewal of this collection, a commenter also noted that, in March 2023, the USPTO changed its guidance regarding restriction in the Manual of Patent Examiner Procedure (MPEP). The commenter claimed that, as a result of the change, “excess burden arises under both 0651-0031 in additional responses directly to the new restriction requirements, and under 0651-0032 for additional new applications filed[,]” and that applicants will be forced to file more divisional applications, which will in turn force applicants to file more of the items in the current collection.”

The commenter also claimed that “the PTO informs the public that it will be applying this new guidance retroactively.” Agencies do not have retroactive rulemaking authority unless Congress explicitly delegates such authority, Bowen v. Georgetown University Hosp., 488 U.S. 204, 208–09 (1988), and the PTO has no such delegation.”

The commenter asserted that the USPTO does not have “retroactive rulemaking authority” and improperly applied its “new guidance retroactively,” because it “disseminated this new guidance internally in July 2022, yet only published it in the Federal Register on March 3, 2023.”

Response to 60-day notice comment: Restriction is the practice of requiring an applicant to elect a single claimed invention (e.g., a combination or sub combination invention, a product or process invention, a species within a genus) for examination when two or more independent inventions and/or two or more distinct inventions are claimed in a single patent application. One option available to an applicant for addressing a restriction requirement is to file a divisional application(s) for the other invention(s). The basis for restriction practice is found in the patent statute and USPTO rules, i.e., 35 U.S.C. 121 and 37 CFR 1.141-1.142.

The USPTO publishes the MPEP to provide patent examiners, applicants, attorneys, agents, and representatives of applicants with a reference work on the practices and procedures relative to the prosecution of patent applications and other proceedings before the USPTO. Notably, the MPEP does not have the force of law; all requirements governing restriction practice are found in Title 37 of the Code of Federal Regulations. Examiners are governed by the applicable statutes, rules, decisions, and orders and instructions issued by the USPTO Director and other officials authorized by the Director. Any restriction requirement issued by an examiner is based on the substantive law, partitionable within the USPTO and, if necessary, subsequently appealable to Federal court.

As a threshold matter, the July 2022 MPEP changes announced in March 2023 did not impose new restriction requirements or otherwise change restriction practice. The discussion of restriction practice in MPEP 800 was revised in the July 2022 revision to harmonize existing guidance between different sections of the MPEP and the form paragraphs. Specifically, certain sections of the MPEP referred to a “serious burden,” while other sections, including the form paragraphs (e.g., FP 8.01, 8.02, and 8.21), referred to a “search and/or examination burden” in the October 2019 revision of the 9th Edition of the MPEP (i.e., the prior version of the MPEP). The July 2022 revision made the guidance consistent across the MPEP and the form paragraphs by referring to a “serious search and/or examination burden.”

Focusing on the present information collection, commenters have not provided any evidence to support particular burden increases for items in this information collection. Neither the statute nor the USPTO regulations on which restriction practice is based have changed. Additionally, the July 2022 MPEP changes announced in March 2023 did not impose new restriction requirements or otherwise change restriction practice. Finally, the commenter has not identified any particular item within the present collection that requires changes, or specified how the item’s burden estimate should be revised. The commenter’s generic estimation of excess burden cannot be applied wholesale to the information collection.

30-day notice comment: In response to the 30-day notice for the renewal of this collection, the commenter responds to the USPTO’s supporting statement. In particular, the commenter states:

The PTO explains that certain bits of language were “harmonized.” The PTO misrepresents both the nature of the changes and their effect. Before March 2023, for some showings, the examiner had to show “serious search burden.” After March 2023, the examiner can show “serious search and/or examination burden.” That change makes a big difference, probably into the high eight or low nine figures, to save the PTO less than \$10 million per year.

Response to 30-day notice comment: The USPTO did not misrepresent the changes to restriction practice; the July 2022 MPEP changes announced in March 2023 did not impose new restriction requirements or otherwise change restriction practice.

As set forth at MPEP 803(I), there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent or distinct as claimed; and
- (B) There would be a serious search and/or examination burden on the examiner if restriction is not required.

The same criteria of “independent or distinct” and the consideration of “serious burden” taking into account both “search and examination” appear at MPEP 803 at least as far back as the 5th edition of the MPEP published in 1983, which states:

“Under the statute an application may properly ... be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct;” and

“If the search and examination of an entire application can be made without serious burden, the examiner is encouraged to examine it on the merits, even though it includes claims to distinct or independent inventions.”

As for the USPTO improperly applying its “new guidance retroactively,” first, for the reasons stated, the guidance is not new. Moreover, the July 2022 revision date is a content date, meaning revisions reflect USPTO patent practice and relevant case law that were in place as of July 31, 2022. Any changes occurring after July 31, 2022, are not reflected in that MPEP revision. The MPEP does not have an effective date because it incorporates guidance, notices, rule changes, etc., that each have their own effective date stated in the document that established the change. As stated in the foreword of the MPEP:

“[e]xaminers will be governed by the applicable statutes, rules, decisions, and orders and instructions issued by the Director of the USPTO and other officials authorized by the Director of the USPTO. Subsequent changes in practice and other revisions will be incorporated in the form of revisions to sections of chapters and/or to appendices of the Manual.”

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. Response to this information collection is necessary to obtain a patent.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a system 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 items in this information collection may be filed in either a patent application or patent. Accordingly, the USPTO will maintain the confidentiality of an item filed in a patent application until the application publishes or issues as a patent. An item filed in a patent will be immediately available to the public.

Applications filed through Patent Center 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 Patent Center are maintained using TLS or SSL protocols. The USPTO posts the file contents of issued patents and application publications on its website. 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 Patent Center.

In order to protect the confidentiality of credit card account information when making fee payments to the USPTO or through the USPTO as an office of indirect filing, customers should submit credit card payments on a separate credit card payment form provided by the USPTO for this purpose. The USPTO will not include the credit card information submitted using the provided credit card payment forms among the patent records open to public inspection. If a customer supplies their credit card information on a form or a document (e.g., in correspondence related to a patent) other than a credit card payment form provided by the USPTO, the USPTO will not be liable if the credit card information becomes public knowledge.

The applicable PIA for this information collection is the Privacy Impact Assessment for the Patent End to End (PE2E) System (March 14, 2022), which is available at https://osec.doc.gov/opog/privacy/pto%20pias/PE2E-PIA_SAOP_Approval_Delegation.pdf.

PE2E is a Master system portfolio consisting of next generation Patents Automated Information Systems (AIS). The goal of PE2E is to make the interaction of USPTO's users as simple and efficient as possible in order to accomplish user goals. PE2E will be a single web-based examination tool providing users with a unified and robust set of tools. PE2E will overhaul the current patents examination baseline through the development of a new system that replaces the existing tools used in the examination process. The project stakeholders desire a simple, unified interface that does not require launching of separate applications in separate windows, and that supports new and improved IT advances. There are 14 sub-systems under PE2E, including Patent Center.

The Privacy Act of 1974 (Pub. L. 93-579) requires that an applicant be given certain information in connection with the items covered under this information collection. The applicable Privacy Act System of Records Notice for this information collection is COMMERCE/PAT-TM-7 Patent Application Files (SORN 7), available at 78 FR 19243 (March 29, 2013).⁴ The purpose of SORN 7 is to disclose how the USPTO intends to use, maintain, and protect the information that it has collected to carry out the duties of the USPTO to examine patent applications and issue patents. SORN 7 manages 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.

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.

⁴ <https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>.

The information in SORN 7 is protected from disclosure to third parties in accordance with the Privacy Act until the application is published under 35 U.S.C. 122(b) or issued as a patent under 35 U.S.C. 153. Prior to application publication or patent issuance, the information in SORN 7 is protected from disclosure to third parties in accordance with the Privacy Act, except that disclosure is permitted for the following routine uses including, but not limited to: 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 regarding personnel matters; 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 National Archives and Records Administration for inspection of records; to the Office of Management and Budget (OMB) for legislative coordination and clearance; to the Office of Personal Management (OPM) for personnel research purposes; to the General Services Administration for the inspection of records.

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:

- **Indicate the number of respondents, frequency of responses, 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 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. This 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 respondent or record keepers resulting from the collection of information.**

Table 3 calculates the anticipated burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**

The USPTO estimates that it will receive approximately 2,435,597 responses per year from 2,435,597 respondents for this information collection.

The USPTO estimates that approximately 99% of the annual responses for this collection will be submitted electronically through via Patent Center, which customers may access through the USPTO website.

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 between 2 minutes (0.03 hours) and 8 hours to submit a single item in this information collection depending on the instrument used, including the time to gather the necessary information, prepare the appropriate form or petition, and submit the completed request to the USPTO. The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection are shown in the table below.

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected and the length of time necessary to complete responses containing similar or like information. Using these burden factors, the USPTO estimates that the total respondent hourly burden for this information collection is 535,466 hours per year.

- **Cost Burden Calculation Factors**

The USPTO expects that patent attorneys and paraprofessionals will complete and submit this information.

The USPTO uses a professional rate of \$447 per hour for respondent cost burden calculations, which is the median rate for intellectual property attorneys in private firms as shown in the 2023 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA). The hourly rate for paraprofessionals/paralegals is \$122 based on the average/typical rate of

paraprofessionals/paralegals. This rate was published by the National Association of Legal Assistants (NALA) in 2022.

Using these hourly rates, the USPTO estimates that the total respondent cost burden for this information collection is \$170,503,027 per year.

Table 3: Total Burden Hours and Hourly Costs to Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time for Response (hours)	Estimated Burden (hour/year)	Rate ⁵ (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Information Disclosure Statements that require the fee set forth in 37 CFR 1.17(p)	694,000	1	694,000	0.20 (12 minutes)	138,800	\$447	\$62,043,600
2	Transmittal Fee	517,000	1	517,000	0.20 (12 minutes)	103,400	\$122	\$12,604,800
3	Petition for Extension of Time under 37 CFR 1.136(a)	192,884	1	192,884	0.40 (24 minutes)	77,154	\$122	\$9,412,788
4	Express Abandonment under 37 CFR 1.138	2,000	1	2,000	0.08 (5 minutes)	160	\$122	\$19,520
5	Statutory Disclaimers (including terminal disclaimers)	49,950	1	49,950	0.25 (15 minutes)	12,488	\$447	\$5,582,136
6	Request for Expedited Examination of a Design Application	7,227	1	7,227	0.25 (15 minutes)	1,807	\$447	\$807,729
7	Petition for Revival of an Application for Patent Abandoned Unintentionally	7,024	1	7,024	1	7,024	\$447	\$3,139,728
8	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	125	1	125	1	125	\$447	\$55,875
9	Requests to Access, Inspect, and Copy	1,000	1	1,000	0.25 (15 minutes)	250	\$122	\$30,500
10	Deposit Account Order Form	55,000	1	55,000	0.25 (15 minutes)	13,750	\$122	\$1,677,500

⁵ 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); y. The USPTO uses the mean IP billing rate for attorneys in private firms which is \$435 per hour. (<https://www.aipla.org/home/news-publications/economic-survey>; pg. F-27). 2022 National Utilization and Compensation Survey Report published by the National Association of Legal Assistants (NALA); pg. 38. The USPTO uses the average billing rate for paralegals/paraprofessionals, which is \$122 per hour (<https://nala.org/paralegal-info/>).

11	Certificates of Mailing or Transmission	450,000	1	450,000	0.03 (2 minutes)	13,500	\$122	\$1,647,000
12	Statement Under 37 CFR 3.73(c)	146,000	1	146,000	0.25 (15 minutes)	36,500	\$447	\$16,315,500
13	Non-publication Request	16,000	1	16,000	0.25 (15 minutes)	4,000	\$447	\$1,788,000
14	Rescission of Previous Non-publication Request (35 U.S.C. 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii))	500	1	500	0.25 (15 minutes)	125	\$447	\$55,875
15	Electronic Filing System (EFS) Copy of Application for Publication	1	1	1	2.50	3	\$122	\$366
16	Copy of File Content Showing Redactions	3	1	3	4	12	\$447	\$5,364
17	Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	10	1	10	2	20	\$122	\$2,440
18	Request for Continued Examination (RCE) Transmittal	132,000	1	132,000	0.30 (18 minutes)	39,600	\$447	\$17,701,200
19	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	630	1	630	0.20 (12 minutes)	126	\$447	\$56,322
20	Request for Voluntary Publication or Republication (includes publication fee for republication)	450	1	450	0.20 (12 minutes)	90	\$122	\$10,980
21	Applicant Initiated Interview Request Form	50,000	1	50,000	0.40 (24 minutes)	20,000	\$447	\$8,940,000
22	Processing Fee Under 37 CFR 1.17(i) Transmittal	100	1	100	0.08 (5 minutes)	8	\$447	\$3,576
23	Request to Retrieve Electronic Priority Application (s) Under 37 CFR 1.55(h)	10,000	1	10,000	0.25 (15 minutes)	2,500	\$447	\$1,117,500
24	Authorization or Rescission of Authorization to Permit Access to Application-as-filed by Participating Offices Under 37 CFR 1.14(h)	6,000	1	6,000	0.25 (15 minutes)	1,500	\$447	\$670,500

25	Petition for Express Abandonment to Obtain a Refund	2,050	1	2,050	0.20 (12 minutes)	410	\$447	\$183,270
26	Pre-Appeal Brief Request for Review	6,700	1	6,700	5	33,500	\$447	\$14,974,500
27	Request for Corrected Filing Receipt	44,000	1	44,000	0.08 (5 minutes)	3,520	\$122	\$429,440
28	Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1) (EFS-Web only)	2,100	1	2,100	2	4,200	\$447	\$1,877,400
29	Filing a submission after final rejection (see 37 CFR 1.129(a))	43	1	43	8	344	\$447	\$153,768
30	Correction of inventorship after first office action on the merits	3,300	1	3,300	0.75 (45 minutes)	2,475	\$447	\$1,106,325
31	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48)	18,500	1	18,500	0.75 (45 minutes)	13,875	\$447	\$6,202,125
32	Request to correct or update the name of the applicant under 37 CFR 1.46(c)(1), or change the applicant under 37 CFR 1.46(c)(2)	21,000	1	21,000	0.20 (12 minutes)	4,200	\$447	\$1,877,400
	Totals	2,435,597	---	2,435,597	---	535,466	---	\$170,503,027

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.

This collection has non-hourly cost burdens in both fees paid by the public and associated postage costs for mailing items to USPTO.

The total (non-hour) respondent cost burden for this collection is estimated to be \$363,826,829 per year, which includes \$363,579,616 in fees and \$247,213 in postage.

Filing Fees

There are fees associated with submitting the documents in this information collection for a total of \$363,579,616 per year as outlined in Table 4 below.

Table 4: Filing Fees (Non-hour) Cost Burden for Patent Processing

Item No.	Fee Code	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Non-hourly Cost Burden (a) x (b) = (c)
1	1806	Information Disclosure Statements (IDS) that require the fee set forth in 37 CFR 1.17(p) (undiscounted)	85,540	\$260	\$22,240,400
1	2806	IDS that require the fee set forth in 37 CFR 1.17(p) (small entity)	22,173	\$104	\$2,305,992
1	3806	IDS that require the fee set forth in 37 CFR 1.17(p) (micro entity)	624	\$52	\$32,448
3	1251	One-month Extension of Time under 37 CFR 1.136(a) (undiscounted)	62,740	\$220	\$13,802,800
3	2251	One-month Extension of Time under 37 CFR 1.136(a) (small entity)	29,039	\$88	\$2,555,432
3	3251	One-month Extension of Time under 37 CFR 1.136(a) (micro entity)	3,509	\$44	\$154,396
3	1252	Two-month Extension of Time under 37 CFR 1.136(a) (undiscounted)	23,560	\$640	\$15,078,400
3	2252	Two-month Extension of Time under 37 CFR 1.136(a) (small entity)	15,484	\$256	\$3,963,904
3	3252	Two-month Extension of Time under 37 CFR 1.136(a) (micro entity)	1,922	\$128	\$246,016
3	1253	Three-month Extension of Time under 37 CFR 1.136(a) (undiscounted)	20,377	\$1,480	\$30,157,960
3	2253	Three-month Extension of Time under 37 CFR 1.136(a) (small entity)	23,002	\$592	\$13,617,184
3	3253	Three-month Extension of Time under 37 CFR 1.136(a) (micro entity)	2,558	\$296	\$757,168
3	1254	Four-month Extension of Time under 37 CFR 1.136(a) (undiscounted)	1,810	\$2,320	\$4,199,200
3	2254	Four-month Extension of Time under 37 CFR 1.136(a) (small entity)	2,196	\$928	\$2,037,888
3	3254	Four-month Extension of Time under 37 CFR 1.136(a) (micro entity)	266	\$464	\$123,424
3	1255	Five-month Extension of Time under 37 CFR 1.136(a) (undiscounted)	3,039	\$3,160	\$9,603,240
3	2255	Five-month Extension of Time under 37 CFR 1.136(a) (small entity)	3,176	\$1,264	\$4,014,464
3	3255	Five-month Extension of Time under 37 CFR 1.136(a) (micro entity)	206	\$632	\$130,192
5	1814	Statutory Disclaimer (including terminal disclaimer) (undiscounted)	36,105	\$170	\$6,137,850

5	2814	Statutory Disclaimer (including terminal disclaimer) (small entity)	13,175	\$170	\$2,239,750
5	3814	Statutory Disclaimer (including terminal disclaimer) (micro entity)	670	\$170	\$113,900
6	1802	Request for Expedited Examination of a Design Application (undiscounted)	713	\$1,600	\$1,140,800
6	2802	Request for Expedited Examination of a Design Application (small entity)	1,426	\$640	\$912,640
6	3802	Request for Expedited Examination of a Design Application (micro entity)	5,088	\$320	\$1,628,160
7	1453	Petition for Revival of an Application for Patent Abandoned Unintentionally (undiscounted)	2,323	\$2,100	\$4,878,300
7	2453	Petition for Revival of an Application for Patent Abandoned Unintentionally (small entity)	3,388	\$840	\$2,845,920
7	3453	Petition for Revival of an Application for Patent Abandoned Unintentionally (micro entity)	1,313	\$420	\$551,460
8	1453	Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing (undiscounted)	94	\$2,100	\$197,400
8	2453	Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing (small entity)	19	\$840	\$15,960
8	3453	Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing (micro entity)	12	\$420	\$5,040
16	1808	Copy of File Content Showing Redactions (undiscounted)	1	\$140	\$140
16	2808	Copy of File Content Showing Redactions (small entity)	1	\$140	\$140
16	3808	Copy of File Content Showing Redactions (micro entity)	1	\$140	\$140
18	1801	Request for Continued Examination (RCE) Transmittal (First Request) (undiscounted)	70,734	\$1,360	\$96,198,240
18	2801	Request for Continued Examination (RCE) Transmittal (First Request) (small entity)	19,673	\$544	\$10,702,112
18	3801	Request for Continued Examination (RCE) Transmittal (First Request) (micro entity)	1,992	\$272	\$541,824
18	1820	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests) (undiscounted)	29,979	\$2,000	\$59,958,000
18	2820	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests) (undiscounted)	8,985	\$800	\$7,188,000
18	3820	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests) (micro entity)	637	\$400	\$254,800
19	1830	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d) (undiscounted)	354	\$140	\$49,560
19	2830	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d) (small entity)	245	\$56	\$13,720
19	3830	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d) (micro entity)	31	\$28	\$868
20	1803	Request for Voluntary Publication or Republication (includes publication fee for republication) (undiscounted)	157	\$140	\$21,980
20	2803	Request for Voluntary Publication or Republication (includes publication fee for republication) (small entity)	19	\$140	\$2,660
20	3803	Request for Voluntary Publication or Republication (includes publication fee for republication) (micro entity)	4	\$140	\$560
22	1830	Processing Fee Under 37 CFR 1.17(i) Transmittal (undiscounted)	56	\$140	\$7,840
22	2830	Processing Fee Under 37 CFR 1.17(i) Transmittal (small entity)	39	\$56	\$2,184

22	3830	Processing Fee Under 37 CFR 1.17(i) Transmittal (micro entity)	5	\$28	\$140
29	1810	For each additional invention to be examined (see 37 CFR 1.129(b)) (undiscounted)	1	\$880	\$880
29	2810	For each additional invention to be examined (see 37 CFR 1.129(b)) (small entity)	1	\$352	\$352
29	3810	For each additional invention to be examined (see 37 CFR 1.129(b)) (micro entity)	1	\$176	\$176
29	1809	Filing a submission after final rejection (see 37 CFR 1.129(a)) (undiscounted)	17	\$880	\$14,960
29	2809	Filing a submission after final rejection (see 37 CFR 1.129(a)) (small entity)	20	\$352	\$7,040
29	3809	Filing a submission after final rejection (see 37 CFR 1.129(a)) (micro entity)	6	\$176	\$1,056
30	1819	Correction of inventorship after first office action on the merits (undiscounted)	793	\$640	\$507,520
30	2819	Correction of inventorship after first office action on the merits (small entity)	617	\$256	\$157,952
30	3819	Correction of inventorship after first office action on the merits (micro entity)	60	\$128	\$7,680
31	1830	Request for correction in a patent application relating to inventorship or inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (non-provisional) (undiscounted)	7,122	\$140	\$997,080
31	2830	Request for correction in a patent application relating to inventorship or inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (non-provisional) (small entity)	5,180	\$56	\$290,080
31	3830	Request for correction in a patent application relating to inventorship or inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (non-provisional) (micro entity)	648	\$28	\$18,144
31	1807 2807 3807	Request for correction in a patent application relating to inventorship or inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (provisional) (undiscounted, small, and micro)	5,550	\$50	\$277,500
N/A	1817	Request for prioritized examination (undiscounted)	6,481	\$4,200	\$27,220,200
N/A	2817	Request for prioritized examination (small entity)	7,491	\$1,680	\$12,584,880
N/A	3817	Request for prioritized examination (micro entity)	1,028	\$840	\$863,520
		Totals	533,476	- - -	\$363,579,616

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 2,435,597 items will be submitted in the mail resulting in 24,356 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail flat rate legal envelope, will be \$10.15. Therefore, the USPTO estimates that the total mailing costs for this information collection is \$242,342. The USPTO estimates approximately 24,356 submissions per year may be mailed to the USPTO for an estimated total postage cost of \$247,213 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 employs a GS-7, step 1 employee to process the items in this information collection.

The USPTO estimate that the cost of a GS-7, step 1 employee is \$34.84 per hour (GS hourly rate of \$26.80 with 30% (\$8.04) added for benefits and overhead) to process the items in this information collection.

The USPTO estimates that it takes an employee between 6 minutes (0.10 hour) and 4 hours to process the items in this collection.

Table 5: Burden Hour/Cost to the Federal Government

Item No.	Item	Estimated Annual Responses (a) x (b) = (c)	Estimated Time for Response (hours) (d)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate ⁶ (\$/hour) (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
1	Information Disclosure Statements that require the fee set forth in 37 CFR 1.17(p)	694,000	0.30 (18 minutes)	208,000	\$34.84	\$7,253,688
2	Transmittal Fee	517,000	0.10 (6 minutes)	51,700	\$34.84	\$1,801,228
3	Petition for Extension of Time under 37 CFR 1.136(a)	192,884	0.10 (6 minutes)	19,288	\$34.84	\$671,994
4	Express Abandonment under 37 CFR 1.138	2,000	0.10 (6 minutes)	200	\$34.84	\$6,968
5	Statutory Disclaimers (including terminal disclaimers)	49,950	0.20 (12 minutes)	9,990	\$34.84	\$348,052
6	Request for Expedited Examination of a Design Application	7,227	0.10 (6 minutes)	723	\$34.84	\$25,189
7	Petition for Revival of an Application for Patent Abandoned Unintentionally	7,024	0.30 (18 minutes)	2,107	\$34.84	\$73,408
8	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	125	0.30 (18 minutes)	38	\$34.84	\$1,324
9	Requests to Access, Inspect, and Copy	1,000	0.10 (6 minutes)	100	\$34.84	\$3,484

⁶ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/DCB_h.aspx.

10	Deposit Account Order Form	55,000	0.20 (12 minutes)	11,000	\$34.84	\$383,240
11	Certificates of Mailing or Transmission	450,000	0.10 (6 minutes)	45,000	\$34.84	\$1,567,800
12	Statement Under 37 CFR 3.73(c)	146,000	0.10 (6 minutes)	14,600	\$34.84	\$508,664
13	Non-publication Request	16,000	0.50 (30 minutes)	8,000	\$34.84	\$278,720
14	Rescission of Previous Non-publication Request (35 U.S.C. 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii))	500	0.50 (30 minutes)	250	\$34.84	\$8,710
15	Electronic Filing System (EFS) Copy of Application for Publication	1	0.25 (15 minutes)	0	\$34.84	\$0
16	Copy of File Content Showing Redactions	3	4	12	\$34.84	\$418
17	Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	10	1	10	\$34.84	\$348
18	Request for Continued Examination (RCE) Transmittal	132,000	0.60 (36 minutes)	79,200	\$34.84	\$2,759,328
19	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	630	0.30 (18 minutes)	189	\$34.84	\$6,585
20	Request for Voluntary Publication or Republication (includes publication fee for republication)	450	0.03 (2 minutes)	14	\$34.84	\$488
21	Applicant Initiated Interview Request Form	50,000	0.10 (6 minutes)	5,000	\$34.84	\$174,200
22	Processing Fee Under 37 CFR 1.17(i) Transmittal	100	0.08 (5 minutes)	8	\$34.84	\$279
23	Request to Retrieve Electronic Priority Application (s) Under 37 CFR 1.55(h)	10,000	0.06 (4 minutes)	600	\$34.84	\$20,904
24	Authorization or Rescission of Authorization to Permit Access to Application-as-filed by Participating Offices Under 37 CFR 1.14(h)	6,000	0.06 (4 minutes)	360	\$34.84	\$12,542
25	Petition for Express Abandonment to Obtain a Refund	2,050	0.10 (6 minutes)	205	\$34.84	\$7,142
26	Pre-Appeal Brief Request for Review	6,700	0.10 (6 minutes)	670	\$34.84	\$23,343

27	Request for Corrected Filing Receipt	44,000	0.08 (5 minutes)	3,520	\$34.84	\$122,637
28	Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1) (EFS-Web only)	2,100	0.10 (6 minutes)	210	\$34.84	\$7,316
29	Filing a submission after final rejection (see 37 CFR 1.129(a))	43	0.50 (30 minutes)	22	\$34.84	\$766
30	Correction of inventorship after first office action on the merits	3,300	0.30 (18 minutes)	990	\$34.84	\$34,492
31	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48)	18,500	0.30 (18 minutes)	5,550	\$34.84	\$193,362
32	Request to correct or update the name of the applicant under 37 CFR 1.46(c)(1), or change the applicant under 37 CFR 1.46(c)(2)	21,000	0.30 (18 minutes)	6,300	\$34.84	\$219,492
	Totals	2,435,597	- - -	474,056	- - -	\$16,516,111

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	2,435,597	0	0	-1,233,800	0	3,669,397
Annual Time Burden (Hr)	535,466	0	0	-2,651,875	0	3,187,341
Annual Cost Burden (\$)	363,826,829	0	0	-63,288,479	0	427,115,308

Changes in Respondents and Hourly Burden due to Adjustment in Agency Estimate

The total number of respondents has decreased by 1,233,800 due to estimated fluctuations in the number of responses and submissions in this information collection. This decrease in the number of respondents and responses results in a decrease of 2,651,875 hours in the annual time burden estimates.

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

For this renewal, the USPTO estimates that the total annual (non-hour) costs will decrease by \$63,288,479 from the previous approval. This decrease is due to estimated fluctuations in submissions for items that require a fee.

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.

The USPTO does not plan to publish this information for statistical use.

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 expiration date of OMB approval.

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.