

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
United States Patent and Trademark Office
Patent Processing (Updating)
OMB CONTROL NUMBER 0651-0031
(July 2015)

Background

The United States Patent and Trademark Office (USPTO) is submitting this request to update information collection 0651-0031, which is titled "Patent Processing (Updating)". There are two unrelated triggers for the update: (i) the revisions being made to 37 CFR 1.14; and (ii) the development of a new electronic interface.

(i) Revisions to 37 CFR 1.14

On July 11, 2014, the USPTO published a notice of proposed rulemaking titled "Changes To Facilitate Applicant's Authorization of Access to Unpublished U.S. Patent Applications by Foreign Intellectual Property Offices" in the *Federal Register* at 79 FR 40035. The rulemaking supports increased electronic file sharing and proposes to revise 37 FR 1.14 to, *inter alia*, include a specific provision by which an applicant can authorize the USPTO to give a foreign intellectual property (IP) office, which is a party to an agreement with the USPTO, access to all or part of the file contents of an unpublished U.S. patent application in order to satisfy a requirement for information imposed on a counterpart application filed with the foreign IP office. Electronic file sharing of information and documents between IP offices is critical for increasing the efficiency and quality of patent examination worldwide. The USPTO soon will publish in the *Federal Register* a final rule pertaining to 37 CFR 1.14.

For consistency with the revisions being made to 37 CFR 1.14, the USPTO is submitting revised versions of the following two forms currently in collection 0031:

- (1) Authorization to Permit Access to Application by Participating Offices (PTO/SB/39)
- (2) Power to Inspect/Copy (PTO/SB/67)

The USPTO also is submitting a new version (PTO/AIA/67) of the Power to Inspect/Copy (PTO/SB/67) form for use in applications filed on or after September 16, 2012. The USPTO will continue to make available existing form PTO/SB/67, which can be used in applications filed prior to September 16, 2012, until applications filed prior to September 16, 2012, are no longer pending before the USPTO.

(ii) New Electronic Interface

Collection 0031 currently includes the Applicant Initiated Interview Request Form. Form PTOL-413A is a basic PDF that the public can use to submit the information associated

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with the Applicant Initiated Interview Request Form. Form PTOL-413A may be filled out electronically and then submitted online or printed and mailed. Collection 0031 accounts for both electronic and “paper” responses of the Applicant Initiated Interview Request Form.

The USPTO has developed a new electronic interface that the public can use to submit the information associated with the Applicant Initiated Interview Request Form. The new interface is titled “USPTO Automated Interview Request (AIR) Form” and enables the information being collected to be prepared and submitted online through a Web-based interface. The public will complete the USPTO AIR Form on a computer using a Web browser and then click a submit button to send the information to the USPTO over the Internet. The USPTO AIR Form will be convenient for the public while allowing the USPTO to more effectively process the information. Members of the public who do not wish to use the USPTO AIR Form may use Form PTOL-413A, which the USPTO will continue to make available.

Summary of Changes

- PTO/SB/39: Opt-in and opt-out check boxes are provided for giving and rescinding the authorization for access specified in revised 37 CFR 1.14 after the filing of an application. The name of the form has been updated accordingly, and the language of the authorization tracks the language of revised 37 CFR 1.14.
- PTO/SB/67: The name of the form has been updated to clearly indicate that the form is for use in applications filed prior to September 16, 2012.
- PTO/AIA/67: This new form is essentially the same as form PTO/SB/67, except that the language identifying who is granting the power to inspect tracks the language of 37 CFR 1.14(c) that became effective on September 16, 2012, which is applicable only to applications filed on or after September 16, 2012. The name of the form clearly indicates that the form is for use in applications filed on or after September 16, 2012.
- USPTO Automated Interview Request (AIR) Form: A new electronic interface that the public can use to submit the information associated with a currently approved collection of information, i.e., the Applicant Initiated Interview Request Form.

Changes in Burden

The proposed revision of form PTO/SB/39 will not result in a substantive change in the burden for collection 0031. The USPTO is not revising PTO/SB/39 to account for any new application procedure, or to otherwise add any new collection of information. The changes being made bring the language of form PTO/SB/39 up to date with the regulatory changes being made to 37 CFR 1.14.

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The proposed addition of new form PTO/AIA/67 will not result in a substantive change in the burden for collection 0031. New form PTO/AIA/67 proposed to be added to collection 0031 requires only information that already is currently collected via collection 0031 (e.g., via form PTO/SB/67). Responses made using PTO/AIA/67 will displace responses currently being made using PTO/SB/67. The update to the name of form PTO/SB/67 to clearly indicate that form PTO/SB/67 is for use in applications filed prior to September 16, 2012, also will not result in a substantive change in the burden for collection 0031.

The addition of the proposed electronic interface USPTO Automated Interview Request (AIR) Form will not result in any burden changes for collection 0031. The new interface is simply an alternate method for members of the public to electronically submit the information associated with a currently approved collection of information, i.e., the Applicant Initiated Interview Request Form.