



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Native American Tribal Insignia Database

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. § 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: InformationCollection@uspto.gov. Include "0651-0048 comment" in the subject line of the message.
- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of Trademark Legal Policy, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451; by telephone at 571-272-8946; or by e-mail to Catherine.Cain@uspto.gov. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION

I. Abstract

The Trademark Law Treaty Implementation Act of 1998 (Pub. L. 105-330, § 302, 112 Stat. 3071) required the United States Patent and Trademark Office (USPTO) to study issues surrounding the protection of the official insignia of

federally and state-recognized Native American tribes under trademark law. The USPTO conducted the study and presented a report to the House and Senate Judiciary Committees on November 30, 1999. One of the recommendations made in the report was that the USPTO create and maintain an accurate and comprehensive database containing the official insignia of all federally and state-recognized Native American tribes. In accordance with this recommendation, the Senate Committee on Appropriations directed the USPTO to create this database.

The USPTO database of official tribal insignias provides evidence of what a federally or state-recognized Native American tribe considers to be its official insignia. The database thereby assists trademark examining attorneys in their examination of applications for trademark registration by serving as a reference for determining the registrability of a mark that may falsely suggest a connection to the official insignia of a Native American tribe. The database is also available to the public on the USPTO Web site at <http://www.uspto.gov>.

Tribes are not required to request that their official insignia be included in the database. The entry of an official insignia into the database does not confer any rights to the tribe that submitted the insignia, and entry

is not the legal equivalent of registering the insignia as a trademark under 15 U.S.C. § 1051 *et seq.* The inclusion of an official tribal insignia in the database does not create any legal presumption of validity or priority, does not carry any of the benefits of federal trademark registration, and is not a determination as to whether a particular insignia would be refused registration as a trademark pursuant to 15 U.S.C. § 1051 *et seq.*

Requests from federally recognized tribes to enter an official insignia into the database must be submitted in writing and include: (1) a depiction of the insignia, including the name of the tribe and the address for correspondence; (2) a copy of the tribal resolution adopting the insignia in question as the official insignia of the tribe; and (3) a statement, signed by an official with authority to bind the tribe, confirming that the insignia included with the request is identical to the official insignia adopted by the tribal resolution.

Requests from state-recognized tribes must also be in writing and include each of the three items described above that are submitted by federally recognized tribes. Additionally, requests from state-recognized tribes must include either: (a) a document issued by a state official that evidences the state's determination that the entity is

a Native American tribe; or (b) a citation to a state statute designating the entity as a Native American tribe.

The USPTO enters insignia that have been properly submitted by federally or state-recognized Native American tribes into the database and does not investigate whether the insignia is actually the official insignia of the tribe making the request.

This collection includes the information needed by the USPTO to enter an official insignia for a federally or state-recognized Native American tribe into a database of such insignia. No forms are associated with this collection.

II. Method of Collection

By mail, facsimile, or hand delivery to the USPTO.

III. Data

OMB Number: 0651-0048.

Form Number(s): None.

Type of Review: Extension of a currently approved collection.

Affected Public: Tribal governments.

Estimated Number of Respondents: 3 responses per year.

Estimated Time Per Response: The USPTO estimates that a federally or state-recognized Native American tribe will require an average of 45 minutes (0.75 hours) to complete a request to record an official insignia, including time to prepare the appropriate documents and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 3 hours.

Estimated Total Annual Respondent Cost Burden: \$228. The USPTO expects that the information in this collection will be prepared by both paraprofessionals and administrative staff. The estimated rate of \$76 per hour used in this submission is an average of the paraprofessional rate of \$122 per hour and the administrative rate of \$30 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately \$228 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Request to Record an Official Insignia of a Federally Recognized Tribe	45 minutes	2	2
Request to Record an Official Insignia of a State-Recognized Tribe	45 minutes	1	1
Totals	3	3

Estimated Total Annual Non-hour Respondent Cost Burden: \$3. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. There are also no filing fees for submitting a tribal insignia for recording. However, this collection does have annual (non-hour) cost burden in the form of postage costs.

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a submission mailed through the U.S. Postal Service will be \$1.12 (based on a large 9" by 12" envelope weighing 2 ounces) and that up to 3 submissions will be mailed to the USPTO per year. Therefore, the total annual (non-hour) respondent cost burden for this collection is estimated to be approximately \$3 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed 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 of information 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.

Dated: September 27, 2013

Susan K. Fawcett,
Records Officer, USPTO,
Office of the Chief Information Officer.

BILLING CODE: 3510-16-P

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