

Dated: September 10, 2024.

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## 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 Reexaminations, Supplemental Examinations, and Post Patent Submissions

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 comments 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 July 8, 2024 during a 60-day comment period (89 FR 55927). This notice allows for an additional 30 days for public comment.

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

*Title:* Patent Reexaminations, Supplemental Examinations, and Post Patent Submissions.

*OMB Control Number:* 0651-0064.

*Needs and Uses:* 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. Chapter 30 of title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art cited under the provisions of 35 U.S.C. 301. Once initiated, the reexamination proceedings under Chapter 30 are substantially *ex parte* and do not permit input from third parties. The regulations outlining *ex parte* reexaminations are found at 37 CFR 1.510-1.570. The purpose of this information collection is to facilitate requests for *ex parte* reexamination and supplemental examination, to facilitate prosecution of reexamination and to ensure that the associated

documentation is submitted to the USPTO, and to permit relevant post-patent prior art and claim scope information to be entered into a patent file.

35 U.S.C. 257 permits a patent owner to request supplemental examination of a patent by the USPTO to consider, reconsider, or correct information believed to be relevant to the patent. The regulations outlining supplemental examination are found at 37 CFR 1.601-1.625.

The Leahy-Smith America Invents Act terminated *inter partes* reexamination effective September 16, 2012. However, *inter partes* reexamination proceedings based on *inter partes* reexamination requests filed before September 16, 2012, continue to be prosecuted. Therefore, this collection continues to include items related to the prosecution of *inter partes* reexamination proceedings. The regulations outlining *inter partes* reexaminations are found at 37 CFR 1.902-1.959.

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 (1) prior art consisting of patents or printed publications which the person making the submission believes to have a bearing on the patentability of any claim of the issued patent and (2) statements of the owner of the issued patent filed in a proceeding before a federal court or the USPTO in which the owner of the issued patent took a position on the scope of any claim of the issued patent.

Thus, the items included in this collection cover (1) requests for *ex parte* reexamination, (2) requests for supplemental examination, (3) information that may be submitted by patent owners and third-party requesters in relation to the prosecution of an *ex parte* or *inter partes* reexamination proceeding, (4) information submitted by the public to aid in ascertaining the patentability and/or scope of the claims of the issued patent, and (5) information submitted by patent owners regarding a position taken before the USPTO or a federal court regarding the scope of any claim in their issued patent. The USPTO's use of the statements of the patent owners ((5) above) will be limited to determining the meaning of a patent claim in *ex parte* reexamination proceedings that already have been ordered and in *inter partes* review and post grant review proceedings that already have been instituted.

*Forms:* (SB = Specimen Book):

- PTO/SB/42 (37 CFR 1.501 Information Disclosure Citation in a Patent)

- PTO/SB/57 (Request for *Ex Parte* Reexamination Transmittal Form)
- PTO/SB/59 (Request for Supplemental Examination Transmittal Form)

*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:* 874 respondents.

*Estimated Number of Annual Responses:* 890 responses.

*Estimated Time per Response:* The USPTO estimates that the responses in this information collection will take the public approximately between 30 minutes (0.5 hours) and 55 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 25,714 hours.

*Estimated Total Annual Respondent Non-hourly Cost Burden:* \$3,680,879.

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 website, [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, 0651-0064.

Further information can be obtained by:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0064 information request" in the subject line of the message.

- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**Justin Isaac,**

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

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