



## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### Post Allowance and Refiling

**ACTION:** Notice of renewal of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651-0033 (Post Allowance and Refiling).

**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](mailto:InformationCollection@uspto.gov). Include “0651-0033 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**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](mailto:Raul.Tamayo@uspto.gov). Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

## **SUPPLEMENTARY INFORMATION:**

### **I. Abstract**

This collection of information covers the submission of issue fee payments to the United States Patent and Trademark Office (USPTO). The 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 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 and revive the application with a statement 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 covers several transactions 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 original patentee, or the current patent owner if there has been a subsequent assignment, 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:* Extension of a currently approved collection.

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

*Estimated Number of Respondents:* 392,149 responses per year. The USPTO estimates that approximately 25% (98,037) 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:* 213,789.50 hours.

*Estimated Total Annual Respondent Cost Burden:* \$37,691,207.50. The USPTO expects that the information in this collection will be prepared by attorneys at an

estimated rate of \$438 per hour, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals at an estimated rate of \$125 per hour. The attorney rates are found in the 2017 Report of the Economic Survey of the America Intellectual Property Law Association (AIPLA). The paraprofessional rate is found in the 2016 National Utilization and Compensation Survey Report published by the National Association of Legal Assistants (NALA). Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately \$37,691,207.50 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	29,000	29,000.00	\$438.00	\$12,702,000.00
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	0.50 (30 minutes)	800	400.00	\$438.00	\$175,200.00
3	Reissue Documentation	5	900	4,500.00	\$438.00	\$1,971,000.00
4	Reissue Patent Application Transmittal (PTO/SB/50)Office (RO/US) (PTO-1382)	0.20 (12 minutes)	900	180.00	\$438.00	\$78,840.00
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)	1,150	575.00	\$438.00	\$251,850.00
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	0.30 (18 minutes)	50	15.00	\$438.00	\$6,570.00
7	Reissue Application: Consent of Assignee;	0.20 (12 minutes)	950	190.00	\$438.00	\$83,220.00

	Statement of Non-assignment (PTO/SB/53)					
<b>8</b>	Reissue Application Fee Transmittal Form (PTO/SB/56)	0.20 (12 minutes)	900	180.00	\$438.00	\$78,840.00
<b>9</b>	Issue Fee Transmittal (PTOL-85B)	0.50 (30 minutes)	35,750	17,875.00	\$125.00	\$2,234,375.00
<b>10</b>	Issue Fee Transmittal (electronic) (PTOL-85B)	0.50 (30 minutes)	321,749	160,874.50	\$125.00	\$20,109,312.50
	<b>Totals</b>	.....	<b>392,149</b>	<b>213,789.50</b>	.....	<b>\$37,691,207.50</b>

*Estimated Total Annual Non-hour Respondent Cost Burden: \$305,708,615.* 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 form of filing fees and postage costs.

Filing Fees:

There are filing fees associated with this collection. The items with filing fees are listed in the table below.

<b>IC Number</b>	<b>Information Collection Instrument</b>	<b>Estimated Annual Responses (a)</b>	<b>Filing fee (\$) (b)</b>	<b>Total non-hour cost burden (yr) (a) x (b) = (c)</b>
<b>1</b>	Certificate of correction	10,395	\$150.00	\$1,559,250.00
<b>3</b>	Basic filing fee – Reissue (Large entity)	672	\$300.00	\$201,600.00
<b>3</b>	Basic filing fee – Reissue (Small entity)	225	\$150.00	\$33,750.00
<b>3</b>	Basic filing fee – Reissue (Micro entity)	11	\$75.00	\$825.00
<b>3</b>	Reissue Search Fee (Large entity)	669	\$660.00	\$441,540.00
<b>3</b>	Reissue Search Fee (Small entity)	226	\$330.00	\$74,580.00
<b>3</b>	Reissue Search Fee (Micro entity)	11	\$165.00	\$1,815.00
<b>3</b>	Reissue independent claims in excess of three (Large entity)	694	\$460.00	\$319,240.00

<b>IC Number</b>	<b>Information Collection Instrument</b>	<b>Estimated Annual Responses (a)</b>	<b>Filing fee (\$) (b)</b>	<b>Total non-hour cost burden (yr) (a) x (b) = (c)</b>
3	Reissue independent claims in excess of three (Small entity)	228	\$230.00	\$52,440.00
3	Reissue independent claims in excess of three (Micro entity)	10	\$115.00	\$1,150.00
3	Reissue claims in excess of 20 (Large entity)	5,374	\$100.00	\$537,400.00
3	Reissue claims in excess of 20 (Small entity)	1,588	\$50.00	\$79,400.00
3	Reissue claims in excess of 20 (Micro entity)	82	\$25.00	\$2,050.00
3, 4	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Large entity)	41	\$400.00	\$16,400.00
3, 4	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Small entity)	9	\$200.00	\$1,800.00
3, 4	Reissue Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Micro entity)	1	\$100.00	\$100.00
3	Reissue Examination Fee (Large entity)	670	\$2,200.00	\$1,474,000.00
3	Reissue Examination Fee (Small entity)	222	\$1,100.00	\$244,200.00
3	Reissue Examination Fee (Micro entity)	11	\$550.00	\$6,050.00
9, 10	Utility issue fee (Large entity)	248,775	\$1,000.00	\$248,775,000.00
9, 10	Utility issue fee (Small entity)	63,994	\$500.00	\$31,997,000.00
9, 10	Utility issue fee (Micro entity)	7,952	\$250.00	\$1,988,000.00
9, 10	Design issue fee (Large entity)	16,668	\$700.00	\$11,667,600.00
9, 10	Design issue fee (Small entity)	12,415	\$350.00	\$4,345,250.00
9, 10	Design issue fee (Micro entity)	2,586	\$175.00	\$452,550.00
9, 10	Plant issue fee (Large entity)	768	\$800.00	\$614,400.00
9, 10	Plant issue fee (Small entity)	650	\$400.00	\$260,000.00
9, 10	Plant issue fee (Micro entity)	15	\$200.00	\$3,000.00
9, 10	Reissue issue fee (Large entity)	463	\$1,000.00	\$463,000.00
9, 10	Reissue issue fee (Small entity)	132	\$500.00	\$66,000.00

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
9, 10	Reissue issue fee (Micro entity)	2	\$250.00	\$500.00
<b>Total</b>	.....	<b>375,559</b>	.....	<b>\$305,679,890</b>

Postage Costs:

Customers may also incur postage costs when submitting the information in this collection by the USPTO by mail. The USPTO estimates the average USPS Priority Mail postage cost for a legal flat rate envelop is estimated to be \$7.65 and that approximately 1% (3,755) of the submissions will be mailed to the USPTO per year, for a total estimated postage cost of \$28,725 per year.

The total annual (non-hour) respondent cost burden for this collection is estimated to be approximately \$305,708,615 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.

USPTO invites public comments on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) 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, e.g., 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 and Information Governance Branch,

Office of the Chief Administrative Officer, *USPTO*

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