



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Proposed collection; comment request; “Fee Deficiency Submissions”

AGENCY: United States Patent and Trademark Office, Commerce

ACTION: Notice

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before *{insert date 60 days after the date of publication in the Federal Register, in the format “month, day, year”}*.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651–0070 Fee Deficiency Submissions” in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313– 1450; by telephone at 571-272-7728; or by email at Raul.Tamayo@uspto.gov with “Paperwork” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

The Leahy-Smith America Invents Act (“Act”) was enacted into law on September 16, 2011. Pub. L. 112-29, 125 Stat. 283 (2011). Under section 10(b) of the Act, eligible small entities shall receive a 50 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Act further provides that micro entities shall receive a 75 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

This information collection covers the submissions made by patent applicants and patentees to excuse small and micro entity fee payment errors. Specifically, 37 CFR 1.28(c) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the small entity amount. 37 CFR 1.29(k) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the micro entity amount.

This information collection is necessary so that patent applicants and patentees may pay the balance of fees due (i.e., make a fee deficiency payment) when a fee was previously paid in error in a micro or small entity amount. The USPTO needs the information to be able to process and properly record a fee deficiency payment to avoid questions arising later either for the USPTO or for the applicant or patentee as to whether the proper fees have been paid in the application or patent.

II. Method of Collection

The items in this collection may be submitted online using EFS-Web, the USPTO's Web-based electronic filing system, or on paper by either mail or hand delivery.

III. Data

OMB Number: 0651–0070.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

IC Number	Information Collection Instrument	Form(s)
1	Submissions Under 37 CFR 1.28 (c)	<ul style="list-style-type: none"> • No form
2	Submissions Under 37 CFR 1.29 (k)	<ul style="list-style-type: none"> • No form

Type of Review: Regular

Affected Public: Businesses or other for-profits; not-for-profit institutions; individuals or households.

Estimated Number of Respondents: 3,000 responses per year. Of this total, the USPTO expects that 2,910 responses will be submitted electronically through EFS-Web and 90 will be submitted on paper.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 2 hours to submit the information in this collection, 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 is shown in the table below.

Estimated Total Annual Hour Burden: 6,000 hours.

Estimated Total Annual Cost Burden (Hourly): \$2,334,000. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for an attorney is \$389. Using this hourly rate, the USPTO estimates \$2,334,000 per year for the total hourly costs associated with respondents.

IC Number	Information Collection Instrument	Estimated time for response (hours) (a)	Estimated Annual Responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (\$) (c) x (d) = (e)
1	Submissions Under 37 CFR 1.28 (c)	2	2,250	4,500	\$389.00	\$1,750,500.00
2	Submissions Under 37 CFR 1.29 (k)	2	750	1,500	\$389.00	\$583,500.00
Total	.....	.....	3,000	6,000	.....	\$2,334,000.00

Estimated Total Annual Cost Burden (Non-Hourly): \$504.00. There are no capital startup, maintenance, or operating fees are associated with this collection. There are, however, postage costs associated with this collection. Specifically, customers may incur postage costs when submitting the information in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average first class postage cost for a mailed one-pound submission will be \$5.60 and approximately 90 submissions will be submitted to the USPTO requiring postage.

#	Information Collection Instrument	Responses (yr) (a)	Postage Costs (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
1	Submissions Under 37 CFR 1.28 (c)	45	\$5.60	\$252.00
2	Submissions Under 37 CFR 1.29 (k)	45	\$5.60	\$252.00
Total	.....	90	.....	\$504.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs is \$504.00 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether

the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO,

Office of the Chief Information Officer.

BILLING CODE 3510-16-P

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