

**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**Proposed Collection; Comment Request; “Fee Deficiency Submissions”**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**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 comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before May 19, 2015.

**ADDRESSES:** Written comments may be submitted by any of the following methods:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include “0651–0070 Fee Deficiency Submissions” in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, 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 (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email at [Raul.Tamayo@uspto.gov](mailto:Raul.Tamayo@uspto.gov) with “Paperwork” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Leahy-Smith America Invents Act (“Act”) was enacted into law on September 16, 2011. Public Law 112–29, 125 Stat. 283 (2011). Under section 10(b) of the Act, eligible small entities shall receive a 50 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Act further provides that micro entities shall receive a 75 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

This information collection covers the submissions made by patent applicants and patentees to excuse small and micro entity fee payment errors. Specifically, 37 CFR 1.28(c) provides a procedure by

which patent applicants and patentees may be excused for erroneous payments of fees in the small entity amount. 37 CFR 1.29(k) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the micro entity amount.

This information collection is necessary so that patent applicants and patentees may pay the balance of fees due (*i.e.*, make a fee deficiency payment) when a fee was previously paid in error in a micro or small entity amount. The USPTO needs the information to be able to process and properly record a fee deficiency payment to avoid questions arising later either for the USPTO or for the applicant or patentee as to whether the proper fees have been paid in the application or patent.

**II. Method of Collection**

The items in this collection may be submitted online using EFS-Web, the USPTO’s Web-based electronic filing system, or on paper by either mail or hand delivery.

**III. Data**

*OMB Number:* 0651–0070.

*IC Instruments:* The individual instruments in this collection, as well as their associated forms, are listed in the table below.

IC No.	Information collection instrument	Form(s)
1 .....	Submissions Under 37 CFR 1.28 (c) .....	• No form.
2 .....	Submissions Under 37 CFR 1.29 (k) .....	• No form.

*Type of Review:* Regular.  
*Affected Public:* Businesses or other for-profits; not-for-profit institutions; individuals or households.  
*Estimated Number of Respondents:* 3,000 responses per year. Of this total, the USPTO expects that 2,910 responses will be submitted electronically through EFS-Web and 90 will be submitted on paper.  
*Estimated Time per Response:* The USPTO estimates that it will take the

public approximately 2 hours to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or petition, and submit the completed request to the USPTO.  
 The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

*Estimated Total Annual Hour Burden:* 6,000 hours.  
*Estimated Total Annual Cost Burden (Hourly):* \$2,334,000. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for an attorney is \$389. Using this hourly rate, the USPTO estimates \$2,334,000 per year for the total hourly costs associated with respondents.

IC No.	Information collection instrument	Estimated time for response (hours)	Estimated annual responses	Estimated annual burden hours	Rate (\$/hr)	Total cost (\$)
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1 .....	Submissions Under 37 CFR 1.28(c).	2	2,250	4,500	\$389.00	\$1,750,500.00
2 .....	Submissions Under 37 CFR 1.29(k).	2	750	1,500	389.00	583,500.00

IC No.	Information collection instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate (\$/hr) (d)	Total cost (\$) (c) × (d) = (e)
Total .....	.....	.....	3,000	6,000	.....	2,334,000.00

*Estimated Total Annual Cost Burden (Non-Hourly): \$504.00.* There are no capital startup, maintenance, or operating fees associated with this collection. There are, however, postage costs associated with this collection.

Specifically, customers may incur postage costs when submitting the information in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average first class

postage cost for a mailed one-pound submission will be \$5.60 and approximately 90 submissions will be submitted to the USPTO requiring postage.

No.	Information collection instrument	Responses (yr) (a)	Postage costs (b)	Total non-hour cost burden (yr) (a) × (b) = (c)
1 .....	Submissions Under 37 CFR 1.28(c) .....	45	\$5.60	\$252.00
2 .....	Submissions Under 37 CFR 1.29(k) .....	45	5.60	252.00
Total .....	.....	90	.....	504.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs is \$504.00 per year.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the 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, including through the use of automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

**Marcie Lovett,**

*Records Management Division Director, USPTO, Office of the Chief Information Officer.*

[FR Doc. 2015-06442 Filed 3-19-15; 8:45 am]

**BILLING CODE 3510-16-P**

**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**Post Patent Provisions of the Leahy-Smith America Invents Act**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**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 comment on proposed and/or continuing information collections, 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 May 19, 2015.

**ADDRESSES:** Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include "0651-0067 Post Patent Provisions of the Leahy-Smith America Invents Act" in the subject line of the message.

- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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**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 (USPTO), P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by email at [Raul.Tamayo@uspto.gov](mailto:Raul.Tamayo@uspto.gov) with "Paperwork" in the subject line. 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 *et seq.* to examine an application for patent and, when appropriate, issue a patent. The provisions of 35 U.S.C. 301 and 37 CFR 1.501 govern the ability of a person to submit into the file of an issued patent (i) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a patent and (ii) written statements of a patent owner filed in a proceeding before a Federal court or the USPTO in which the patent owner took a position on the scope of any claim of the patent.

The information in this collection can be submitted electronically through EFS-Web, the USPTO's web-based electronic filing system, as well as on paper. The USPTO therefore accounts for both electronic and paper submissions in this collection.