



3510-16-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; Responses to Office Action and Voluntary Amendment Forms**

**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), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0050 (Responses to Office Action and Voluntary Amendment Forms). 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 **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**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 “0651-0050 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 Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, by telephone at 571-272-8946, or by email at [Catherine.Cain@uspto.gov](mailto:Catherine.Cain@uspto.gov). Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

## **SUPPLEMENTARY INFORMATION**

### **I. Abstract**

This collection of information is required by the Trademark Act (Act), 15 U.S.C. 1051 *et seq.*,<sup>1</sup> which provides for the Federal registration of trademarks, service marks, collective trademark and service marks, collective membership marks, and certification marks. Individuals and businesses that use such marks, or intend to use such marks, in interstate commerce may file an application to register their marks with the United States Patent and Trademark Office (USPTO). The USPTO also administers the Trademark Act through Title 37 of the Code of Federal Regulations. These regulations allow the USPTO to request and receive information required to process applications and allows applicants to submit certain amendments to their applications. This information collection includes information that was not submitted with the initial application and is needed by the USPTO to review applications for trademark registration.

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<sup>1</sup> [https://www.uspto.gov/sites/default/files/trademarks/law/Trademark\\_Statutes.pdf](https://www.uspto.gov/sites/default/files/trademarks/law/Trademark_Statutes.pdf)

In some cases, the USPTO issues Office Actions to applicants who have applied to register a mark, requesting information that was not provided with the initial submission, but is required before the issuance of a registration. Also, the USPTO may determine that a mark is not entitled to registration, pursuant to one or more provisions of the Trademark Act. In such cases, the USPTO will issue an Office Action advising the applicant of the refusal to register the mark. Applicants reply to these Office Actions by providing the required information and/or by putting forth legal arguments as to why the refusal of registration should be withdrawn.

Applicants may also supplement their applications and provide further information by filing a Voluntary Amendment Not in Response to USPTO Office Action/Letter, a Request for Reconsideration after Final Office Action, a Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment, a Petition to Amend Basis Post-Publication, or a Response to Suspension Inquiry or Letter of Suspension. In rare instances, an applicant may also submit a Substitute Trademark/Service mark, Substitute Certification Mark, Substitute Collective Membership Mark, or Substitute Collective Trademark/Service mark application.

## **II. Method of Collection**

Items in this information collection may be submitted via online electronic submissions. In limited circumstances, applicants may be permitted to submit the information in paper form by mail, fax, or hand delivery.

## **III. Data**

*OMB Control Number:* 0651-0050.

*Form Numbers:*

- PTO-1957 (Response to Office Action)
- PTO-1960 (Request for Reconsideration After Final Office Action)
- PTO-1966 (Voluntary Amendment Not in Response to USPTO Office Action/Letter)
- PTO-1771 (Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment)
- PTO-1771 (Petition to Amend Basis Post-Publication)
- PTO-1822 (Response to Suspension Inquiry or Letter of Suspension)

*Type of Review:* Revision of a currently approved information collection.

*Affected Public:* Businesses or other for-profits; not-for-profit institutions; individuals and households.

*Estimated Number of Respondents:* 393,657 respondents per year.

*Estimated Time Per Response:* The USPTO estimates that it will take the public between 15 minutes (0.25 hours) and 40 minutes (0.67 hours) to complete a response, depending on the complexity of the situation. This includes the time to gather the necessary information, prepare the appropriate documents, and submit the information to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 253,058 hours.

*Estimated Total Annual Respondent Cost Burden:* \$101,223,200.

**Table 1: Total Hourly Burden for Private Sector Respondents**

Item Number	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate <sup>2</sup> (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)

<sup>2</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

1	Response to Office Action (TEAS)	275,180	275,179	0.67 (40 minutes)	184,370	\$400	\$73,748,000
2	Substitute Trademark/Service mark Application, Principal Register (TEAS Global)	Same as line 1	2	0.50 (30 minutes)	1	\$400	\$400
3	Substitute Certification Mark (TEAS Global)	Same as line 1	2	0.50 (30 minutes)	1	\$400	\$400
4	Substitute Collective Membership Mark (TEAS Global)	Same as line 1	2	0.50 (30 minutes)	1	\$400	\$400
5	Substitute Collective Trademark/Service mark (TEAS Global)	Same as line 1	2	0.50 (30 minutes)	1	\$400	\$400
6	Voluntary Amendment Not in Response to USPTO Office Action/Letter (TEAS)	10,897	10,897	0.33 (25 minutes)	3,596	\$400	\$1,438,400
7	Request for Reconsideration After Final Office Action (TEAS)	15,762	15,762	0.67 (40 minutes)	10,561	\$400	\$4,224,400
8	Post-Approval/Publication /Post-Notice of Allowance (NOA) Amendment (TEAS)	3,498	3,498	0.42 (25 minutes)	1,469	\$400	\$587,600
9	Petition to Amend Basis Post-Publication (TEAS Global)	623	623	0.33 (25 minutes)	206	\$400	\$82,400
10	Response to Suspension Inquiry or Letter of Suspension (TEAS)	8,965	8,965	0.25 (15 minutes)	2,241	\$400	\$896,400
	<b>Totals</b>	<b>314,925</b>	<b>314,932</b>		<b>202,447</b>		<b>80,978,800</b>

**Table 2: Total Hourly Burden for Individual and Household Respondents**

Item Number	Item	Estimated Annual Respondents	Estimated Annual Responses (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hours/year) (c) (a) x (b) = (c)	Rate <sup>3</sup> (\$/hour) (d)	Estimated Annual Burden (e) (c) x (d) = (e)
1	Response to Office Action (TEAS)	68,795	68,795	0.67 (40 minutes)	46,093	\$400	\$18,437,200
6	Voluntary Amendment Not in Response to USPTO Office Action/Letter (TEAS)	2,724	2,724	0.33 (25 minutes)	899	\$400	\$359,600
7	Request for Reconsideration After Final Office Action (TEAS)	3,941	3,941	0.67 (40 minutes)	2,640	\$400	\$1,056,000
8	Post-Approval/Publication /Post-Notice of Allowance (NOA) Amendment (TEAS)	875	875	0.42 (25 minutes)	368	\$400	\$147,200
9	Petition to Amend Basis Post-Publication (TEAS Global)	156	156	0.33 (25 minutes)	51	\$400	\$20,400
10	Response to Suspension Inquiry or Letter of Suspension (TEAS)	2,241	2,241	0.25 (15 minutes)	560	\$400	\$224,000
	<b>Totals</b>	<b>78,732</b>	<b>78,732</b>		<b>50,611</b>		<b>20,244,400</b>

*Estimated Total Annual Non-Hour Respondent Cost Burden: \$99,440.* There are no maintenance, operation, capital start-up, or recordkeeping costs associated with this information collection. However, this information collection does have annual non-hour costs in the form of postage costs and filing fees.

**Table 3: Annual Non-Hour Cost Burden**

Item Number	Item	Estimated Annual Responses	Estimated Cost (\$)	Estimated Non-Hour Cost Burden
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<sup>3</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA);n <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

		(a)	(b)	(a) x (b)= (c)
	<b>Filing Fees</b>			
1-5	Additional processing fee for application that does not meet TEAS Plus filing requirements, per Class	172	\$125.00	\$21,500
9	Petition to Amend Basis Post-Publication (TEAS Global)	779	\$100.00	\$77,900
	<b>Postage Fees</b>			
1	Response to Office Action	5	\$8.05	\$40
	<b>Total</b>			<b>\$99,440</b>

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

#### **IV. Request for Comments**

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.

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 personal identifying information in a comment, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask in your comment to withhold personal identifying information 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.*

**BILLING CODE 3510-16-P**

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