



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 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

- E-mail: InformationCollection@uspto.gov. Include "0651-0033 comment" in the subject line of the message.
- Mail: Susan K. Fawcett, Records Officer, 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."

SUPPLEMENTARY INFORMATION

I. Abstract

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 and the applicant may petition the Director to accept a delayed payment with a satisfactory showing that the delay was unavoidable or unintentional. The Petition for Revival of an Application for Patent Abandoned Unavoidably (Form PTO/SB/61) and the Petition for Revival of an Application for Patent Abandoned Unintentionally (Form PTO/SB/64) are 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.

Chapter 25 of Title 35 U.S.C. provides for several actions that an applicant may take after issuance of a patent, including requesting a certificate of correction 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,

the assignee(s) or inventor(s) may apply for reissue of the patent, which entails several formal requirements including an oath or declaration stating that the errors in the patent were not the result of any deceptive intention on the part of the reissue applicant. If additional errors are corrected after the filing of the reissue application and the original reissue oath/declaration, the reissue applicant must submit a supplemental oath or declaration stating that the additional errors also occurred without any deceptive intent. The rules outlining these procedures are found at 37 CFR 1.171-1.178 and 1.322-1.325.

The public uses this information collection to request corrections of errors in issued patents, to submit applications for reissue patents, and to submit issue fee payments. The USPTO is removing the fee costs associated with the information requirements in this collection because these fees have been moved into information collection 0651-0072, which was approved by OMB in January 2013 in conjunction with the USPTO rulemaking "Setting and Adjusting Patent Fees" (RIN 0651-AC54).

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: 352,150 responses per year. The USPTO estimates that approximately 25% of these responses will be from small entities.

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: 191,690 hours.

Estimated Total Annual Respondent Cost Burden:

\$31,276,990. The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of \$371 per hour, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals at an estimated rate of \$122 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately \$31,276,990 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Certificate of Correction (PTO/SB/44)	1 hour	26,000	26,000
Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	30 minutes	750	375
Reissue Documentation	5 hours	800	4,000
Reissue Patent Application Transmittal (PTO/SB/50)	12 minutes	800	160
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)	30 minutes	1,150	575
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	18 minutes	500	150
Reissue Application: Consent of Assignee; Statement of Non-assignment (PTO/SB/53)	12 minutes	1,350	270
Reissue Application Fee Transmittal Form (PTO/SB/56)	12 minutes	800	160
Issue Fee Transmittal (PTOL-85B)	30 minutes	50,000	25,000
Issue Fee Transmittal (electronic) (PTOL-85B)	30 minutes	270,000	135,000
Totals		352,150	191,690

Estimated Total Annual Non-hour Respondent Cost Burden: \$48,022. 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 postage costs.

There are fees associated with the information requirements in this collection. These fees are covered under OMB control number 0651-0072. The fees are listed in the accompanying table for reference but will not be included in the annual (non-hour) cost burden for this collection.

Item	Current fee amount
Certificate of Correction (PTO/SB/44)	\$100.00
Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b)) (PTO/SB/141)	(large entity) \$140.00 (small entity) \$70.00 (micro entity) \$35.00
Reissue Documentation	\$0.00
Reissue Patent Application Transmittal (PTO/SB/50)	\$0.00
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)	\$0.00
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175) (PTO/SB/51S)	\$0.00
Reissue Application: Consent of Assignee; Statement of Non-assignment (PTO/SB/53)	\$0.00
Reissue Application Fee Transmittal Form (PTO/SB/56) - includes the basic filing fee (\$280 large/\$140 small/\$70 micro), search fee (\$600/\$300/\$150), and examination fee (\$2,160/\$1,080/\$540)	(large entity) \$3,040.00 (small entity) \$1,520.00 (micro entity) \$760.00
Issue Fee (utility patent, no publication fee) (PTOL-85B)	(large entity) \$1,780.00 (small entity) \$890.00 (micro entity) \$445.00

Item	Current fee amount
Issue Fee (utility patent, with \$300 publication fee) (PTOL-85B)	(large entity) \$2,080.00 (small entity) \$1,190.00 (micro entity) \$745.00
Issue Fee (design patent, no publication fee) (PTOL-85B)	(large entity) \$1,020.00 (small entity) \$510.00 (micro entity) \$255.00
Issue Fee (plant patent, no publication fee) (PTOL-85B)	(large entity) \$1,400.00 (small entity) \$700.00 (micro entity) \$350.00
Issue Fee (plant patent, with \$300 publication fee) (PTOL-85B)	(large entity) \$1,700.00 (small entity) \$1,000.00 (micro entity) \$650.00

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 92 cents and that approximately 52,198 submissions will be mailed to the USPTO per year, for a total estimated postage cost of \$48,022 per year.

The total annual (non-hour) respondent cost burden for this collection is estimated to be approximately \$48,022 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.

Dated: May 24, 2013

Susan K. Fawcett,
Records Officer, USPTO,
Office of the Chief Information Officer.
BILLING CODE: 3510-16-P

[FR Doc. 2013-12879 Filed 05/30/2013 at 8:45 am; Publication
Date: 05/31/2013]