



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; Response 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), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0050 (Response 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 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.

- *Federal Rulemaking Portal:* <https://www.regulations.gov>.
- *Mail:* Justin Isaac, 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

with “0651-0050 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

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

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 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 the items included in this information collection. These items include 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.

II. Method of Collection

Items in this information collection must be submitted electronically through the Trademark Electronic Application System (TEAS). In limited circumstances, applicants may also be permitted to submit the information in paper form by mail or hand delivery.

III. Data

OMB Control Number: 0651-0050.

Forms: None.

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

Affected Public: Private sector.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Estimated Number of Annual Respondents: 518,643 respondents.

Estimated Number of Annual Responses: 518,643 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 25 minutes (0.42 hours) and 50 minutes (0.83 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: 420,113 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$182,749,155.

Table 1: Total Burden Hours and Hourly Costs 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 ¹ (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) X (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Response to Office Action (TEAS)	467,083	1	467,083	0.83 (50 minutes)	387,679	\$435	\$168,640,365
2	Voluntary Amendment Not in Response to USPTO Office Action/Letter (TEAS)	21,312	1	21,312	0.58 (35 minutes)	12,361	\$435	\$5,377,035
3	Request for Reconsideration After Final Office Action (TEAS)	16,446	1	16,446	0.83 (50 minutes)	13,650	\$435	\$5,937,750
4	Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment (TEAS)	3,330	1	3,330	0.58 (35 minutes)	1,931	\$435	\$839,985
5	Petition to Amend Basis Post-Publication (TEAS)	590	1	590	0.58 (35 minutes)	342	\$435	\$148,770
6	Response to Suspension Inquiry or Letter of Suspension (TEAS)	9,882	1	9,882	0.42 (25 minutes)	4,150	\$435	\$1,805,250
	Totals	518,643	---	518,643	---	420,113	---	\$182,749,155

¹ 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: \$699,101. There are no capital start-up, maintenance cost, or recordkeeping costs associated with this information collection. However, USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees (\$647,500) and postage costs (\$51,601) is \$699,101.

Filing Fees

There are 2 filing fees associated with this information collection as listed in the table below:

Table 2: Filing Fees

Item No.	Fee Code	Item	Estimated Annual Responses	Estimated Cost	Estimated Non-Hour Cost Burden
			(a)	(b)	(a) x (b) = (c)

1	7008	Additional processing fee for application that does not meet TEAS Plus filing requirements, per Class	5,000	\$100	\$500,000
5	7005	Petition to Amend Basis Post-Publication (TEAS Global)	590	\$250	\$147,500
		Total	5,590	- - -	\$647,500

Postage Costs

Although the USPTO requires that the items in this information collection be submitted electronically, in rare cases, the items may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 518,643 items will be submitted in the mail resulting in 5,186 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail flat rate legal envelope, will be \$9.95. Therefore, the USPTO estimates the total mailing costs for this information collection at \$51,601.

IV. 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 will 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 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 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.

Justin Isaac,

Information Collections Officer,

Office of the Chief Administrative Officer,

United States Patent and Trademark Office.

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