



## **DEPARTMENT OF COMMERCE**

### **Patent and Trademark Office**

#### **Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Patent Trial and Appeal Board (PTAB) Appeals**

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the Federal Register on April 20, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

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

*Title:* Patent Trial and Appeal Board (PTAB) Appeals

*OMB Control Number:* 0651-0063.

*Form Number(s):* (AIA= American Invents; SB = Specimen Book)

- PTO/AIA/31: (Notice of Appeal from the Examiner to the Patent Trial and Appeal Board).
- PTO/SB/31: (Notice of Appeal).

- PTO/AIA/32: (Request for Oral Hearing before the Patent Trial and Appeal Board).
- PTO/SB/32: (Request for Oral Hearing before the Patent Trial and Appeal Board).

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

*Number of Respondents:* 22,664 respondents.

*Average Hours per Response:* The USPTO estimates 48,886 responses and that it takes the public approximately .5 to 32 hours to complete this information collection, depending on the complexity of the request. This includes the time to gather the necessary information, prepare the brief, petition, and other papers, and submit the completed request to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 565,927 hours.

*Estimated Total Annual Non-Hour Cost Burden:* \$48,712,078.

*Needs and Uses:* The Patent Trial and Appeal Board (PTAB or Board) is established by statute under 35 U.S.C. 6 (American Inventors Protection Act of 1999). This statute directs, in relevant part, that PTAB shall “on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a).” PTAB has the authority, under 35 U.S.C. 134 and 306 (America Invents Act) to decide appeals in applications and *ex parte* reexamination proceedings, and under pre-AIA sections of the Patent Act, i.e., 35 U.S.C. 134 and 315, to decide appeals in *inter partes* reexamination proceedings.

The Board's responsibilities under the statute include the review of *ex parte* appeals from adverse decisions of examiners in those situations where a written appeal is taken by a dissatisfied applicant or patent owner. In *inter partes* reexamination appeals, PTAB reviews examiner's decisions adverse to a patent owner or a third-party requester. PTAB's opinions and decisions are usually publicly available and published on the USPTO Web site.

The items associated with this information collection include appeals in applications and *ex parte* reexamination proceedings, and appeals in *inter partes* reexamination proceedings that are governed by the regulations in 37 CFR 41. Failure to comply with the appropriate regulations may result in dismissal of the appeal or denial of entry of the submission.

The name of this information collection is being changed from "PTAB Actions" to "PTAB Appeals" to better reflect the content of the information collection. In addition, this renewal adds three items currently approved in another information collection (0651-0031: Patent Processing) to include all items related to patent appeals in a single information collection. These three items are: Notice of Appeal, Amendment to Cancel Claims During an Appeal, and Request for Oral Hearing. A separate change request will be submitted to remove these three items from that information collection (0651-0031: Patent Processing).

*Affected Public:* Individuals or households; private sector. The USPTO estimates that the majority (95%) of respondents (i.e., applicants, patent owners, and requesters) will be from the private sector, but that about 5% will be individuals and households.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following Web site [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function and entering either the title of the information collection or the OMB Control Number 0651-0063.

Further information can be obtained by:

- Email: [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0063 copy request" in the subject line of the message.
- Mail: Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**Kimberly Hardy,**

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*Office of the Chief Administrative Officer,*

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