



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Representative and Address Provisions

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), invites comment on a proposed extension of an existing information collection: 0651-0035 (Representative and Address Provisions).

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 “0651-0035 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 Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by e-mail to Raul.Tamayo@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection includes the information necessary to submit a request to grant or revoke power of attorney for an application, patent, or reexamination proceeding, and for a registered practitioner to withdraw as attorney or agent of record. This collection also includes the information necessary to change the correspondence address for an application, patent, or reexamination proceeding, to request a Customer Number and manage the correspondence address and list of practitioners associated with a Customer Number, and to designate or change the correspondence address or fee address for one or more patents or applications by using a Customer Number.

Under 35 U.S.C. § 2 and 37 CFR 1.31-1.32, power of attorney may be granted to one or more joint inventors or a person who is registered to practice before the USPTO to act in an application or a patent. In particular, for an application filed before September 16, 2012, or for a patent which issued from an application filed before September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.41(b) (pre-AIA)) or the assignee of the entire interest of the applicant. For an application filed on or after September 16, 2012, or for a patent which

issued from an application filed on or after September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.42) or the patent owner.

The rules of practice (37 CFR 1.33) also provide for a correspondence address and daytime telephone number to be supplied for receiving notices, official letters, and other communications from the USPTO. For an application filed before September 16, 2012, the address and number may be supplied by a practitioner of record, all of the applicants, or an assignee. In addition, a practitioner not of record may supply the address and number for an application filed before September 16, 2012, if the practitioner is named in the transmittal papers accompanying the original application and if an oath or declaration by any of the inventors has yet to be filed. For an application filed on or after September 16, 2012, the address and number may be supplied by a practitioner of record or the applicant. A practitioner not of record who acts in a representative capacity may supply the address and number for an application filed on or after September 16, 2012, if the practitioner is named in the application transmittal papers and if any power of attorney has yet to be appointed.

37 CFR 1.36 provides for the revocation of a power of attorney at any stage in the proceedings of a case. 37 CFR 1.36 also provides a path by which a registered patent attorney or patent agent who has been given a power of attorney may withdraw as attorney or agent of record.

The USPTO's Customer Number practice permits applicants, patent owners, assignees, and practitioners of record, or the representatives of record for a number of applications or patents, to change the correspondence address of a patent application or patent with one change request instead of filing separate requests for each patent or

application. Customers may request a Customer Number from the USPTO and associate this Customer Number with a correspondence list or a list of registered practitioners. Any changes to the address or practitioner information associated with a Customer Number will be applied to all patents and applications associated with said Customer Number.

The Customer Number practice is optional, in that changes of correspondence address or power of attorney may be filed separately for each patent or application without using a Customer Number. However, a Customer Number associated with the correspondence address for a patent application is required in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO Web site. The PAIR system gives authorized individuals secure online access to application status information, but only for patent applications that are linked to a Customer Number. Customer Numbers may be associated with U.S. patent applications as well as international Patent Cooperation Treaty (PCT) applications. The use of a Customer Number also is required in order to grant power of attorney to more than ten practitioners or to establish a separate “fee address” for maintenance fee purposes that is different from the correspondence address for a patent or application.

Customers may use a Customer Number Upload Spreadsheet to designate or change the correspondence address or fee address for a list of patents or applications by associating them with a Customer Number. The Customer Number Upload Spreadsheet may not be used to change the power of attorney for patents or applications. Customers may download a Microsoft Excel template with instructions

from the USPTO Web site to assist them in preparing the spreadsheet in the proper format.

II. Method of Collection

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

III. Data

OMB Number. 0651-0035.

Form Numbers: PTO/AIA/80, PTO/AIA/81, PTO/AIA/81B, PTO/AIA/82A, PTO/AIA/82B, PTO/AIA/122, PTO/AIA/123, PTO/SB/80, PTO/SB/81, PTO/SB/81A, PTO/SB/81B, PTO/SB/81C, PTO/SB/83, PTO/SB/84, PTO/SB/124, PTO/SB/124, and PTO-2248.

Type of Review. Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profits; and not-for-profits institutions.

Estimated Number of Annual Respondents: 501,905 responses per year. Estimates for numbers of responses are based on previous respondent numbers and the anticipated participation trends over the next three years.

Estimated Time Per Response: The USPTO estimates that the response time for activities related to Representative Address Provisions will take the public between 0.05 hours (3 minutes) to 1.5 hours (90 minutes) to complete (See Table 1). This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to do this, regardless of whether the public is submitting the information in paper form or electronically.

Estimated Total Annual Respondent Burden Hours: 28,479.25 hours.

Estimated Total Annual Respondent Cost Burden: \$4,369,751.25. The USPTO expects that *Requests for Withdrawal as Attorney or Agent* and the two petitions in this collection will be prepared by attorneys, while the other items in this collection will be prepared by paraprofessionals. The professional hourly rate for attorneys is \$438 and the professional hourly rate for paraprofessionals is \$145. These rates are established by estimates in the 2017 Report on the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$4,369,751.25 per year.

IC #	Items	Estimated Time for Response (hours) (a)	Estimated Annual Responses (b)	Estimated Annual Burden (c) (a) x (b)	Rate (\$) (d)	Estimated Hourly Cost (e) (c) x (d)
1	Power of Attorney to Prosecute Applications Before the USPTO	0.05 (3 minutes)	4,000	200.00	\$145.00	\$29,000.00
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence	0.05 (3 minutes)	350,000	17,500.00	\$145.00	\$2,537,500.00
3	Patent – Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	0.05 (3 minutes)	300	15.00	\$145.00	\$2,175.00
4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	0.05 (3 minutes)	100	5.00	\$145.00	\$725.00
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	0.05 (3 minutes)	70	3.50	\$145.00	\$507.50
6	Request for Withdrawal as Attorney or Agent and	0.20 (12 minutes)	4,000	800.00	\$438.00	\$350,400.00

	Change of Correspondence Address					
7	Authorization to Act in a Representative Capacity	0.05 (3 minutes)	750	37.50	\$145.00	\$5,437.50
8	Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	1.00 (60 minutes)	10	10.00	\$438.00	\$4,380.00
9	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	1.00 (60 minutes)	10	10.00	\$438.00	\$4,380.00
10	Change of Correspondence Address for Application or Patent	0.05 (3 minutes)	130,000	6,500.00	\$145.00	\$942,500.00
11	Patent Owner Change of Correspondence Address – Reexamination Proceeding	0.05 (3 minutes)	25	1.25	\$145.00	\$18.25
12	Third Party Requester Change of Correspondence Address – Reexamination Proceeding	0.05 (3 minutes)	40	2.00	\$145.00	\$290.00
13	Request for Customer Number Data Change	0.20 (12 minutes)	1,600	320.00	\$145.00	\$46,400.00
14	Request for Customer Number	0.20 (12 minutes)	8,500	1,700.00	\$145.00	\$246,500.00
15	Customer Number Upload Spreadsheet	1.50 (90 minutes)	600	900.00	\$145.00	\$130,500.00
16	Request to Update a PCT Application with a Customer Number	0.25 (15 minutes)	1,900	475.00	\$145.00	\$68,875.00
	Totals		501,905	28,479.25		\$4,369,751.25

Estimated Total Annual Non-hour Respondent Cost Burden: \$13,950.74. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of filing fees and postage costs.

Filing Fees

The two petitions in this collection have associated filing fees under 37 CFR 1.17(f), resulting in \$8,000 in filing fees.

IC #	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Total Non-hour Cost Burden (c) (a) x (b)
8	Petitions Under 37 CFR 1.36(a) to	10	\$400.00	\$4,000.00

	Revoke Power of Attorney by Fewer than All the Applicants			
9	Petitions to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	10	\$400.00	\$4,000.00
	Total	20		\$8,000.00

Postage Costs

Although the USPTO prefers that the items in this collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 2% of the 501,305 items will be submitted in the mail and that all 600 of the customer number upload spreadsheets will be submitted by mail. The existing first-class postage costs are \$0.49 per submission. In addition, the customer number uploaded spreadsheets are submitted to the USPTO by mail, with a postage rate of \$1.73 per submission.

There is a total of \$5,950.74 in postage costs associated with this collection.

Item	Responses	Postage Cost	Total Postage Costs
Non-electronic Responses	10,026	\$0.49	\$4,912.74
Customer Number Upload Spreadsheets	600	\$1.73	\$1,038.00
Totals	10,626		\$5,950.74

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the forms of filing fees (\$8,000) and postage costs (\$5,950.74), is \$13,950.74 per year.

IV. Request for Comments

Comments submitted in response to this 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 required 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 costs) 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.

[FR Doc. 2017-22618 Filed: 10/17/2017 8:45 am; Publication Date: 10/18/2017]