



DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comments Request; Patent Petitions Related to Application and Reexamination Processing Fees

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0059 (Patent Petitions Related to Application and Reexamination Processing Fees). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information:

- *Email:* InformationCollection@uspto.gov. Include “0651–0059 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, 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 email to raul.tamayo@uspto.gov with “0651–0059 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 et seq. to examine an application for patent and, when appropriate, issue a patent. The USPTO also is required to publish patent applications, with certain

exceptions, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under Title 35, United States Code.

Many actions taken by the USPTO during its examination of an application for patent or for reissue of a patent, or during its reexamination of a patent, are subject to review by an appeal to the Patent Trial and Appeal Board. For other USPTO actions, review is in the form of administrative review obtained via submission of a petition to the USPTO. USPTO petitions practice provides an opportunity for a patent applicant or owner to supply additional information that may be required in order for the USPTO to further process an application or patent.

This information collection covers petitions filed in patent applications and reexamination proceedings, and accompanying fees as set forth in 37 CFR 1.17(f), (g), or (h). This information collection also covers the transmittals for the petition fees.

II. Method of Collection

The items in this information collection can be submitted electronically through Electronic Filing System-Web (EFS-Web), on paper by mail, facsimile, or hand delivery to the USPTO.

III. Data

OMB Number: 0651–0059.

Form Number(s): (SB = Specimen Book; AIA = America Invents Act)

- PTO/SB/28 (EFS-Web only) (Petitions to Make Special Under Accelerated Examination Program)

- PTO/AIA/24a (Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c))
- PTO/SB/23 (Petition for Extension of Time Under 37 CFR 1.136(b))
- PTO/AIA/17P (Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal)
- PTO/SB/140 (Petition to Withdraw an Application from Issue)

Type of Review: Revision of a currently approved information collection.

Affected Public: Private sector; individuals or households.

Estimated Number of Respondents: 40,922 respondents per year.

Estimated Number of Responses: 40,922 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public from approximately 5 minutes (0.08 hours) to 12 hours to complete a response, depending on the complexity of the particular item. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 72,958 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$29,183,200.

Table 1: Total Hourly Burden For Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hour/year) (a) x (b) = c	Rate ¹ (\$/hour) (d)	Estimated Annual Burden (c) x (d) = e
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(a) • Petition to Accord a Filing Date Under 1.53(e) • Petition for Decision on a Question Not Specifically Provided For • Petition to Suspend the Rules • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	4,146	4,146	4	16,583	\$400	\$6,633,200
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record • Petition for Access to an Application • Petition for Expungement and Return of Information • Petition to Suspend Action in an Application • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	10,313	10,313	2	20,626	\$400	\$8,250,400

¹ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hour/year) (a) x (b) = c	Rate ¹ (\$/hour) (d)	Estimated Annual Burden (c) x (d) = e
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs • Petition for Entry of a Model or Exhibit • Petition to Withdraw an Application from Issue • Petition to Defer Issuance of a Patent • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	23,866	23,866	1	23,866	\$400	\$9,546,400
4	Petitions to Make Special Under Accelerated Examination Program (EFS-Web only)	798	798	12	9,576	\$400	\$3,830,400
5	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	570	570	.2	114	\$400	\$45,600
6	Petition for Extension of Time Under 37 CFR 1.136(b)	1	1	.5	1	\$400	\$400
	Total	39,694	39,694	- - -	70,766	- - -	\$28,306,400

Table 2: Total Hourly Burden For Individuals And Households Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hour/year) (a) x (b) = c	Rate ² (\$/hour) (d)	Estimated Annual Burden (c) x (d) = e
1	Petitions (corresponding to the fee) Under 37 CFR 1.17(f) include: <ul style="list-style-type: none"> • Petition to Accord a Filing Date Under 1.57(a) • Petition to Accord a Filing Date Under 1.53(e) • Petition for Decision on a Question Not Specifically Provided For • Petition to Suspend the Rules • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	128	128	4	512	\$400	\$204,800
2	Petitions (corresponding to the fee) Under 37 CFR 1.17(g) include: <ul style="list-style-type: none"> • Petition to Access an Assignment Record • Petition for Access to an Application • Petition for Expungement and Return of Information • Petition to Suspend Action in an Application • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	319	319	2	638	\$400	\$255,200

² 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hour/year) (a) x (b) = c	Rate ² (\$/hour) (d)	Estimated Annual Burden (c) x (d) = e
3	Petitions (corresponding to the fee) Under 37 CFR 1.17(h) include: <ul style="list-style-type: none"> • Petition for Accepting Color Drawings or Photographs • Petition for Entry of a Model or Exhibit • Petition to Withdraw an Application from Issue • Petition to Defer Issuance of a Patent • Petition Fee Under 37 CFR 1.17(f), (g), and (h) Transmittal 	738	738	1	738	\$400	\$295,200
5	Petitions to Make Special Under Accelerated Examination Program (EFS-Web only)	25	25	12	300	\$400	\$120,000
6	Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	18	18	.2	4	\$400	\$1,600
	Total	1,228	1,228	- - -	2,192	- - -	\$876,800

Estimated Total Annual Non-Hour Respondent Cost Burden: \$3,195,134.

There are no capital start-up, operation, or maintenance costs associated with this information collection. However, this information collection does have annual non-hour costs in the form of postage costs and filing fees.

Table 3: Annual Non-Hour Cost Burden

Item No.	Item	Estimated Annual Responses (a)	Estimated Cost (b)	Estimated Non-Hour Cost Burden (a) x (b)
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (large entity)	1,089	\$420	\$457,380
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (small entity)	840	\$210	\$176,400
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I) (micro entity)	208	\$105	\$21,840
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (large entity)	4,739	\$220	\$1,042,580
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (small entity)	515	\$110	\$56,650
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II) (micro entity)	62	55	\$3,410
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (large entity)	8,310	\$140	\$1,163,400
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (small entity)	3,777	\$70	\$264,390
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III) (micro entity)	214	\$35	\$7,490
	Total		---	\$3,193,540

Respondents may also incur postage costs when submitting items in this information collection. Although the USPTO prefers that items in this information collection be submitted electronically, items may be submitted to the USPTO by mail through the United States Postal Service. The USPTO expects that approximately 99 percent of the items in this information collection will be submitted electronically, resulting in 198 mailed submissions. The average cost for a four-ounce 2-Day Priority Mail legal flat rate envelope shipped first-class via USPS is \$8.05. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this information collection will total \$1,594.

Respondent's Obligation: Required to obtain or retain benefits.

IV. Request for Comments

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.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personal identifying information in a comment, be aware that the entire comment— including personal identifying information—may be made publicly available at any time. While you may ask in your comment to withhold personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Christopher G. Baker,

Information Collections Officer,

Office of the Chief Administrative Officer,

United States Patent and Trademark Office.

BILLING CODE 3510-16-P

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