

**DEPARTMENT OF COMMERCE****National Institute of Standards and Technology****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Generic Clearance for Usability Data Collections**

**AGENCY:** National Institute of Standards and Technology (NIST), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before February 7, 2022.

**ADDRESSES:** Interested persons are invited to submit written comments by mail to Maureen O'Reilly, Management Analyst, NIST by email to [PRAComments@doc.gov](mailto:PRAComments@doc.gov). Please reference OMB Control Number 0693-0043 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Maureen O'Reilly, Management Analyst, NIST, 100 Bureau Drive, MS 1710, Gaithersburg, MD 20899, 301-975-3189, [maureen.oreilly@nist.gov](mailto:maureen.oreilly@nist.gov).

**SUPPLEMENTARY INFORMATION:****I. Abstract**

In accordance with the Executive Order 12862, the National Institute of Standards and Technology (NIST), a non-regulatory agency of the Department of Commerce, proposes to conduct both quantitative and qualitative data collections. The data collections will be designed to determine requirements and evaluate the usability and utility of NIST research for measurement and standardization work. These data collections efforts may include, but may not be limited to electronic

methodologies, empirical studies, video and audio collections, interviews, and questionnaires. For example, data collection efforts may include the public safety communications survey and the smart home devices study. NIST will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. NIST will not conduct individual data collections under this generic clearance that are mandatory, required, or regulated. The data collected will be used to guide NIST research.

**II. Method of Collection**

NIST will collect this information by electronic means, when possible, as well as by mail, fax, telephone and person-to-person interviews. If an information collection is conducted in person, NIST will provide the respondent with a paper copy of the collection instrument that displays the "public burden statement", OMB Control # and current Expiration date.

**III. Data**

*OMB Control Number:* 0693-0043.

*Form Number(s):* None.

*Type of Review:* Regular submission, extension of a current information collection.

*Affected Public:* Individuals or households, State, local or tribal government, Federal government.

*Estimated Number of Respondents:* 150,000.

*Estimated Time per Response:* Varied, dependent upon the data collection method used. The estimated response time to complete a questionnaire is 15 minutes or 2 hours to participate in an empirical study.

*Estimated Total Annual Burden Hours:* 100,000.

*Estimated Total Annual Cost to Public:* \$0.

*Respondent's Obligation:* Voluntary.

**IV. Request for Comments**

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-26514 Filed 12-6-21; 8:45 am]

**BILLING CODE 3510-13-P**

**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 Review and Derivation Proceedings**

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

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0069 (Patent Review and Derivation Proceedings). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

**DATES:** To ensure consideration, comments regarding this information collection must be received on or before February 7, 2022.

**ADDRESSES:** Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0069 comment" in the subject line of the message.

- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

• *Mail:* Kimberly Hardy, 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 Michael P. Tierney, Vice Chief Administrative Patent Judge, Patent Trial and Appeals Board, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4676; or by email to [Michael.Tierney@uspto.gov](mailto:Michael.Tierney@uspto.gov) with “0651–0069 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Leahy-Smith America Invents Act, which was enacted into law on September 16, 2011, provided for many changes to the procedures of the Patent Trial and Appeal Board (“PTAB” or “Board”, formerly the Board of Patent Appeals and Interferences) procedures. These changes included the introduction of *inter partes* review, post-grant review, derivation proceedings, and the transitional program for covered business method patents. Under these administrative trial proceedings, third parties may file a petition with the PTAB challenging the validity of issued patents, with each proceeding having different

requirements regarding timing restrictions, grounds for challenging validity, and who may request review.

*Inter partes* review is a trial proceeding conducted at the Board to review the patentability of one or more claims in a patent only on a ground that could be raised under §§ 102 or 103, and only on the basis of prior art consisting of patents or printed publications. Post grant review is a trial proceeding conducted at the Board to review the patentability of one or more claims in a patent on any ground that could be raised under § 282(b)(2) or (3). A derivation proceeding is a trial proceeding conducted at the Board to determine whether (1) an inventor named in an earlier application derived the claimed invention from an inventor named in the petitioner’s application, and (2) the earlier application claiming such invention was filed without authorization. The transitional program for covered business method patents is a trial proceeding conducted at the Board to review the patentability of one or more claims in a covered business method patent. The covered business method program expired on September 16, 2020 and the Board no longer accepts new petitions related to this program, but continues to accept papers in previously-instituted proceedings.

This information collection covers information submitted by the public to petition the Board to initiate an *inter partes* review, post-grant review, derivation proceeding, and the transitional program for covered

business method patents, as well as any responses to such petitions, and the filing of any motions, replies, oppositions, and other actions, after a review/proceeding has been instituted.

**II. Method of Collection**

Applicants submit the information electronically using the PTAB End-to-End (PTAB E2E) filing system. Parties may seek authorization to submit a filing by means other than electronic filing pursuant to 42 CFR 42.6(b)(2).

**III. Data**

*OMB Control Number:* 0651–0069.

*Form Numbers:* None.

*Type of Review:* Extension and revision of a currently approved information collection.

*Affected Public:* Private sector; individuals or households.

*Estimated Number of Respondents:* 9,138 respondents per year.

*Estimated Number of Responses:* 12,238 responses per year.

*Estimated Time per Response:* The USPTO estimates that the responses in this information collection will take the public between 30 minutes (0.5 hours) and 165 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:* 1,360,058 hours.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* \$591,625,230.

TABLE 1—BURDEN HOUR/BURDEN COST TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate <sup>1</sup> (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1 .....	Petition for <i>Inter Partes</i> Review.	1,450	1	1,450	124	179,800	\$435	\$78,213,000
2 .....	Petition for Post-Grant Review or Covered Business Method Patent Review.	100	1	100	165	16,500	435	7,177,500
3 .....	Petition for Derivation ...	10	1	10	165	1,650	435	717,750
4 .....	Patent Owner Preliminary Response to Petition for Initial <i>Inter Partes</i> Review.	1,175	1	1,175	91	106,925	435	46,512,375
5 .....	Patent Owner Preliminary Response to Petition for Initial Post-Grant Review or Covered Business Method Patent Review.	100	1	100	91	9,100	435	3,958,500
6 .....	Request for Rehearing	250	1	250	80	20,000	435	8,700,000
7 .....	Other Motions, Replies, Surreplies, and Oppositions in <i>Inter Partes</i> Review.	2,900	2	5,800	158	916,400	435	398,634,000

TABLE 1—BURDEN HOUR/BURDEN COST TO PRIVATE SECTOR RESPONDENTS—Continued

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate <sup>1</sup> (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
8 .....	Other Motions, Replies, Surreplies, and Oppositions in Post-Grant Review or Covered Business Method Review.	200	2	400	148	59,200	435	25,752,000
9 .....	Other Motions, Replies, Surreplies, and Oppositions in Derivation Proceedings.	10	1	10	120	1,200	435	522,000
10 .....	Pro Hac Vice Admission Motion.	950	1	950	*0.5	475	435	206,625
11 .....	Request for Oral Hearing.	575	1	575	2	1,150	435	500,250
12 .....	Request to Treat a Settlement as Business Confidential.	450	1	450	2	900	435	391,500
13 .....	Settlement .....	450	1	450	100	45,000	435	19,575,000
14 .....	Arbitration Agreement and Award.	1	1	1	4	4	435	1,740
15 .....	Request to Make a Settlement Agreement Available.	1	1	1	1	1	435	435
16 .....	Notice of Judicial Review of a Board Decision (e.g. Notice of Appeal Under 35 U.S.C. § 142).	500	1	500	1	500	435	217,500
	Total .....	9,222		12,222		1,358,805		591,080,175

\* (30 minutes).

<sup>1</sup>2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour.

TABLE 2—BURDEN HOUR/BURDEN COST TO INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate <sup>2</sup> (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1 .....	Petition for <i>Inter Partes</i> Review.	1	1	1	124	124	\$435	\$53,940
2 .....	Petition for Post-Grant Review or Covered Business Method Patent Review.	1	1	1	165	165	435	71,775
3 .....	Petition for Derivation ...	1	1	1	165	165	435	71,775
4 .....	Patent Owner Preliminary Response to Petition for Initial <i>Inter Partes</i> Review.	1	1	1	91	91	435	39,585
5 .....	Patent Owner Preliminary Response to Petition for Initial Post-Grant Review or Covered Business Method Patent Review.	1	1	1	91	91	435	39,585
6 .....	Request for Rehearing	1	1	1	80	80	435	34,800
7 .....	Other Motions, Replies, Surreplies, and Oppositions in <i>Inter Partes</i> Review.	1	1	1	158	158	435	68,730
8 .....	Other Motions, Replies, Surreplies, and Oppositions in Post-Grant Review or Covered Business Method Review.	1	1	1	148	148	435	64,380
9 .....	Other Motions, Replies, Surreplies, and Oppositions in Derivation Proceedings.	1	1	1	120	120	435	52,200
10 .....	Pro Hac Vice Motion ....	1	1	1	*0.5	1	435	435

TABLE 2—BURDEN HOUR/BURDEN COST TO INDIVIDUALS OR HOUSEHOLDS RESPONDENTS—Continued

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate <sup>2</sup> (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
11 .....	Request for Oral Hearing.	1	1	1	2	2	435	870
12 .....	Request to Treat a Settlement as Business Confidential.	1	1	1	2	2	435	870
13 .....	Settlement .....	1	1	1	100	100	435	43,500
14 .....	Arbitration Agreement and Award.	1	1	1	4	4	435	1,740
15 .....	Request to Make a Settlement Agreement Available.	1	1	1	1	1	435	435
16 .....	Notice of Judicial Review of a Board Decision (e.g., Notice of Appeal Under 35 U.S.C. § 142).	1	1	1	1	1	435	435
	Total .....	16		16		1,253		545,055

<sup>1</sup> (30 minutes).

<sup>2</sup> 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour.

*Estimated Total Annual Respondent (Non-hourly) Cost Burden:* \$69,638,370. There are no capital start-up,

maintenance, or postage associated with this information collection. However, this information collection does have

annual (non-hour) costs in the form of filing fees which are listed in the table below.

TABLE 3—FILING FEES (NON-HOUR) COST BURDEN PATENT REVIEW AND DERIVATION PROCEEDINGS

Item No.	Item	Estimated annual responses	Filing fee (\$)	Estimated cost burden (\$)
		(a)	(d)	(a) × (b) = (c)
1 .....	<i>Inter Partes</i> Review Request Fee—Up to 20 Claims .....	1,450	19,000	27,550,000
1 .....	<i>Inter Partes</i> Post-Institution Fee—Up to 20 Claims .....	1,450	22,500	32,625,000
1 .....	<i>Inter Partes</i> Review Request of Each Claim in Excess of 20 .....	3,500	375	1,312,500
1 .....	<i>Inter Partes</i> Post-Institution Request of Each Claim in Excess of 20 .....	3,500	750	2,625,000
2 .....	Post-Grant or Covered Business Method Review Request Fee—Up to 20 Claims.	100	20,000	2,000,000
2 .....	Post-Grant or Covered Business Method Review Post-Institution Fee—Up to 20 Claims.	100	27,500	2,750,000
2 .....	Post-Grant or Covered Business Method Review Request of Each Claim in Excess of 20.	350	475	166,250
2 .....	Post-Grant or Covered Business Method Review Post-Institution Fee of Each Claim in Excess of 20.	350	1,050	367,500
3 .....	Petition for Derivation .....	10	420	4,200
10 .....	Pro Hac Vice Admission Fee .....	950	250	237,500
14 .....	Request to Make a Settlement Agreement Available .....	1	420	420
	Total .....			69,638,370

*Respondent's Obligation:* Required to obtain or retain benefits.

#### Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the collection of information, including the

validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection 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.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO

cannot guarantee that it will be able to do so.

**Kimberly Hardy,**

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

[FR Doc. 2021-26441 Filed 12-6-21; 8:45 am]

**BILLING CODE 3510-16-P**

## **BUREAU OF CONSUMER FINANCIAL PROTECTION**

[Docket No. CFPB-2021-0017]

### **Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice; request for comment; re-opening of comment period.

**SUMMARY:** On October 21, 2021, the Consumer Financial Protection (Bureau or CFPB) ordered six large technology companies operating payments systems in the United States to provide information about certain of their business practices. Accompanying the orders, the Director of the Bureau issued a statement and invited interested parties to comment on the inquiry. The statement and request for comment was published in the **Federal Register** on November 5, 2021, in a document titled, "Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms." The Bureau has determined that a re-opening of the comment period until December 21, 2021, is appropriate.

**DATES:** The end of the comment period for the document titled, "Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms," published on November 5, 2021 (86 FR 61182), is reopened from December 6, 2021, until December 21, 2021.

**ADDRESSES:** You may submit comments by any of the methods identified in the notice.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Amy Zirkle, Program Manager for Payments & Deposits, (202) 435-7505. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** On October 21, 2021, the Bureau ordered six large technology companies operating payments systems in the United States to provide information about certain of their business practices.

The information will help the CFPB better understand how these firms use personal payments data and manage data access to users so the Bureau can ensure adequate consumer protection. Accompanying the orders, the Director of the Bureau issued a statement and invited interested parties to comment on the inquiry. The statement and request for comment that published in the **Federal Register** stated that the comment period would close on December 6, 2021. Allowing an additional comment period will provide additional opportunity for the public to prepare comments related to this inquiry. Therefore, the Bureau is re-opening the comment period for this request until December 21, 2021. The Bureau will also accept any comments that arrive between the time the original comment period closed on December 6, 2021, and December 7, 2021.

**Rohit Chopra,**

*Director, Bureau of Consumer Financial Protection.*

[FR Doc. 2021-26562 Filed 12-3-21; 4:15 pm]

**BILLING CODE 4810-AM-P**

## **DEPARTMENT OF ENERGY**

### **Agency Information Collection Extension**

**AGENCY:** Department of Energy.

**ACTION:** Submission for Office of Management and Budget (OMB) review; comment request.

**SUMMARY:** The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its collection for Superior Energy Performance 50001 (SEP 50001) Certification and 50001 Ready Recognition, OMB Control Number 1910-5177. The proposed collection will relate to tracking partner participation and calculating the energy efficiency impact of DOE's Superior Energy Performance certification and 50001 Ready recognition programs.

**DATES:** Comments regarding this collection must be received on or before January 6, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395-4718.

**ADDRESSES:** Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to [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.

#### **FOR FURTHER INFORMATION CONTACT:**

Ethan Rogers, EE-5A/Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, by fax at 202-287-6093, or by email at [ethan.rogers@ee.doe.gov](mailto:ethan.rogers@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

- (1) *OMB No.*: 1910-5177;
- (2) *Information Collection Request Title*: Superior Energy Performance 50001 (SEP 50001) Certification and 50001 Ready Recognition;
- (3) *Type of Request*: Renewal;
- (4) *Purpose*: This Information Collection Request applies to the Department of Energy (DOE) voluntary ISO 50001 programs for industrial facilities: Superior Energy Performance® (SEP®) and 50001 Ready™ recognition. SEP is an energy efficiency certification and recognition program for commercial, institutional, and industrial facilities demonstrating excellence in energy management as well as continual improvement in energy efficiency through third-party verified energy performance. 50001 Ready recognition is a self-attestation of the implementation of an ISO 50001 energy management system without the need for external audits. Respondents include commercial, institutional, and industrial facilities. For SEP 50001, additional respondents include SEP 50001 Verification Bodies.

(5) *Annual Estimated Number of Respondents*: 450;

(6) *Annual Estimated Number of Total Responses*: 450;

(7) *Annual Estimated Number of Burden Hours*: 450;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$31,452.

*Statutory Authority*: Accelerating Investment in Industrial Energy Efficiency. Executive Order 13624, 77 FR 54779 (Aug. 30, 2012); 42 U.S.C. 16191.

#### **Signing Authority**

This document of the Department of Energy was signed on November 24, 2021, by Rebecca Jones-Albertus, Acting Director, Advanced Manufacturing Office, Office of Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is

<sup>1</sup> See 86 FR 61182 (Nov. 5, 2021).