



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; Substantive Submissions Made During the Prosecution of the Trademark Application

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: 0651-0054 Substantive Submissions Made During the Prosecution of the Trademark Application. 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. Include "0651-0054 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://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: Request for additional information should be directed to Catherine Cain, Attorney Advisor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-8946; or by email to 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, 15 U.S.C. 1051 et seq., which provides for the registration of trademarks, service marks, collective trademarks and collective 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).

Such individuals and businesses may also submit various communications to the USPTO, including providing additional information needed to process a request to delete a particular filing basis from an application or to divide an application identifying multiple goods and/or services into two or more separate applications. Applicants may seek a six-month extension of time to file a statement that the mark is in use in commerce or submit a petition to revive an application that was abandoned for failure to submit a timely response to an office action or a timely statement of use or extension request. In some circumstances, an applicant may expressly abandon an application by filing a request for withdrawal of the application.

The rules implementing the Trademark Act are set forth in 37 CFR part 2. These rules mandate that each register entry include the mark, the goods and/or

services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. As a result, the Federal trademark registration process is intended to reduce unnecessary litigation, and its accompanying costs and burdens.

The information in this collection is used to process the substantive submissions made during prosecution of the trademark application. The submissions in this information collection are a matter of public record and are used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is accessible online, through the USPTO website, as well as through various USPTO facilities.

II. Method of Collection

Items in this information collection must be submitted electronically. 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: 0651-0054.

Forms:

- PTO Form 1553 (Allegation of Use (Statement of Use/Amendment to Allege Use))
- PTO Form 1554 (Request to Divide Application)
- PTO Form 1555 (Response to Intent-to-Use/Divisional (ITU/Divisional) Unit Office Action)

- PTO Form 1556 (Response to Petition to Revive Deficiency Letter)
- PTO Form 1557 (Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA)
- PTO Form 1581 (Request for Extension of Time to File a Statement of Use)
- PTO Form 2194 (Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action)
- PTO Form 2195 (Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request)
- PTO Form 2200 (Request to Delete Section 1(b) Basis, Intent to Use)
- PTO Form 2202 (Request for Express Abandonment (Withdrawal) of Application)
- PTO Form 2301 (Petition to Director)

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: 373,293 respondents.

Estimated Number of Annual Responses: 373,293 responses.

Estimated Time Per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 30 minutes (0.5 hours) and 70 minutes (1.17 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 265,556 hours.

Estimated Total Annual Respondent Cost Burden: \$118,703,532.

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 Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Allegation of Use (Statement of Use/Amendment to Allege Use) (PTO Form 1553)	94,729	1	94,729	1 (60 minutes)	94,729	\$447	\$42,343,863
2	Request for Extension of Time to File a Statement of Use (PTO Form 1581)	238,839	1	238,839	0.58 (35 minutes)	138,527	\$447	\$61,921,569
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (PTO Form 2194)	20,665	1	20,665	1 (60 minutes)	20,665	\$447	\$9,237,255
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (PTO Form 2195)	1,067	1	1,067	0.67 (40 minutes)	715	\$447	\$319,605
5	Request to Delete Section 1(b) Basis, Intent to Use (PTO Form 2200)	2,188	1	2,188	0.5 (30 minutes)	1,094	\$447	\$489,018
6	Request for Express Abandonment (Withdrawal) of Application (PTO Form 2202)	9,702	1	9,702	0.5 (30 minutes)	4,851	\$447	\$2,168,397
7	Request to Divide Application (PTO Form 1554)	3,223	1	3,223	0.67 (40 minutes)	2,159	\$447	\$965,073
8	Response to Intent-to-Use /Divisional (ITU/Divisional) Unit Office Action (PTO Form 1555)	5	1	5	1.17 (70 minutes)	6	\$447	\$2,682
9	Response to Petition to Revive Deficiency Letter (PTO Form 1556)	436	1	436	0.83 (50 minutes)	362	\$447	\$161,814
10	Petition to Director (PTO Form 2301)	2,385	1	2,385	1 (60 minutes)	2,385	\$447	\$1,066,095

¹ 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-41. The USPTO uses the average billing rate for intellectual property work in all firms which is \$447 per hour (<https://www.aipla.org/home/news-publications/economic-survey>).

Item No.	Item	Estimated Annual Respondents (a)	Responses per Respondent (b)	Estimated Annual Responses (a) x (b) = (c)	Estimated Time for Response (hours) (d)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate ¹ (\$/hour) (f)	Estimated Annual Respondent Burden (e) x (f) = (g)
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA (PTO Form 1557)	54	1	54	1.17 (70 minutes)	63	\$447	\$28,161
	Totals	373,293	- - -	373,293	- - -	265,556	- - -	118,703,532

Estimated Total Annual Respondent Non-hourly Cost Burden: \$43,517,005.

There are no capital start-up, maintenance costs, 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 and postage is \$43,517,005.

Filing Fees

There are fees associated with submitting certain items in this information collection as outlined in Table 2 below:

Table 2: Filing Fees

Item No.	Fee Code	Item	Estimated Annual Responses (a)	Estimated Fee Amount (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
1	6002 6003	Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper)	1	\$200	\$200
1	7002 7003	Allegation of Use (Statement of Use/Amendment to Allege Use) (Electronic)	94,729	\$100	\$9,472,900
2	6004	Request for Extension of Time to File a Statement of Use (Paper)	1	\$225	\$225
2	7004	Request for Extension of Time to File a Statement of Use (Electronic)	238,839	\$125	\$29,854,875
3	6010	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	1	\$250	\$250
3	7010	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Electronic)	20,665	\$150	\$3,099,750
4	6010	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	1	\$250	\$250

Item No.	Fee Code	Item	Estimated Annual Responses (a)	Estimated Fee Amount (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
4	7010	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Electronic)	1,067	\$150	\$160,050
7	6006	Request to Divide Application (Paper)	1	\$200	\$200
7	7006	Request to Divide Application (Electronic)	3,223	\$100	\$322,300
10	6005	Petition to Director (Paper)	1	\$350	\$350
10	7005	Petition to Director (Electronic)	2,385	\$250	\$596,250
11	6010	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA (Paper)	1	\$250	\$250
11	7010	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA (Electronic)	54	\$150	\$8,100
		Totals	- - -	- - -	\$43,515,950

Postage

Although the USPTO requires that the items in this information collection be submitted electronically, in certain circumstances, respondents may be permitted to submit responses by mail through the United States Postal Service (USPS). The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat rate envelope, will be \$9.95. The USPTO estimates approximately 106 submissions per year may be mailed to the USPTO, for an estimated total postage cost of \$1,055 per year.

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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