

RICK NEIFELD

From: RICK NEIFELD
Sent: Wednesday, November 13, 2019 10:34 AM
To: InformationCollection@uspto.gov
Cc: RICK NEIFELD
Subject: Richard Neifeld comments regarding OMB Number: 0651-0033

To:
"Marcie Lovett, 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."

I am a patent attorney and president of the law firm Neifeld IP Law, PC. I have been in practice since the 1990s. I comment in response to conclusions and estimated burdens in the "Notice of renewal of information collection; request for comment" for "0651-0033 (Post Allowance and Refiling)."

The Notice states that "The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of \$438 per hour, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals at an estimated rate of \$125 per hour."

I disagree with the conclusion that "the Issue Fee Transmittal, which will be prepared by paraprofessionals" because the Issue Fee Transmittal is always prepared by a patent attorney at my firm. Accordingly, the cost estimate based upon the assumption that a paraprofessional prepares Issue Fee Transmittal forms is inconsistent with my experience.

The Notice states "Estimated Time per Response: The USPTO estimates that it will take the public from 12 minutes (0.20 hours) to 5 hours to gather the necessary information, prepare the appropriate form or document, and submit the information to the USPTO." I disagree with this conclusion that the estimated time can take as little as "12 minutes (0.20 hours)" to perform all of these actions. This is because the actions required to log in and submit a prepared document from filing, for any document, require at least 34 separate actions by the filer, more when fees must be paid. These actions take, on average, more than 12 minutes. These actions are generally dependent upon USPTO systems functioning and user experience with USPTO systems indicates that function properly most, but not all, of the time. I would estimate, based upon my personal experience over the last 5 years, that one in every 10 filings involves a delay due to some electronic filing failure. I choose 5 years because that period is relevant to current performance, however, I have been using the USPTO's electronic EFS filing system since its inception.

The actions required to log into the USPTO's EFS filing system include:

Starting a MyUSPTO.gov session, which includes the following actions.

Open a browser window

Navigate to the URL for MyUSPTO.gov login

Click signin

Click email address entry box

Type in email address

Click continue

Click password entry box

Type in password

Click one of the three radio boxes specifying how to receive a two-step authentication code

Await an email from the USPTO, click to open the email, find and copy code, move mouse back to browser window and click in code box, and click Ctrl+V to paste code in box, and click "Verify".

Find the link to "File Patents" in some particular menu.

Click the "File Patents" link which opens an "efs-my.uspto.gov" authenticated session window.

Click the correct certification radio button.

Click a "Main Function" such as "Existing application/patent/proceeding"

Click one of the options for "Existing application/patent/proceeding"

Find the relevant application number for some patent or patent application.
Transcribe that number into the "Application Number" entry box.
Find the relevant confirmation number of the corresponding patent or patent application.
Transcribe that number into the "Confirmation Number" entry box.
Click the "
Browse" button and navigate to a document on the user's computer.
Click the desired document.
Click Open
Click the "Document Description" dropdown menu
Identify and click a corresponding "Document Description"
Click "Upload"
Click "Continue"
Select and click the appropriate "Entity Status"
Enter the selections (depending upon the document in question"
Click calculate
Click continue
Click confirm and submit
When a fee is required for the submission, click "Pay Fees" and run the the USPTO windows for accessing and paying the fee.
When complete, click on the "Confirmation Receipt" to receive a confirmation of filing and payment.

Based upon these facts, I estimate that the time to log on and upload a document to the USPTO, and to file that document electronically, on average, 0.3 hours. These times do not include the time to actually prepare the document being filed. Accordingly, I believe your estimates are all too low by 0.3 hours.

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