



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Post Allowance and Refiling

ACTION: Proposed collection; comment request.

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 take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. § 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before [INSERT DATE 60 DATES AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651-0033 comment” 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, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by e-mail to Raul.Tamayo@uspto.gov. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTAL INFORMATION

I. Abstract

This collection of information encompasses the action an applicant must take to submit an issue fee payment to the USPTO. 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. When an application for a patent is allowed by the USPTO, the USPTO issues a notice of allowance and the applicant must pay the specified issue fee (including the publication fee, if applicable) within three months to avoid abandonment of the application. If the appropriate fees are paid within the proper time period, the USPTO can then issue the patent. If the fees are not paid within the designated time period, the application is abandoned (applicant may

petition the Director to accept a delayed payment with a satisfactory showing that the delay was unintentional; the Petition for Revival of an Application for Patent Abandoned Unintentionally (Form PTO/SB/64) is approved under information collection 0651-0031). The rules outlining the procedures for payment of the issue fee and issuance of a patent are found at 37 CFR 1.18 and 1.311-1.317.

This collection of information also encompasses several actions that may be taken after issuance of a patent, pursuant to Chapter 25 of Title 35 U.S.C. A certificate of correction may be requested to correct an error or errors in the patent. If the USPTO determines that the request should be approved, the USPTO will issue a certificate of correction. For an original patent that is believed to be wholly or partly inoperative or invalid, the assignee(s) or inventor(s) may apply for reissue of the patent, which entails several formal requirements, including provision of an oath or declaration specifically identifying at least one error being relied upon as the basis for reissue and stating the reason for the belief that the original patent is wholly or partly inoperative or invalid (e.g., a defective specification or drawing, or claiming more or less than the patentee had the right to claim in the patent). The rules outlining these procedures are found at 37 CFR 1.171-1.178 and 1.322-1.325.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651-0033.

Form Number(s): PTO/SB/44/50/51/51S/52/53/56/141, PTO/AIA/05/06/07, and PTOL-85B.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 379,600 responses per year. The USPTO estimates that approximately 25% of these responses will be from small entities (22%) and micro entities (3%).

Estimated Time Per Response: The USPTO estimates that it will take the public from 12 minutes (0.20 hours) to 5 hours to gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 207,065 hours.

Estimated Total Annual Respondent Cost Burden: \$35,734,150.00. The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of \$410 per hour, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals at an estimated rate of \$125 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately \$35,734,150.00 per year.

IC Number	Item	Estimated time for response (a) (hr)	Estimated annual responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost Burden (\$/hr) (c) x (d) = (e)
1	Certificate of Correction (PTO/SB/44)	1	28,000	28,000.00	\$410.00	\$11,480,000.00
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	0.50 (30 minutes)	850	425.00	\$410.00	\$174,250.00
3	Reissue Documentation	5	950	4,750.00	\$410.00	\$1,947,500.00
4	Reissue Patent Application Transmittal (PTO/SB/50)Office (RO/US)	0.20 (12 minutes)	950	190.00	\$410.00	\$77,900.00

	(PTO-1382)					
5	Reissue Application Declaration by the Inventor or the Assignee (PTO/SB/51/52 and PTO/AIA/05/06) or Substitute Statement in Lieu of an Oath or Declaration for Reissue Patent Application (35 U.S.C. § 115(d) and 37 CFR 1.64) (PTO/AIA/07)	0.50 (30 minutes)	1,350	675.00	\$410.00	\$276,750.00
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	0.30 (18 minutes)	250	75.00	\$410.00	\$30,750.00
7	Reissue Application: Consent of Assignee; Statement of Non-assignment (PTO/SB/53)	0.20 (12 minutes)	1,300	260.00	\$410.00	\$106,600.00
8	Reissue Application Fee Transmittal Form (PTO/SB/56)	0.20 (12 minutes)	950	190.00	\$410.00	\$77,900.00
9	Issue Fee Transmittal (PTOL-85B)	0.50 (30 minutes)	35,000	17,500.00	\$125.00	\$2,187,500.00
10	Issue Fee Transmittal (electronic) (PTOL-85B)	0.50 (30 minutes)	310,000	155,000.00	\$125.00	\$19,375,000.00
	Totals	379,600	207,065.00	\$35,734,150.00

Estimated Total Annual Non-hour Respondent Cost Burden: \$274,403,312.19.

There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the forms of postage costs.

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
1	Certificate of correction	12,200	\$100.00	\$1,220,000.00
3	Basic filing fee – Reissue (Large entity)	850	\$280.00	\$238,000.00
3	Basic filing fee – Reissue (Small entity)	250	\$140.00	\$35,000.00
3	Basic filing fee – Reissue (Micro entity)	10	\$70.00	\$700.00

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
3	Reissue Search Fee (Large entity)	850	\$600.00	\$510,000.00
3	Reissue Search Fee (Small entity)	250	\$300.00	\$75,000.00
3	Reissue Search Fee (Micro entity)	10	\$150.00	\$1,500.00
3	Reissue independent claims in excess of three (Micro entity)	1,150	\$420.00	\$483,000.00
3	Reissue independent claims in excess of three (Small entity)	200	\$210.00	\$42,000.00
3	Reissue independent claims in excess of three (Micro entity)	15	\$105.00	\$1,575.00
3	Reissue claims in excess of 20 (Large entity)	7,535	\$80.00	\$602,800.00
3	Reissue claims in excess of 20 (Small entity)	2,030	\$40.00	\$81,200.00
3	Reissue claims in excess of 20 (Micro entity)	90	\$20.00	\$1,800.00
8	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Large entity)	25	\$400.00	\$10,000.00
8	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Small entity)	5	\$200.00	\$1,000.00
8	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Micro entity)	0	\$100.00	\$0.00
8	Reissue Examination Fee (Large entity)	840	\$2,160.00	\$1,814,400.00
8	Reissue Examination Fee (Small entity)	245	\$1,080.00	\$264,600.00
8	Reissue Examination Fee (Micro entity)	10	\$540.00	\$5,400.00
9, 10	Utility issue fee (Large entity)	236,380	\$960.00	\$226,924,800.00
9, 10	Utility issue fee (Small entity)	57,830	\$480.00	\$27,758,400.00
9, 10	Utility issue fee (Micro entity)	5,625	\$240.00	\$1,350,000.00
9, 10	Design issue fee (Large entity)	15,230	\$560.00	\$8,528,800.00
9, 10	Design issue fee (Small entity)	11,150	\$280.00	\$3,122,000.00
9, 10	Design issue fee (Micro entity)	2,210	\$140.00	\$309,400.00

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
9, 10	Plant issue fee (Large entity)	610	\$760.00	\$463,600.00
9, 10	Plant issue fee (Small entity)	655	\$380.00	\$248,900.00
9, 10	Plant issue fee (Micro entity)	10	\$190.00	\$1,900.00
9, 10	Reissue issue fee (Large entity)	265	\$960.00	\$254,400.00
9, 10	Reissue issue fee (Small entity)	90	\$480.00	\$43,200.00
9, 10	Reissue issue fee (Micro entity)	5	\$240.00	\$1,200.00
Total	356,625	\$274,394,575.00

Customers may incur postage costs when submitting the information in this collection by the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 49 cents and that approximately 5% submissions will be mailed to the USPTO per year, for a total estimated postage cost of \$8,737.19 per year.

The total annual (non-hour) respondent cost burden for this collection is estimated to be approximately \$274,403,312.19 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and

assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Marcie Lovett,

Records Management Division Director,

Office of the Chief Information Officer;

BILLING CODE: 3510-16-P

[FR Doc. 2016-19921 Filed: 8/19/2016 8:45 am; Publication Date: 8/22/2016]