



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office (USPTO)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed information collection proposed extension of an existing information collection.

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:

- *Email:* InformationCollection@uspto.gov. Include “0651–0012 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology 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 Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email to Dahlia.George@uspto.gov with “0651–0012 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by 35 U.S.C. § 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

The USPTO administers the statute through 37 CFR 1.21, 10.14 and 11.5 through 11.12. These rules address the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO, including the fee requirements. The Office of Enrollment and Discipline (OED)

collects information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects information to administer and maintain the roster of attorneys and agents registered to practice before the USPTO. Information concerning registered attorneys and agents is published by the OED in a public roster that can be accessed through the USPTO web site. The information in this collection is used by the USPTO to review applications for the examination for registration and to determine whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

II. Method of Collection

Individuals desiring to participate in the Register of Patent Attorneys may submit material in electronic form or by mail following guidance provided by the Office of Enrollment and Discipline.

III. Data

OMB Number: 0651-0012.

IC Instruments and Forms: PTO-158, PTO-158A, PTO 158T, PTO-107A, PTO-107R, PTO-107S, PTO-275, PTO-1209, PTO-2126, PTO-2149 and PTO-2150.

Type of Review: Extension of a Previously Existing Information Collection.

Affected Public: Individuals.

Estimated Number of Annual Respondents: 18,458. Estimates for numbers of annual responses are based on the previously received number of responses and the anticipated participation trends over the next three years.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 1 minute (0.01 hours) to 40 hours to complete this information, depending upon the application (see Table 1 below). This includes the time to gather the necessary information, prepare the forms, and submit the items to the USPTO.

Estimated Total Annual Respondent Burden Hours: 18,559.39 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$8,090,661.34. The USPTO expects that attorneys will complete the items in this collection. The professional hourly rate for attorneys is \$438. The rate is established by estimates in the 2017 Report for the Economic Survey of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$8,090,661.34 per year.

Table 1: Respondent Costs

IC No.	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Estimated Respondent Cost (e) (c) x (d)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) Form PTO-158	0.50	2,611	1,305.50	\$438	\$571,809.00
1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination w aived) Form PTO-158	0.50	19	9.50	\$438	\$4,161.00
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination w aived) Form PTO-158A	0.50	10	5.00	\$438	\$2,190.00
3	Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination w aived) Form PTO-158T	0.50	3	1.50	\$438	\$657.00

4	Mandatory Survey – Register of Patent Attorneys and Agents PTO-107S	0.50	5,000	2,500	\$438	\$1,095,000.00
5	Registration Examination to Become a Registered Practitioner	7.00	1,982	13,874	\$438	\$6,076,812.00
6	Undertaking under 37 CFR 11.10(b) PTO/275	0.33	159	53	\$438	\$23,214.00
7	Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A	0.17	916	152.67	\$438	\$68,868.00
7	Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A	0.17	100	16.67	\$438	\$7,300.00
7	Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107R	0.17	100	16.67	\$438	\$7,300.00
8	Oath or Affirmation PTO-1209	0.08	1,116	93	\$438	\$40,734.00
9a	Reinstatement to the Register PTO-107A, PTO-107R	0.01	53	0.88	\$438	\$386.90
9b	Written request for reconsideration and further review of disapproval notice of application	1.50	30	45	\$438	\$19,710.00
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c)	0.75	20	15	\$438	\$6,570.00
10	Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions)	0.05	6,300	315	\$438	\$137,970.00
11	Reasonable Accommodation PTO 158R	4.0	39	156	\$438	\$68,328.00
	Totals	---	18,458	18,559.39		\$8,090,661.34

Estimated Total Annual (Non-hour) Respondent Cost Burden: Estimated Total Annual Non-hour Respondent Cost Burden: \$1,546,909.00. There are no capital start-up or maintenance costs associated with this information collection. There are, however, non-hour costs due to recordkeeping requirements, filing fees, and postage costs.

The General Requirements Bulletin recommends that “applicants should make and keep a copy of every document submitted to the office in connection with an application for registration.” The USPTO estimates that it will take an applicant

approximately 5 minutes (0.08 hours) to print and retain a copy of the submissions and that approximately 5,176 responses will be made per year, for a total of 413 hours. Using the professional rate of \$438 per hour for intellectual property attorneys, the USPTO estimates that the record keeping cost associated with this copy requirement will be \$181,752 per year.

An additional cost comes from the requirement for an Oath statement for each member of the patent bar; an item which requires the services of a notary public. The average fee for having a document notarized is \$6. The USPTO estimates that it will receive 1,116 responses to this information collection per year as a result of this notary requirement, for a total cost of \$6,696.00 per year, for a total recordkeeping cost of \$195,620.00.

Table 2: Recordkeeping Costs

IC No.	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Costs (e) (c) x (d)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) Form PTO-158	0.08	2,630	219.17	\$438.00	\$95,995.00
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination w aived) Form PTO-158A	0.08	10	0.83	\$438.00	\$365.00
3	Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination w aived) Form PTO-158T	0.08	3	0.25	\$438.00	\$109.50
6	Undertaking under 37 CFR 11.10(b) PTO/275	0.08	159	13.25	\$438.00	\$5,803.50

7	Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A	0.08	1,116	93.00	\$438.00	\$40,734.00
8	Oath or Affirmation PTO-1209	0.08	1,116	93.00	\$438.00	\$40,734.00
8	Oath or Affirmation Cost of Notary Public	- - -	1,116	- - -	\$6 Cost of notary public	\$6,696.00
9a	Reinstatement to the Register PTO-107A, PTO-107R	0.08	53	4.42	\$438.00	\$1,934.50
9b	Written request for reconsideration and further review of disapproval notice of application	0.08	30	2.50	\$438.00	\$1,095.00
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c)	0.08	20	1.67	\$438.00	\$730.00
11	Reasonable Accommodation PTO 158R	0.08	39	3.25	\$438.00	\$1,423.50
	Totals	- - -	6,292	431.33	- - -	\$195,620.00

There are also filing fees associated with this collection. The application fees for registration to practice before the USPTO vary depending on whether the applicant is a current applicant, a former examiner, or a foreign resident, or seeking reinstatement to the Register to become active upon leaving the USPTO. The fee for administration of the computerized examination to become a registered patent practitioner also varies depending on how the examination is administered. The total annual non-hour cost burden associated with filing fees is \$776,920.00.

Table 3: Filing Fees

IC No.	Item	Responses (yr) (a)	Filing Fee (\$) (b)	Total Non-Hour Cost Burden (\$/hr) (c)= (a) x (b)
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam)	2,611	\$40.00	\$104,400.00

1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived)	19	\$40.00	\$760.00
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO-158A	10	\$40.00	\$400.00
3	Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived)	3	\$40.00	\$120.00
5	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by the USPTO (USPTO-administered exam)	20	\$450.00	\$9,000.00
5	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam)	2,382	\$200.00	\$476,400.00
7	Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A	916	\$100.00	\$91,600.00
7	Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A	100	\$100.00	\$10,000.00
7	Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107R	100	\$100.00	\$10,000.00
9a	Reinstatement to the Register PTO-107A, PTO-107R	53	\$100.00	\$5,300.00
9b	Written request for reconsideration and further review of disapproval notice of application	30	\$130.00	\$3,900.00
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c)	20	\$130.00	\$2,600.00
9d	Petition for reinstatement after disciplinary removal under 37 CFR 11.60	4	\$1,600.00	\$6,400.00
9f	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a)(10) (those who must prove fitness to practice)	35	\$1,600.00	\$56,000.00
	Totals	6,303	- - -	\$776,920.00

Postage costs are also associated with this collection. Estimates for postage range from \$0.49 to \$1.73 per mailed submission, depending upon the item sent. The postage costs estimated at \$2,260.53 for this collection and are outlined in the table below.

Table 4: Postage Costs

IC No.	Item	Responses (a)	Postage Fee (\$) (b)	Total Non-Hour Cost Burden (a) x (b) (c)
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam)	2,611	\$0.61	\$1,592.71
1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived)	19	\$0.61	\$11.59
2	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO-158A	10	\$0.49	\$4.90
3	Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived)	3	\$0.61	\$1.83
7	Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A	916	\$0.49	\$448.84
7	Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A	100	\$0.49	\$49.00
7	Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107A	100	\$0.49	\$49.00
9a	Reinstatement to the Register PTO-107A, PTO-107R	53	\$0.49	\$25.97
9b	Written request for reconsideration and further review of disapproval notice of application	30	\$0.61	\$18.30
9c	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c)	20	\$1.73	\$34.60
11	Reasonable Accommodation PTO 158R	39	\$0.61	\$23.79
	Totals	3,901	---	\$2,260.53

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of filing fees and postage is \$779,180.53 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Comments are invited on:

- a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;
- c) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- d) Ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Marcie Lovett,

Records and Information Governance Division Director, OCTO

United States Patent and Trademark Office.

BILLING CODE 3510-16-P

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