

EXHIBIT

23-b

regulations concerning the payment of reduced patent fees by small entities are at 37 CFR 1.27 and 1.28, and reduced patent fees for small entity applicants are shown in 37 CFR 1.16, 1.17, 1.18 and 1.20.

6. Consequences of Less Frequent Collection

This information is collected only as required to process a patent application or enforceable patent, and is not collected elsewhere. Therefore, this collection of information could not be conducted less frequently. If this information were not collected, the USPTO would not be able to comply with the patent statute 35 U.S.C. § 131.

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultation Outside the Agency

The 60-Day Notice was published in the Federal Register on May 30, 2006 (71 Fed Reg. 103). The comment period ended on July 31, 2006. No public comments were received.

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the American Intellectual Property Law Association (AIPLA), as well as patent bar associations, inventor groups, and users of our public facilities. Their views are expressed in regularly scheduled meetings and considered in developing proposals for information collection requirements. There have been no comments or concerns expressed by these or similar organizations concerning the time required to provide the information required under this program.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent.

10. Assurance of Confidentiality

Confidentiality of patent applications is governed by 35 U.S.C. § 122 and 37 CFR 1.14. Upon publication of an application or issuance of an application as a patent, the entire file contents of the application are available to the public (subject to the provisions for providing only a redacted copy of the filed contents). The disclosure of the invention in the application is the quid pro quo for the property right conferred by the patent grant, and the very means by which the patent statute achieves its constitutional objective of "promot[ing] the progress of science and useful arts." The prosecution history contained in the application file is critical to determining the scope of the property right conferred by a patent grant.

To further define the boundaries of the confidentiality of patent applications in light of the eighteen-month publication of patent applications introduced under the American Inventors Protection Act of 1999, the USPTO amended 37 CFR 1.14 to maintain the confidentiality only of applications that have not been published as a U.S. patent application publication. 37 CFR 1.14 now provides that the public can obtain status information about the application, such as whether the application is pending, abandoned, or patented, whether the application has been published under 35 U.S.C. § 122(b), and the application "numerical identifier." This information can be supplied to the public under certain conditions. The public can also receive copies of an application-as-filed and the file wrapper, as long as it meets certain criteria.

The confidentiality, security, integrity, authenticity, and non-repudiation of patent applications submitted electronically through EFS-Web is maintained using PKI technology and digital certificates for registered users. Applications electronically filed by non-registered users are protected using TLS or SSL protocols. The ePAVE submission software encrypts the electronic patent application package. The authorized filer electronically signs the application and then it is "digitally" signed using the digital certificates. Because ePAVE is also cryptographic software, it is subject to export and import restrictions of the United States. The license agreement informs those installing and using this software that they cannot export or import this software, nor can they be located in, under the control of, or a national or resident of countries that are under export or import restrictions.

11. Justification for Sensitive Questions

None of the required information is considered to be of a sensitive nature.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the anticipated burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**
The USPTO estimates that it will receive 2,643,259 responses to this information collection annually.
- **Burden Hour Calculation Factors**
The USPTO estimates that it will take the public an average of 1 minute, 48 seconds (0.03 hours) to 22 hours (22.0) to complete the collections of information described in this submission, depending on the nature of the information. This includes time to gather the necessary information, create the documents, and mail the completed request. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.
- **Cost Burden Calculation Factors**
The USPTO believes that both attorneys and paralegals will supply the information requested for this information collection. The professional rate of \$304 per hour used in

this submission to calculate the respondent cost burden is the median rate for associate attorneys in private firms as published in the 2005 report of the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. This report summarized the results of a survey with data on hourly billing rates. The paraprofessional rate is \$90 per hour. These are fully loaded hourly rates.

Table 3: Burden Hour/Burden Cost to Respondents for Patent Processing (Updating)

Item	Hours (a)	Response s (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
Information Disclosure Statements with no additional disclosure requirements	2.00	273,300	546,600	\$304.00	\$166,166,400.00
eIDS (Information Disclosure Statements) filed with no additional disclosure requirements	2.00	68,450	136,900	\$304.00	\$41,617,600.00
Information Disclosure Statements filed during the first time period that require the explanation	4.00	71,150	284,600	\$304.00	\$86,518,400.00
Information Disclosure Statements filed during the second time period that require the explanation and non-cumulative description	5.00	52,250	261,250	\$304.00	\$79,420,000.00
Information Disclosure Statements filed during the third time period that require the first patentability justification	6.00	3,850	23,100	\$304.00	\$7,022,400.00
Information Disclosure Statements filed during the third time period that require the second patentability justification	7.00	1,000	7,000	\$304.00	\$2,128,000.00
Transmittal Form	2.00	1,039,500	2,079,000	\$90.00	\$187,110,000.00
Petition for Extension of Time under 37 CFR 1.136(a)	0.10	189,000	18,900	\$90.00	\$1,701,000.00
Petition for Extension of Time under 37 CFR 1.136(b)	0.50	54	27	\$304.00	\$8,208.00
Express Abandonment under 37 CFR 1.138	0.20	13,825	2,765	\$90.00	\$248,850.00
Petition for Express Abandonment to Avoid Publication Under 1.138(c)	0.20	500	100	\$90.00	\$9,000.00
Disclaimers	0.20	15,000	3,000	\$304.00	\$912,000.00
Request for Expedited Examination of a Design Application	0.10	130	13	\$304.00	\$3,952.00
Notice of Appeal	0.20	16,500	3,300	\$304.00	\$1,003,200.00
Information Disclosure Citation in a Patent	2.00	1,830	3,660	\$304.00	\$1,112,640.00
Petition for Revival of an Application for Patent Abandoned Unavoidably	8.00	585	4,680	\$304.00	\$1,422,720.00
Petition for Revival of an Application for Patent Abandoned Unintentionally	1.00	6,950	6,950	\$304.00	\$2,112,800.00
Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	1.00	2,400	2,400	\$304.00	\$729,600.00

Requests to Access, Inspect and Copy	0.20	18,650	3,730	\$90.00	\$335,700.00
Deposit Account Order Form	0.20	1,160	232	\$90.00	\$20,880.00
Certificates of Mailing/Transmission	0.03	590,000	17,700	\$90.00	\$1,593,000.00
Statement Under 37 CFR 3.73(b)	0.20	19,450	3,890	\$304.00	\$1,182,560.00
Non-publication Request	0.10	31,500	3,150	\$304.00	\$957,600.00
Rescission of Previous Non-publication Request (35 U.S.C. § 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. § 122(b)(2)(B)(iii))	0.10	525	53	\$304.00	\$16,112.00
Electronic Filing System (EFS) Copy of Application for Publication	2.50	1,000	2,500	\$90.00	\$225,000.00
Copy of File Content Showing Redactions	4.00	12	48	\$304.00	\$14,592.00
Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	1.00	235	235	\$90.00	\$21,150.00
Request for Continued Examination (RCE) Transmittal	0.20	54,300	10,860	\$304.00	\$3,301,440.00
Request for Continued Examination (RCE) Transmittal EFS-Web	0.20	1,700	340	\$304.00	\$103,360.00
Request for Oral Hearing Before the Board of Patent Appeals and Interferences	0.20	750	150	\$304.00	\$45,600.00
Request for Deferral of Examination 37 CFR 1.103(d)	0.20	53	11	\$304.00	\$3,344.00
Request for Voluntary Publication or Republication EFS-Web	0.20	1,400	280	\$90.00	\$25,200.00
Applicant Initiated Interview Request Form	0.35	1,600	560	\$304.00	\$170,240.00
Petition for Request for Documents in a Form Other Than That Provided by 1.19	1.00	50	50	\$90.00	\$4,500.00
<u>Petitions under 37 CFR 1.17(f) include:</u> Petition to Accord a Filing Date under 1.57(a) Petition to Accord a Filing Date under 1.153(d) Petition for Decision on a Question Not Specifically Provided For Petition to Suspend the Rules	4.00	3,300	13,200	\$304.00	\$4,012,800.00
<u>Petitions under 37 CFR 1.17(g) include:</u> Petition to Access an Assignment Record Petition for Access to an Application Petition for Expungement and Return of Information Petition to Suspend Action in an Application	2.00	3,600	7,200	\$304.00	\$2,188,800.00

<u>Petitions under 37 CFR 1.17(h) include:</u> Petition for Accepting Color Drawings or Photographs Petition for Entry of a Model or Exhibit Petition to Withdraw an Application from Issue Petition to Defer Issuance of a Patent	1.00	10,400	10,400	\$304.00	\$3,161,600.00
Request for Processing of Replacement Drawings to Include the Drawings in Any Patent Application Publication	1.00	50	50	\$90.00	\$4,500.00
Processing Fee Under 37 CFR 1.17(i) Transmittal	0.08	500	40	\$304.00	\$12,160.00
Petition Fee Under 37 CFR 1.17(f), (g) and (h) Transmittal	0.08	17,300	1,384	\$304.00	\$420,736.00
Request to Retrieve Electronic Priority Application(s) Under 37 CFR 1.55(d)	0.13	36,800	4,784	\$304.00	\$1,454,336.00
Authorization to Permit Access to Application by Participating Offices Under 37 CFR 1.14(h)	0.10	21,000	2,100	\$304.00	\$638,400.00
Petition for Express Abandonment to Obtain a Refund	0.20	3,000	600	\$304.00	\$182,400.00
Pre-Appeal Brief Request for Review	0.50	3,200	1,600	\$304.00	\$486,400.00
Request for Corrected Filing Receipt	0.08	25,000	2,000	\$90.00	\$180,000.00
Request for Corrected Filing Receipt (electronic)	0.08	2,050	164	\$90.00	\$14,760.00
Petition to Make Special Under Accelerated Examination Program	12.0	500	6,000	\$304.00	\$1,824,000.00
Examination Support Document Transmittal (examination support document filed in certain nonprovisional applications covering the independent claims and the designated dependent claims) SB/216	22.0	5,000	110,000	\$304.00	\$33,440,000.00
Examination Support Document Listing of References 37 CFR 1.265(c) (examination support document filed in certain nonprovisional applications covering the independent claims and the designated dependent claims) SB/211	2.00	5,000	10,000	\$304.00	\$3,040,000.00
Petition for a second continuation or continuation-in-part application showing why the amendment, argument, or evidence could not have been submitted prior to the close of prosecution in the prior-filed application (proposed 37 CFR 1.78(d)(1)(iv))	4.00	1,000	4,000	\$304.00	\$1,216,000.00
Petition for a second request for continued examination showing why the amendment, argument, or evidence could not have been submitted prior to the close of prosecution in the application (proposed 37 CFR 1.114(f))	4.00	1,000	4,000	\$304.00	\$1,216,000.00

Listing of Commonly Owned Applications and Patents 37 CFR 1.78(f) (explanations filed in certain nonprovisional applications of either how the claims are patentably distinct or why there are patentably indistinct claims filed in multiple applications) SB/206	1.00	10,000	10,000	\$304.00	\$3,040,000.00
Listing of Commonly Owned Applications and Patents 37 CFR 1.78(f) EFS-Web (explanations filed in certain nonprovisional applications of either how the claims are patentably distinct or why there are patentably indistinct claims filed in multiple applications) SB/206 EFS-Web	1.00	10,000	10,000	\$304.00	\$3,040,000.00
Request for First-Action Interview (Pilot Program)	2.50	1,000	2,500	\$304.00	\$760,000.00
Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1) EFS-Web only	2.00	1,900	3,800	\$304.00	\$1,155,200.00
Request for Streamlined Docketing Procedure SB/201	0.20	3,000	600	\$304.00	\$182,400.00
Total	- - - - -	2,643,259	3,632,456	- - - - -	\$648,937,540.00

13. Total Annualized Cost Burden

There are no maintenance or capital start-up costs associated with this submission. There are, however, non-hour costs due to record keeping requirements, filing fees and mailing costs that need to be added into the total annual non-hour cost burden.

A record keeping cost of \$7,920 is being added into this collection for the EFS-Web submissions. The applicant is strongly urged to retain a copy of the file submitted to the USPTO as evidence of authenticity in addition to keeping the acknowledgment receipt as clear evidence of the date the file was received by the USPTO. The USPTO estimates that it will take 5 seconds (0.001 hours) to print and retain a copy of the EFS-Web submissions and that approximately 88,000 submissions per year will use this option, for a total of 88 hours per year for printing this receipt. Using the paraprofessional rate of \$90 per hour, the USPTO estimates that the record keeping cost associated with this collection will be \$7,920 per year.

The minimum total annual filing fee/non-hour cost burden to respondents is outlined in Table 4 below:

Table 4: Filing Fees – Non-hour cost burden for Patent Processing (Updating)

Item	Responses (a)	Filing Fees (b)	Total Cost (a) x (b) (c)
Submission of an Information Disclosure Statement (IDS) under 37 CFR 1.97(c) or (d)	470,000	None	\$0
Transmittal Forms	1,039,500	None	\$0

One-month extension of time under 37 CFR 1.136(a)	60,270	\$120.00	\$7,232,400.00
One-month extension of time under 37 CFR 1.136(a) (small entity)	23,503	\$60.00	\$1,410,180.00
Two-month extension of time under 37 CFR 1.136(a)	31,225	\$450.00	\$14,051,250.00
Two-month extension of time under 37 CFR 1.136(a) (small entity)	12,891	\$225.00	\$2,900,475.00
Three-month extension of time under 37 CFR 1.136(a)	32,724	\$1,020.00	\$33,378,480.00
Three-month extension of time under 37 CFR 1.136(a) (small entity)	16,413	\$510.00	\$8,370,630.00
Four-month extension of time under 37 CFR 1.136(a)	3,370	\$1,590.00	\$5,358,300.00
Four-month extension of time under 37 CFR 1.136(a) (small entity)	2,267	\$795.00	\$1,802,265.00
Five-month extension of time under 37 CFR 1.136(a)	2,163	\$2,160.00	\$4,672,080.00
Five-month extension of time under 37 CFR 1.136(a) (small entity)	4,174	\$1,080.00	\$4,507,920.00
Extension of time under 37 CFR 1.136(b)	54	None	\$0
Express abandonment under 37 CFR 1.138	13,825	None	\$0
Petition for express abandonment to avoid publication under 37 CFR 1.138(c)	500	\$130.00	\$65,000.00
Statutory Disclaimer	11,250	\$130.00	\$1,462,500.00
Statutory Disclaimer (small entity)	3,750	\$65.00	\$243,750.00
Request for expedited examination of a design application	130	\$900.00	\$117,000.00
Notice of Appeal	12,570	\$500.00	\$6,285,000.00
Notice of Appeal (small entity)	3,930	\$250.00	\$982,500.00
Information Disclosure Citations	1,830	None	\$0
Petition to Revive Unavoidably Abandoned Application	250	\$500.00	\$125,000.00
Petition to Revive Unavoidably Abandoned Application (small entity)	335	\$250.00	\$83,750.00
Petition to Revive Unintentionally Abandoned Application	3,700	\$1,500.00	\$5,550,000.00
Petition to Revive Unintentionally Abandoned Application (small entity)	3,250	\$750.00	\$2,437,500.00
Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing	1,440	\$1,300.00	\$1,872,000.00
Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing – small entity	960	\$650.00	\$624,000.00
Requests to Access, Inspect and Copy	18,650	None	\$0
Deposit Account Order Form	1,160	None	\$0
Certificates of Mailing/Transmission	590,000	None	\$0
Statement under 37 CFR 3.73(b)	19,450	None	\$0

Non-publication request	31,500	None	\$0
Rescission of Non-publication request	525	None	\$0
Electronic Filing System (EFS) Copy of Application for Publication	1,000	None	\$0
Copy of File Content Showing Redactions	12	None	\$0
Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statement verifying whether the record is complete or not)	235	None	\$0
Request for Continued Examination (RCE) Transmittal	43,500	\$790.00	\$34,365,000.00
Request for Continued Examination (RCE) Transmittal (small entity)	10,800	\$395.00	\$4,266,000.00
Request for Continued Examination (RCE) Transmittal EFS-Web	1,300	\$790.00	\$1,027,000.00
Request for Continued Examination (RCE) Transmittal (small entity) EFS-Web	400	\$395.00	\$158,000.00
Request for an Oral Hearing	600	\$1,000.00	\$600,000.00
Request for an Oral Hearing (small entity)	150	\$500.00	\$75,000.00
Processing Fee for Deferral of Examination	53	\$430.00	\$22,790.00
Request for Voluntary Publication or Republication	1,400	\$130.00	\$182,000.00
Applicant Initiated Interview Request Form	1,600	None	\$0
Petition for request for documents in a form other than that provided by 1.19	50	\$130.00	\$6,500.00
<u>Petitions under 37 CFR 1.17(h) include:</u> Petition to Accord a Filing Date under 1.57(a) Petition to Accord a Filing Date under 1.153(e) Petition for Decision on a Question Not Specifically Provided For Petition to Suspend the Rules	3,300	\$400.00	\$1,320,000.00
<u>Petitions under 37 CFR 1.17(g) include:</u> Petition to Access an Assignment Record Petition for Access to an Application Petition for Expungement and Return of Information Petition to Suspend Action in an Application	3,600	\$200.00	\$720,000.00
<u>Petitions under 37 CFR 1.17(h) include:</u> Petition for Accepting Color Drawings or Photographs Petition for Entry of a Model or Exhibit Petition to Withdraw an Application from Issue Petition to Defer Issuance of a Patent	10,400	\$130.00	\$1,352,000.00
Request for processing of replacement drawings to include the drawings in any patent application publication	50	\$130.00	\$6,500.00
Processing Fee under 37 CFR 1.17(i) Transmittal	500	\$130.00	\$65,000.00
Processing Fee under 37 CFR 1.17(f), (g) and (h) Transmittal	17,300	None	\$0
Request to retrieve electronic priority application(s) under 37 CFR 1.55(d)	36,800	None	\$0
Authorization to permit access to application by participating offices under 37 CFR 1.17(h)	21,000	None	\$0

Petition for express abandonment to obtain a refund	3,000	None	\$0
Pre-Appeal Brief Request for Review (filed with the Notice of Appeal)	2,400	None	\$0
Pre-Appeal Brief Request for Review (filed later than the Notice of Appeal)	800	\$130.00	\$104,000.00
Correction Request Form	25,000	None	\$0
Correction Request Form (electronic)	2,050	None	\$0
Petition to Make Special Under Accelerated Examination Program	500	\$130.00	\$65,000.00
Examination Support Document Transmittal (examination support document filed in certain nonprovisional applications covering the independent claims and the designated dependent claims)	5,000	None	\$0
Examination Support Document Listing of References 37 CFR 1.265(c) (examination support document filed in certain non-provisional applications covering the independent claims and the designated dependent claims)	5,000	None	\$0
Petition for a second continuation or continuation-in-part application showing why the amendment, argument, or evidence could not have been submitted prior to the close of prosecution in the prior-filed application (proposed 37 CFR 1.178(d)(1)(iv))	1,000	\$400.00	\$400,000.00
Petition for a second request for continued examination showing why the amendment, argument, or evidence could not have been submitted prior to the close of prosecution in the application (proposed 37 CFR 1.114(f))	1,000	\$400.00	\$400,000.00
Listing of Commonly Owned Applications and Patents 37 CFR 1.78(f) (explanations filed in certain non-provisional applications of either how the claims are patentably distinct or why there are patentably indistinct claims filed in multiple applications)	10,000	None	\$0
Listing of Commonly Owned Applications and Patents 37 CFR 1.78(f) EFS-Web (explanations filed in certain non-provisional applications of either how the claims are patentably distinct or why there are patentably indistinct claims filed in multiple applications)	10,000	None	\$0
Request for First-Action Interview (Pilot Program)	1,000	None	\$0
Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1)	1,900	None	\$0
Request for Streamlined Docketing Procedure	3,000	None	\$0
Totals	2,643,259	- - - - -	\$148,666,770.00

There are mailing costs in the way of postage fees that also need to be added into the total annual non-hour cost burden for this collection. The public may submit the paper forms and petitions in this collection to the USPTO by mail through the United States Postal Service. All correspondence may include a certificate of mailing for each piece of correspondence enclosed, stating the date of deposit or transmission to the USPTO in order to receive credit for timely filing. The USPTO estimates that the average first-class postage for a mailed submission may amount to 58 cents. Postage for the certificates of mailing themselves are not calculated into this estimate as they are included with the individual pieces of correspondence that are being deposited with the

United States Postal Service. The USPTO estimates that it will receive 1,965,259 responses per year subject to mailing costs, for a cost of \$1,139,850 annually in postage fees.

Therefore, the USPTO estimates that the total annualized cost burden for this collection from record keeping costs (\$7,920), filing fees (\$148,666,770), and mailing costs (\$1,139,850) amounts to \$149,814,540.

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-5, step 1, between 1 minute 48 seconds (0.03 hours) and 4 hours to process the items in this collection. The hourly rate for a GS-5, step 1, is currently \$14.56 according to the U.S. Office of Personnel Management's (OPM's) wage chart, including locality pay for the Washington, DC area. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the rate per hour for a GS-5, step 1, is \$18.43 (\$14.56 + \$4.37).

Table 6 calculates the processing hours and costs of this information collection to the Federal Government:

Table 6: Burden Hour/Burden Cost to the Federal Government for Patent Processing (Updating)

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
Information Disclosure Statements and eIDS	0.30	470,000	141,000	\$18.43	\$2,598,630.00
Transmittal Form	0.10	1,039,500	103,950	\$18.43	\$1,915,799.00
Petition for Extension of Time under 37 CFR 1.136(a)	0.10	189,000	18,900	\$18.43	\$348,327.00
Petition for Extension of Time under 37 CFR 1.136(b)	0.20	54	11	\$18.43	\$203.00
Express Abandonment under 37 CFR 1.138	0.10	13,825	1,383	\$18.43	\$25,489.00
Petition for Express Abandonment to Avoid Publication under 37 CFR 1.138(c)	0.10	500	50	\$18.43	\$922.00
Disclaimers	0.20	15,000	3,000	\$18.43	\$55,290.00
Request for Expedited Examination of a Design Application	0.10	130	13	\$18.43	\$240.00
Notice of Appeal	0.10	16,500	1,650	\$18.43	\$30,410.00
Information Disclosure Citation in a Patent	0.10	1,830	183	\$18.43	\$3,373.00
Petition for Revival of an Application for Patent Abandoned Unavoidably or Unintentionally	0.30	7,535	2,261	\$18.43	\$41,670.00
Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	0.30	2,400	720	\$18.43	\$13,270.00
Requests to Access, Inspect and Copy	0.10	18,650	1,865	\$18.43	\$34,372.00