

**JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE**  
**Patent Reexaminations, Supplemental Examinations,**  
**and Post Patent Submissions**  
**OMB Control Number 0651-0064**  
**2025**

Background

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. Chapter 30 of Title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art cited under the provisions of 35 U.S.C. 301. Once initiated, the reexamination proceedings under Chapter 30 are substantially *ex parte* and do not permit input from third parties. The regulations outlining *ex parte* reexaminations are found at 37 CFR 1.510-1.570. The purpose of this information collection is to facilitate requests for *ex parte* reexamination and supplemental examination, to facilitate prosecution of reexamination and to ensure that the associated documentation is submitted to the USPTO, and to permit relevant post-patent prior art and claim scope information to be entered into a patent file.

35 U.S.C. 257 permits a patent owner to request supplemental examination of a patent by the USPTO to consider, reconsider, or correct information believed to be relevant to the patent. The regulations outlining supplemental examination are found at 37 CFR 1.601-1.625.

The Leahy-Smith America Invents Act terminated *inter partes* reexamination effective September 16, 2012. However, *inter partes* reexamination proceedings based on *inter partes* reexamination requests filed before September 16, 2012, continue to be prosecuted. Therefore, this collection continues to include items related to the prosecution of *inter partes* reexamination proceedings. The regulations outlining *inter partes* reexaminations are found at 37 CFR 1.902-1.959.

The provisions of 35 U.S.C. 301 and 37 CFR 1.501 govern the ability of a person to submit into the file of an issued patent (1) prior art consisting of patents or printed publications which the person making the submission believes to have a bearing on the patentability of any claim of the issued patent and (2) statements of the owner of the issued patent filed in a proceeding before a federal court or the USPTO in which the owner of the issued patent took a position on the scope of any claim of the issued patent.

Thus, the items included in this collection cover (1) requests for *ex parte* reexamination, (2) requests for supplemental examination, (3) information that may be submitted by patent owners and third-party requesters in relation to the prosecution of an *ex parte* or *inter partes* reexamination proceeding, (4) information submitted by the public to aid in ascertaining the patentability and/or scope of the claims of the issued patent, and (5)

information submitted by patent owners regarding a position taken before the USPTO or a federal court regarding the scope of any claim in their issued patent. The USPTO's use of the statements of the patent owners ((5) above) will be limited to determining the meaning of a patent claim in *ex parte* reexamination proceedings that already have been ordered and in *inter partes* review and post grant review proceedings that already have been instituted.

### Request

This request is to update form PTO/SB/57 (Request for *Ex Parte* Reexamination Form). Subsection a of item 16 "Service" is updated to make explicit that the service required by 37 CFR 1.510(b)(5) is service compliant with 37 CF 1.248. The four added checkboxes allow the respondent to quickly and easily identify their 37 CFR 1.248(a)-compliant manner of service. Subsection b of item 16 is updated to indicate that a duplicate copy of the request for *ex parte* reexamination is not required if the request is filed using the USPTO patent electronic filing system.

### Summary of Changes

The revisions to form PTO/SB/57 result in no changes in burden.

0651-0064's burden is as follows:

- 890 annual responses (unchanged)
- 25,714 annual hourly burden (unchanged)
- \$ 4,129,815 in annual non-hourly burden costs (unchanged)