

Additional Considerations for Lifting a Suspension of a Reissue Proceeding

Non-exhaustive factors considered by the Office when determining whether the Board will lift a stay, or Patents will lift a suspension, of a parallel reissue application are discussed above. Further information specific to reissue proceedings are provided below.

After a final written decision issues in an AIA proceeding (and after any requests for rehearing are resolved, if applicable), if requested by the patent owner, Patents may lift a suspension of or otherwise decide to proceed with, *i.e.*, not suspend, a related reissue proceeding while an appeal to the Federal Circuit regarding the final written decision is pending. For example, Patents may lift a suspension if the reissue application attempts to (1) resolve issues with the original or proposed substitute claims identified in the final written decision (*e.g.*, amends the claims in a meaningful way not previously considered by the Office, also taking into account estoppel provisions set forth in 37 CFR 42.73(d)(3)), if applicable; or (2) correct an unrelated issue with the patent (*e.g.*, correction of a priority claim, inventorship, or a drawing). Otherwise, Patents generally will not lift a suspension or proceed with prosecution of a reissue application after the Board issues a final written decision and while a Federal Circuit appeal of that decision is ongoing.

If a Federal Circuit appeal of a final written decision in an AIA trial remains ongoing when allowable subject matter is identified in the reissue application, the Office typically will not pass that application to allowance until the Federal Circuit appeal concludes. In that situation, after an appeal to the Federal Circuit concludes, a patent owner may confer with the examiner and decide how to proceed with the reissue application (*e.g.*, proceed to issuance, file a request for continued examination ("RCE") for further amendments/prosecution, or abandon the reissue application). The examiner also may need to reevaluate the status of allowable subject matter in view of a decision by the Federal Circuit.

As long as patent owner files the reissue application in a timely manner as discussed above, and raises issues different than those already considered in the AIA proceeding (*e.g.*, amendments meaningfully different than those in a previously presented motion to amend), the Office typically will consider the reissue application (subject to possible considerations for suspension discussed above).

Additional Considerations for Lifting a Stay of an Ex Parte Reexamination

Non-exhaustive factors considered by the Board when determining whether to lift a stay of a parallel reexamination are discussed earlier. As noted previously, under certain circumstances, the Office will proceed with a reexamination after the Board issues a final written decision relating to the same patent.

Unlike reissue applications, patent owners do not have the option to abandon *ex parte* reexamination applications. Once started, reexaminations proceed with special dispatch to completion. *See* 35 U.S.C. 305. Thus, after the Office determines that it is appropriate to lift a stay, or that a stay is not appropriate, a reexamination typically will continue to completion, notwithstanding a Federal Circuit appeal of a final written decision on the same patent.

If the Office identifies allowable subject matter in a reexamination proceeding, or after conclusion of a reexamination determining that some or all claims of a patent are unpatentable, the Office typically will issue a notice of intent to issue a reexamination certificate ("NIRC") and reexamination certificate even if a Federal Circuit appeal remains ongoing, unless the patent owner timely files a notice of appeal in the *ex parte* reexamination proceeding. A patent owner who is dissatisfied with an examiner's decision to reject claims in an *ex parte* reexamination proceeding may appeal the final rejection of any claim to the Board by filing a notice of appeal within the required time. *See* MPEP 2273, 2687; 35 U.S.C. 134. In order to ensure that the reexamination certificate does not cancel original patent claims that are separately on appeal at the Federal Circuit, the patent owner must timely file an appeal in the reexamination proceeding of any final rejection of those original claims.

Dated: April 16, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

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BILLING CODE 3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Patent Cooperation Treaty

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing collection: 0651-0021 (Patent Cooperation Treaty).

DATES: Written comments must be submitted on or before June 21, 2019.

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

- **Email:** InformationCollection@uspto.gov. Include "0651-0021 comment" in the subject line of the message.
- **Federal Register Portal:** <http://www.regulations.gov>.
- **Mail:** Marcie Lovett, Chief, Records and Information Governance Branch, 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 Rafael Bacares, 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 571-272-3276; or by email at Rafael.Bacares@uspto.gov with "0651-0021 comment" 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

This collection of information is required by the Patent Cooperation Treaty (PCT), which became operational in June 1978 and is administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva, Switzerland. The provisions of the PCT have been implemented by the United States in Part IV of Title 35 of the U.S. Code (Chapters 35-37) and Subpart C of Title 37 of the Code of Federal Regulations (37 CFR 1.401-1.499). The purpose of the PCT is to provide a standardized filing format and procedure that allows an applicant to seek protection for an invention in several countries by filing one international application in one location, in one language, and paying one initial set of fees.

The information in this collection is used by the public to submit a patent application under the PCT and by the United States Patent and Trademark Office (USPTO), to fulfill its obligation to process, search, and examine the application as directed by the treaty. The USPTO acts as the United States

Receiving Office (RO/US) for international applications filed by residents and nationals of the United States. These applicants send most of their correspondence directly to the USPTO, but they may also file certain documents directly with the IB. The USPTO serves as an International Searching Authority (ISA) to perform searches and issue international search reports (ISR) and the written opinions of international applications. The USPTO also issues international preliminary reports on patentability (IPRP Chapter II) when acting as an International Preliminary Examining Authority (IPEA).

II. Method of Collection

By mail, hand delivery, or electronic submission to the USPTO.

III. Data

OMB Number: 0651-0021.

IC Instruments and Forms: PCT/IB/372; PCT/IPEA/401; PCT/RO/101; PCT/RO/134; PTO-1382; PTO-1390; PTO/SB/64/PCT.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; business or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 431,135 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public between 15 minutes (0.25 hours) and 4 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: 352,769.78 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$154,513,163.64. The USPTO expects that an attorney will complete the materials in this collection. The professional hourly rate for intellectual property attorneys in private firms is \$438. The rate is established by estimates in the 2017 Report on the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$438 per year.

IC No.	Item	Estimated time	Estimated responses	Estimated burden	Rate	Estimates total cost
		(a)	(b)	(c) = (a) × (b)	(d)	(e) = (c) × (d)
1	Request and Fee Calculation Sheet (Annex and Notes).	1	55,177	55,177.00	\$438.00	\$24,167,526.00
2	Description/claims/drawings/abstracts.	3	55,177	165,531.00	438.00	72,502,578.00
3	Application Data Sheet (35 U.S.C. 371 applications).	0.38 (23 minutes)	104,281	39,626.78	438.00	17,356,529.64
4	Transmittal Letter to the United States Receiving Office (RO/US).	0.25 (15 minutes)	49,659	12,414.75	438.00	5,437,660.50
5	Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371.	0.25 (15 minutes)	86,080	21,520.00	438.00	9,425,760.00
6	PCT/Model of Power of Attorney.	0.25 (15 minutes)	5,518	1,379.50	438.00	604,221.00
7	PCT/Model of General Power of Attorney.	0.25 (15 minutes)	551	137.75	438.00	60,334.50
8	Indications Relating to a Deposited Microorganism.	0.25 (15 minutes)	10	2.50	438.00	1,095.00
9	Response to invitation to correct defects.	2	15,500	31,000.00	438.00	13,578,000.00
10	Request for rectification of obvious errors.	0.50 (30 minutes)	921	460.50	438.00	201,699.00
11	Demand and Fee Calculation Sheet (Annex and Notes).	1	667	667.00	438.00	292,146.00
12	Amendments (Article 34)	1	429	429.00	438.00	187,902.00
13	Fee Authorization	0.25 (15 minutes)	49,659	12,414.75	438.00	5,437,660.50
14	Requests to transmit copies of international application.	0.25 (15 minutes)	864	216.00	438.00	94,608.00
15	Withdrawal of international application.	0.25 (15 minutes)	1,369	342.25	438.00	149,905.50
16	English Translations after thirty months from priority date.	2	2,475	4,950.00	438.00	2,168,100.00
17	Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(a).	1	928	928.00	438.00	406,464.00
18	Petitions to the Commissioner for international applications.	4	87	348.00	438.00	154,424.00
19	Petitions to the Commissioner in national stage examination.	4	751	3,004.00	438.00	1,315,752.00

IC No.	Item	Estimated time (a)	Estimated re- sponses (b)	Estimated burden (c) = (a) × (b)	Rate (d)	Estimates total cost (e) = (c) × (d)
20	Acceptance of an unintentionally delayed claim for priority (37 CFR 1.78(a)(3)).	2	875	1,750.00	438.00	766,500.00
21	Request for the restoration of the right of priority.	3	157	471.00	438.00	206,298.00
Totals .....	.....	.....	431,135	352,769.78	.....	154,513,163.64

*Estimated Total Annual (Non-hour)
Respondent Cost Burden:*

\$280,004,662.50. This collection has annual (non-hour) costs in the form of

filling fees, translations, drawings, and postage costs.

Filing Fees

This chart provides an estimate of the fees associated with this collection and details the various entity size costs associated with each fee.

IC No.	Item	Responses (a)	Fees (b)	Total fee amount (c) = (a) × (b)
1	Request and Fee Calculation Sheet (Annex and Notes)	55,177	\$1,254.00	\$69,191,958.00
2	[PCT National Stage] Claims—extra independent (over three) (Large entity).	6,549	460.00	3,012,540.00
2	[PCT National Stage] Claims—extra independent (over three) (Small entity).	2,298	230.00	528,540.00
2	[PCT National Stage] Claims—extra independent (over three) (Micro entity).	99	115.00	11,385.00
2	[PCT National Stage] Claims—extra total (over 20) (Large entity)	9,145	100.00	914,500.00
2	[PCT National Stage] Claims—extra total (over 20) (Small entity)	5,347	50.00	264,350.00
2	[PCT National Stage] Claims—extra total (over 20) (Micro entity)	238	25.00	5,950.00
2	[PCT National Stage] Claim—multiple dependent (Large entity)	650	820.00	533,000.00
2	[PCT National Stage] Claim—multiple dependent (Small entity)	361	410.00	148,010.00
2	[PCT National Stage] Claim—multiple dependent (Micro entity)	37	205.00	7,585.00
3	National Stage Application Size Fee—for each additional 50 sheets that exceed 100 sheets (Large entity).	2,476	400.00	990,400.00
3	National Stage Application Size Fee—for each additional 50 sheets that exceed 100 sheets (Small entity).	1,590	200.00	318,000.00
3	National Stage Application Size Fee—for each additional 50 sheets that exceed 100 sheets (Micro entity).	23	100.00	2,300.00
4	Transmittal fee (Large entity)	36,489	240.00	8,757,360.00
4	Transmittal fee (Small entity)	17,603	120.00	2,112,360.00
4	Transmittal fee (Micro entity)	1,085	60.00	65,100.00
11	Demand and Fee Calculation Sheet (Annex and Notes)	667	213.00	142,071.00
14	Transmitting application to Intl. Bureau to act as receiving office (Large entity).	425	240.00	102,000.00
14	Transmitting application to Intl. Bureau to act as receiving office (Small entity).	289	120.00	34,680
14	Transmitting application to Intl. Bureau to act as receiving office (Micro entity).	32	60.00	1,920.00
16	English translation after thirty months from priority date (Large entity) ...	1,485	140.00	207,900.00
16	English translation after thirty months from priority date (Small entity) ...	914	70.00	63,980.00
16	English translation after thirty months from priority date (Micro entity) ...	76	35.00	2,660.00
18	Search fee—regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16) (Large entity).	7,576	140.00	1,060,640.00
18	Search fee—regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16) (Small entity).	12,837	70.00	898,590.00
18	Search fee—regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16) (Micro entity).	1,073	35.00	3,745.00
18	Supplemental search fee when required, per additional invention (Large entity).	248	2,080.00	515,840.00
18	Supplemental search fee when required, per additional invention (Small entity).	366	1,040.00	380,640
18	Supplemental search fee when required, per additional invention (Micro entity).	44	520.00	22,880.00
19	Basic National Stage Fee (Large entity)	71,090	300.00	21,327,000.00
19	Basic National Stage Fee (Small entity)	22,965	150.00	3,444,750.00
19	Basic National Stage Fee (Micro entity)	1,527	75.00	114,525.00
19	National Stage Search Fee—U.S. was the ISA or IPEA and all claims satisfy PCT Article 33(1)–(4).	674	0.00	0.00

IC No.	Item	Responses (a)	Fees (b)	Total fee amount (c) = (a) × (b)
19	National Stage Search Fee—U.S. was the ISA (Large entity)	2,197	140.00	307,580.00
19	National Stage Search Fee—U.S. was the ISA (Small entity)	4,773	70.00	334,110.00
19	National Stage Search Fee—U.S. was the ISA (Micro entity)	275	35.00	9,625.00
19	National Stage Search Fee—search report prepared and provided to USPTO (Large entity).	65,507	520.00	34,063,640.00
19	National Stage Search Fee—search report prepared and provided to USPTO (Small entity).	16,660	260.00	4,331,600.00
19	National Stage Search Fee—search report prepared and provided to USPTO (Micro entity).	1,056	130.00	137,280.00
19	National Stage Examination Fee—U.S. was the ISA or IPEA and all claims satisfy PCT Article 33(1)–(4).	674	0.00	0.00
19	National Stage Search Fee—all other situations (Large entity)	3,156	660.00	2,082,960.00
19	National Stage Search Fee—all other situations (Small entity)	1,110	330.00	366,300.00
19	National Stage Search Fee—all other situations (Micro entity)	174	165.00	28,710.00
19	National Stage Examination Fee—all other situations (Large entity)	70,771	760.00	53,785,960.00
19	National Stage Examination Fee—all other situations (Small entity)	22,437	380.00	8,526,060.00
19	National Stage Examination Fee—all other situations (Micro entity)	1,480	190.00	281,200.00
19	Preliminary examination fee—U.S. was the ISA (Large entity)	205	600.00	123,000.00
19	Preliminary examination fee—U.S. was the ISA (Small entity)	278	300.00	83,400.00
19	Preliminary examination fee—U.S. was the ISA (Micro entity)	44	150.00	6,600.00
19	Preliminary examination fee—U.S. was not the ISA (Large entity)	102	760.00	77,520.00
19	Preliminary examination fee—U.S. was not the ISA (Small entity)	39	380.00	14,820.00
19	Preliminary examination fee—U.S. was not the ISA (Micro entity)	1	190.00	190.00
19	Supplemental examination fee per additional invention (Large entity)	2	600.00	1,200.00
19	Supplemental examination fee per additional invention (Small entity)	2	300.00	600.00
19	Supplemental examination fee per additional invention (Micro entity)	1	150.00	150.00
19	Search fee, examination fee or oath of declaration after thirty months from priority date (Large entity).	22,466	2,080.00	46,729,280.00
19	Search fee, examination fee or oath of declaration after thirty months from priority date (Small entity).	10,550	1,040.00	10,972,000.00
19	Search fee, examination fee or oath of declaration after thirty months from priority date (Micro entity).	259	520.00	134,680.00
20	Acceptance of an unintentionally delayed claim for priority, or for filing a request for the restoration of the right of priority.	1,032	2,000.00	2,064,000.00
Totals .....	.....	535,399	.....	279,652,624.00

Translations and Drawings

Applicants entering the national stage in the U.S. are required to file an English translation of the international application if the international application was filed in another language and was not published under PCT Article 21(2) in English. A processing fee is required for accepting an English translation after 30 months from the priority date. This requirement may carry additional costs for the applicant to contract for a translation of the documents in questions. According to the *PCT Applicant's Guide—National Phase—National Chapter—US*, put out by WIPO, the average cost for such a translation is \$140. The USPTO estimates that it received approximately 2,475 English translations after 30 months from the priority date annually, for a total of \$346,500 per year for English translations of non-English language documents for PCT applications.

Applicants may also incur costs for drawings that are submitted as part of PCT applications. Some applicants may produce their own drawings, while

others may contract out the work to various patent illustration firms. For the purpose of estimating burden for this collection, the USPTO will consider all applicants to have their drawings prepared by these firms. According to the *PCT Applicant's Guide—National Phase—National Chapter—US*, drawings may cost an average of \$400 to produce. The USPTO expects that it will receive 3 sets of drawings for a total of \$1,200 per year.

Postage Costs

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 \$0.50 and that approximately 7,440 submissions (approximately 2% of the total responses) will be mailed to the USPTO per year, for a total estimated postage cost of \$4,298.50 per year.

The USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of translations (\$346,500), drawings (\$1,200), filing fees

(\$279,652,624), and postage costs (\$4,298.50), is \$280,004,622.50 per year.

IV. Request for Comment

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

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;

(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, e.g., the use of automated

collection techniques or other forms of information technology.

Marcie Lovett,

Chief, Records and Information Governance Branch, OCAO, United States Patent and Trademark Office.

[FR Doc. 2019-08026 Filed 4-19-19; 8:45 am]

BILLING CODE 3510-16-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection

Activities: Notice of Intent To Extend Collection 3038-0104: Clearing Exemption for Swaps Between Certain Affiliated Entities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act ("PRA"), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to uncleared swaps between certain affiliated entities electing the exemption under Commission regulation 50.52 (Exemption for swaps between affiliates).

DATES: Comments must be submitted on or before June 21, 2019.

ADDRESSES: You may submit comments, identified by "OMB Control No. 3038-0104" by any of the following methods:

- The Agency's website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Melissa A. D'Arcy, Special Counsel,

Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418-5086; email: mdarcy@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget ("OMB") for each collection of information they conduct or sponsor. "Collection of Information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the existing collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Clearing Exemption for Swaps Between Certain Affiliated Entities (OMB Control No. 3038-0104). This is a request for an extension of a currently approved information collection.

Abstract: Section 2(h)(1)(A) of the Commodity Exchange Act requires certain entities to submit for clearing certain swaps if they are required to be cleared by the Commission. Commission regulation 50.52 permits certain affiliated entities to elect not to clear inter-affiliate swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule further requires the reporting of certain information if the inter-affiliate exemption from clearing is elected. The Commission will use the information described in this collection and reported pursuant to Commission regulation 50.52 to monitor the use of the inter-affiliate exemption from the Commission's clearing requirement and to assess any potential market risks associated with such exemption.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information will have a practical use;

- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection for counterparties to swaps between certain affiliated entities that elect the inter-affiliate exemption under Commission regulation 50.52. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 310.

Estimated Average Burden Hours per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 310 hours.

Frequency of Collection: Annually; on occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

¹ 17 CFR 145.9.