

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Cooperation Treaty
OMB Control Number 0651-0021

Background

This collection of information is required by the provisions of the Patent Cooperation Treaty (PCT), which became operational in June 1978 and is administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva, Switzerland. The provisions of the PCT have been implemented by the United States in Part IV of Title 35 of the U.S. Code (Chapters 35-37) and Subpart C of Title 37 of the Code of Federal Regulations (37 CFR §§ 1.401-1.499). The purpose of the PCT is to provide a standardized filing format and procedure that allows an applicant to seek protection for an invention in several countries by filing one international application in one location, in one language, and paying one initial set of fees.

The information in this collection is used by the public to submit a patent application under the PCT and by the United States Patent and Trademark Office (USPTO) to fulfill its obligation to process, search, and examine the application as directed by the treaty. The filing, search, written opinion, and publication procedures are provided for in Chapter I of the PCT. Additional procedures for a preliminary examination of PCT international applications are provided for in optional PCT Chapter II. Under Chapter I, an applicant can file an international application in the national or home office (Receiving Office (RO)) or the IB. The USPTO acts as the United States Receiving Office (RO/US) for international applications filed by residents and nationals of the United States. These applicants send most of their correspondence directly to the USPTO, but they may also file certain documents directly with the IB. The USPTO serves as an International Searching Authority (ISA) to perform searches and issues an international search report (ISR) and a written opinion (WOISA) on international applications. The USPTO also issues an international preliminary report on patentability (IPRP Chapter II) when acting as an International Preliminary Examining Authority (IPEA).

The RO reviews the application and, if it contains all of the necessary information, assigns a filing date to the application. The RO maintains the home copy of the international application and forwards the record copy of the application to the IB and the search copy to the ISA. The IB maintains the record copy of all international applications and publishes them 18 months after the earliest priority date, which is the earliest date for which a benefit is claimed. The ISA performs a search to determine whether there is any prior art relevant to the claims of the international application and will issue an international search report and written opinion as to whether each claim is novel, involves an inventive step, and is industrially applicable. The ISA then forwards the international search report and written opinion to the applicant and the IB. The IB will normally publish the application and search report 18 months after the priority date, unless early publication is requested by the applicant. Until international publication, no third person or national or regional office is allowed access to the international patent application unless so requested or authorized

by the applicant. If the applicant wishes to withdraw the application (and does so before international publication), international publication does not take place.

Under optional Chapter II of the Treaty, an applicant who has filed an international application in a RO must file a demand for an international preliminary examination of the application by an IPEA, such as the USPTO. A Demand, including the form and required fees, must be filed within a prescribed time period. Usually, a Demand is filed with amendments and/or arguments under PCT Article 34 addressing objections raised in the WOISA. The International preliminary examination is a second evaluation of the potential patentability of the claimed invention (usually the claims have been amended), using the same standards on which the written opinion of the ISA was based. A copy of the examination report is sent to the applicant and to the IB. The IB then forwards a copy of the examination report to each Office elected by the applicant.

Rulemaking 0651-AD92

In RIN 0651-AD92 (Conditions for Additional Information and Fee in Petitions Filed in Patent Applications and Patents Based on Unintentional Delay) published on June 24, 2026,¹ the United States Patent and Trademark Office (USPTO) is requiring additional information whenever the delay in taking certain actions in patent applications and patents is more than one year, instead of requiring additional information whenever the delay was more than two years. This action is being taken to increase certainty and predictability concerning patent rights, and to encourage the timely filing of grantable petitions to revive applications, accept delayed maintenance fee payments, accept delayed priority or benefit claims, and seek relief from time limits in connection with international design applications. In addition, the USPTO is changing the conditions for when the corresponding petition fee is required.

In support of RIN 0651-AD92 ,the USPTO is adjusting the estimated annual burden hours and non-hour costs in this information collection. The Rule increases the estimated time for response for Item 17 (Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally) from 1 hour to 1.2 hours, and Item 20 (Acceptance of an unintentionally delayed claim for priority (37 CFR § 1.78(a)(3))) from 2 hours to 3 hours. Additionally, the Rule changes the estimated number of fees paid associated with Item 20.

Itemized Changes

Table 1: Changes in Hourly Burden

Item No.	Item	Current Annual Hourly Burden	New Annual Hourly Burden	Change in Annual Hourly Burden
17	Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally	928	1,114	+186
20	Acceptance of an unintentionally delayed claim for priority (37 CFR § 1.78(a)(3))	440	660	+220

¹ <https://www.govinfo.gov/content/pkg/FR-2026-06-24/pdf/2026-12717.pdf>

	Totals	1,148	1,774	+406
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Table 2: Changes in Fee Responses

Item No.	Fee Code	Fee Amount	Item	Current Annual Fee Responses	New Annual Fee Responses	Change in Annual Fee Responses
20	1454	\$2,260	Petition for the delayed submission of a priority or benefit claim, an unintentionally delayed claim for priority or benefit, delay less than or equal to two years (undiscounted entity)	83	56	-27
20	2454	\$904	Petition for the delayed submission of a priority or benefit claim, , delay less than or equal to two years (small entity)	127	47	-80
20	3454	\$452	Petition for the delayed submission of a priority or benefit claim, , delay less than or equal to two years (micro entity)	10	9	-1
20	1469	\$3,000	Petition for the delayed submission of a priority or benefit claim, delay greater than two years (undiscounted entity)	2	56	+54
20	2469	\$1,200	Petition for the delayed submission of a priority or benefit claim, delay greater than two years (small entity)	1	47	+46
20	3469	\$600	Petition for the delayed submission of a priority or benefit claim, delay greater than two years (micro entity)	1	9	+8
			Totals	224	224	+0

Table 3: Changes in Non-hour Cost

Item No.	Fee Code	Fee Amount	Item	Current Cost (a)	New Cost (b)	Change in Non-hour Cost Burden (b) – (a) = (c)
20	1454	\$2,260	Petition for the delayed submission of a priority or benefit claim, an unintentionally delayed claim for priority or benefit, delay less than or equal to two years (undiscounted entity)	\$187,580	\$126,560	-\$61,020
20	2454	\$904	Petition for the delayed submission of a priority or benefit claim, , delay less than or equal to two years (small entity)	\$114,808	\$42,488	-\$72,320
20	3454	\$452	Petition for the delayed submission of a priority or benefit claim, , delay less than or equal to two years (micro entity)	\$4,520	\$4,068	-\$452
20	1469	\$3,000	Petition for the delayed submission of a priority or benefit claim, delay greater than two years (undiscounted entity)	\$6,000	\$168,000	+\$162,000
20	2469	\$1,200	Petition for the delayed submission of a priority or benefit claim, delay greater than two years (small entity)	\$1,200	\$56,400	+\$55,200
20	3469	\$600	Petition for the delayed submission of a priority or benefit claim, delay greater than two years (micro entity)	\$600	\$5,400	+\$4,800
			Totals	\$314,708	\$402,916	+\$88,208

Summary of Changes

The aforementioned rulemaking results in the increase of 406 annual burden hours and \$88,208 in annual non-hourly costs to collection 0651-0021.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Annual Number of Responses	412,493	0	412,493
Annual Time Burden (Hr)	343,739	+406	344,145
Annual Non-Hour Cost Burden (\$)	452,882,158	+88,208	452,970,366

0651-0021's revised burden is as follows:

- 412,493 annual responses (unchanged)
- 344,145 annual hourly burden
- \$452,970,366 in annual non-hourly burden costs