



DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Post Allowance and Reissue

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

ACTION: Notice of information collection; request for comments.

SUMMARY: The United States Patent and Trademark Office (hereafter “USPTO” or “Agency”), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0033 (Post Allowance and Reissue). The purpose of this notice is to allow 60 days for public comments preceding submission of the information collection to the Office of Management and Budget (OMB).

DATES: To ensure consideration, you must submit comments regarding this information collection 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 “0651-0033 comment” in the subject line of the message.
- Federal eRulemaking Portal: www.regulations.gov.
- Mail: Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- Telephone: Raul Tamayo, Senior Legal Advisor, 571-272-7728.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor at: United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; 571-272-7728; or Raul.Tamayo@uspto.gov with “0651-0033 comment” in the subject line. Additional information about this information collection is also available at www.reginfo.gov under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information covers the submission of issue fee payments, requests for certificates of correction, and reissue patent applications to the USPTO.

Issue fee payments

The USPTO is required by 35 U.S.C. §§ 131 and 151 to examine patent applications and, when appropriate, allow patent 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. The rules outlining the procedure or payment of the issue fee and issuance of a patent are found at 37 CFR §§ 1.18, 1.311, and 1.314.

Requests for certificates of correction and reissue patent applications

This collection of information also covers several transactions that may be taken after the issuance of a patent. Pursuant to 35 U.S.C. §§ 254 and 255, a certificate of correction may be requested to correct an error or errors of an issued 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 the reissue of the patent pursuant to 35 U.S.C. § 251. The reissue patent application process requires, among other items, 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 reissue application procedures are found at 37 CFR §§ 1.171-1.173 and 1.175-1.178.

II. Method of Collection

The USPTO prefers that the items in this information collection be submitted electronically via the USPTO patent electronic filing system (Patent Center). Respondents may also submit the information in paper form by mail, or by hand delivery to the USPTO.

III. Data

OMB Control Number: 0651-0033.

Forms: (AIA= America Invents Act; SB = Specimen Book; PTOL = Patent Trademark Official Legal Forms)

- PTO/AIA/05 (Reissue Application Declaration by the Inventor)
- PTO/AIA/06 (Reissue Application Declaration by the Assignee)
- PTO/AIA/07 (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/50 (Reissue Patent Application Transmittal)
- PTO/AIA/53 (Reissue Application: Consent of Assignee; Statement of Non-Assignment)
- PTO/SB/44 (Certificate of Correction)
- PTO/SB/51 (Reissue Application Declaration by the Inventor)
- PTO/SB/51S (Supplemental Declaration for Reissue Patent Application to Correct “Errors” Statement (37 CFR 1.175)
- PTO/SB/52 (Reissue Application Declaration by the Assignee)

- PTO/SB/53 (Reissue Application: Consent of Assignee; Statement of Non-Assignment)
- PTO/SB/56 (Reissue Application Fee Transmittal Form)
- PTOL-85B (Part B – Fee(s) Transmittal)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

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

Frequency: On occasion.

Estimated Number of Annual Respondents: 473,710 respondents.

Estimated Number of Annual Responses: 473,710 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 30 minutes (0.50 hours) to 5.30 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed item(s) to the USPTO.

Estimated Total Annual Respondent Burden Hours: 392,186 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$175,307,142.

Table 1: Total Burden Hours and Hourly Costs to Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time for Response (hours)	Estimated Burden (hour/year)	Rate ¹ (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Certificate of Correction	21,000	1	21,000	1.30 (80 minutes)	27,300	\$447	\$12,203,100
2	Petition to Correct Assignee After Payment of Issue Fee (37 CFR § 3.81(b))	450	1	450	0.80 (46 minutes)	360	\$447	\$160,920
3	Reissue Documentation	780	1	780	5.30 (318 minutes)	4,134	\$447	\$1,847,898

¹ 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association; pg. F-41. The USPTO uses the average billing rate for intellectual property work in all firms, which is \$447 per hour (www.aipla.org/home/news-publications/economic-survey).

Item No.	Item	Estimated Annual Respondents (a)	Responses per Respondent (b)	Estimated Annual Responses (a) x (b) = (c)	Estimated Time for Response (hours) (d)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate ¹ (\$/hour) (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
4	Reissue Patent Application Transmittal	780	1	780	0.50 (30 minutes)	390	\$447	\$174,330
5	Reissue Patent Application Declaration by the Inventor or the Assignee 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)	1,450	1	1,450	0.80 (46 minutes)	1,160	\$447	\$518,520
6	Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR § 1.175)	55	1	55	0.60 (36 minutes)	33	\$447	\$14,751
7	Reissue Application: Consent of Assignee: Statement of Non-assignment	1,045	1	1,045	0.50 (30 minutes)	523	\$447	\$233,781
8	Reissue Patent Application Fee Transmittal	780	1	780	0.50 (30 minutes)	390	\$447	\$174,330
9	Issue Fee Transmittal	447,370	1	447,370	0.80 (46 minutes)	357,896	\$447	\$159,979,512
	Totals	473,710	---	473,710	---	392,186	---	\$175,307,142

Estimated Total Annual Respondent Non-hourly Cost Burden: \$477,303,798. There are no capital start-up costs, maintenance costs, or recordkeeping costs associated with this information collection. However, the USPTO estimates that the total annual non-hourly cost burden for this information collection, in the form of filing fees (\$477,279,160) and postage (\$24,638), is \$477,303,798.

Filing Fees

There are 13 filing fees associated with this information collection. The filing fees are detailed by entity size status and listed in the table below.

Table 2: Filing Fees

Item No.	Fee Code	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Non-hourly Cost Burden (a) x (b) = (c)
1	1811	Certificate of correction (Undiscounted entity)	5,700	\$172	\$980,400
1	2811	Certificate of correction (Small entity)	2,120	\$172	\$364,640
1	3811	Certificate of correction (Micro entity)	75	\$172	\$12,900
1	1816	Processing fee for correcting inventorship in a patent (Undiscounted entity)	400	\$172	\$68,800
1	2816	Processing fee for correcting inventorship in a patent (Small entity)	200	\$172	\$34,400
1	3816	Processing fee for correcting inventorship in a patent (Micro entity)	20	\$172	\$3,440
3	1014	Basic filing fee – Reissue (Undiscounted entity)	460	\$350	\$161,000
3	2014	Basic filing fee – Reissue (Small entity)	155	\$140	\$21,700
3	3014	Basic filing fee – Reissue (Micro entity)	20	\$70	\$1,400
3	1019	Basic Filing Fee – Reissue (Design CPA) (Undiscounted entity)	1	\$350	\$350
3	2019	Basic Filing Fee – Reissue (Design CPA) (Small entity)	1	\$140	\$140
3	3019	Basic Filing Fee – Reissue (Design CPA) (Micro entity)	1	\$70	\$70
3	1114	Reissue Search Fee or Reissue Design CPA Search Fee (Undiscounted entity)	450	\$770	\$346,500
3	2114	Reissue Search Fee or Reissue Design CPA Search Fee (Small entity)	155	\$308	\$47,740
3	3114	Reissue Patent Search Fee or Reissue Design CPA Search Fee (Micro entity)	15	\$154	\$2,310
3	1204	Reissue patent independent claims in excess of three (Undiscounted entity)	255	\$600	\$153,000
3	2204	Reissue patent independent claims in excess of three (Small entity)	100	\$240	\$24,000
3	3204	Reissue patent independent claims in excess of three (Micro entity)	10	\$120	\$1,200
3	1205	Reissue claims in excess of 20 (Undiscounted entity)	2,150	\$200	\$430,000
3	2205	Reissue patent claims in excess of 20 (Small entity)	830	\$80	\$66,400
3	3205	Reissue patent claims in excess of 20 (Micro entity)	30	\$40	\$1,200
3, 4	1084	Reissue Patent Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Undiscounted entity)	30	\$450	\$13,500
3, 4	2084	Reissue Patent Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Small entity)	10	\$180	\$1,800
3, 4	3084	Reissue Patent Application Size Fee – for each additional 50 sheets that exceeds 100 sheets (Micro entity)	1	\$90	\$90
3	1314	Reissue Patent Examination Fee or Reissue Design CPA Examination Fee (Undiscounted entity)	450	\$2,550	\$1,147,500

Item No.	Fee Code	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Non-hourly Cost Burden (a) x (b) = (c)
3	2314	Reissue Patent Examination Fee or Reissue Design CPA Examination Fee (Small entity)	155	\$1,020	\$158,100
3	3314	Reissue Patent Examination Fee or Reissue Design CPA Examination Fee (Micro entity)	20	\$510	\$10,200
9	1501	Utility issue fee (Undiscounted entity)	300,000	\$1,290	\$387,000,000
9	2501	Utility issue fee (Small entity)	87,000	\$516	\$44,892,000
9	3501	Utility issue fee (Micro entity)	8,750	\$258	\$2,257,500
9	1502	Design issue fee (Undiscounted entity)	19,500	\$1,300	\$25,350,000
9	2502	Design issue fee (Small entity)	17,900	\$520	\$9,308,000
9	3502	Design issue fee (Micro entity)	13,000	\$260	\$3,380,000
9	1503	Plant issue fee (Undiscounted entity)	375	\$905	\$339,375
9	2503	Plant issue fee (Small entity)	320	\$361	\$115,520
9	3503	Plant issue fee (Micro entity)	5	\$181	\$905
9	1511	Reissue issue fee (Undiscounted entity)	410	\$1,290	\$528,900
9	2511	Reissue issue fee (Small entity)	100	\$516	\$51,600
9	3511	Reissue issue fee (Micro entity)	10	\$258	\$2,580
	Totals		461,184	- - -	\$477,279,160

Postage Costs

While the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service. The USPTO estimates that 0.50% of the 473,710 items will be submitted in the mail, resulting in 2,369 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat rate envelope, is \$10.40. Therefore, the USPTO estimates the total mailing costs for this information collection at \$24,638.

IV. Request for Comments

The USPTO is soliciting public comments to:

- (a) Evaluate 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) Evaluate the accuracy of the Agency's estimate of the burden of the 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. The 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 personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in a comment to withhold PII from public view, the USPTO cannot guarantee that it will be able to do so.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

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