



DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Madrid Protocol

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comments.

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: 0651-0051 (Madrid Protocol). The purpose of this notice is to allow 60 days for public comments preceding submission of the information collection to the office of Management and Budget (OMB).

DATES: To ensure consideration, you must submit comments regarding this information collection 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 “0651-0051 comment” in the subject line of the message.
- Federal eRulemaking Portal: 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 Cristiana Schwab at: Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-

1450; 571-272-3514; or cristiana.schwab@uspto.gov with “0651-0051 comment” in the subject line. Additional information about this information collection is also available at www.reginfo.gov under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.*, which provides for the federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) is an international treaty that allows a trademark owner to seek registration in any of the participating countries by filing a single international application. The International Bureau of the World Intellectual Property Organization in Geneva, Switzerland, administers the international registration system.

The Madrid Protocol Implementation Act of 2002 amended the Trademark Act to provide that: (1) the owner of a U.S. application or registration may seek protection of its mark in any of the participating countries by submitting a single international application through the USPTO and (2) the holder of an international registration may request an extension of protection of the international registration to the United States. The Madrid Protocol came into effect in the United States on November 2, 2003, and is implemented under 15 U.S.C. 1141 *et seq.* and 37 CFR parts 2 and 7. Individuals and businesses that use or intend to use such marks in commerce may file an application to register the marks with the USPTO. Both the register and the information provided in pending applications for registration can be accessed by the public. This public access allows users to determine the availability of a mark and lessens the likelihood of initiating the use of a mark previously adopted by another.

II. Method of Collection

Items in this information collection must be submitted electronically. In limited circumstances, registrants may be permitted to submit the information by mail or hand delivery.

III. Data

OMB Control Number: 0651-0051.

Forms: (MM = Madrid Mark)

- MM2(E) (Application for International Registration Under the Madrid Protocol)
- MM4(E) (Designation Subsequent to the International Registration)
- PTO-1663 (Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71)
- PTO-1683 (Combined Declaration of Use/Excusable Nonuse and Incontestability Under Sections 71 and 15)
- PTO-2131 (Application for International Registration)
- PTO-2132 (Application for Subsequent Designation)
- PTO-2133 (Response to Notice of Irregularity)
- PTO-2314 (Replacement Request)
- PTO-2315 (Transformation Request)
- PTO-2316 (Petition to Director to Review Denial of Certification of International Application)
- PTO-2317 (Petition to the Director for an International Application/Registration)

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.

Frequency: On occasion.

Estimated Number of Annual Respondents: 91,024 respondents.

Estimated Number of Annual Responses: 91,024 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public between 45 minutes (0.75 hours) and 75 minutes (1.25 hours) to complete. This includes the time to gather the necessary information, create the forms or documents, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 96,109 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$42,960,723.

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	Application for International Registration	15,167	1	15,167	0.75 (45 minutes)	11,375	\$447	\$5,084,625
2	Request for Extension of Protection of International Registration to the United States (WIPO)	51,001	1	51,001	1.25 (75 minutes)	63,751	\$447	\$28,496,697
3	Response to Notice of Irregularity	4,554	1	4,554	0.75 (45 minutes)	3,416	\$447	\$1,526,952
4	Replacement Request	7	1	7	0.83 (50 minutes)	6	\$447	\$2,682
5	Transformation Request	48	1	48	0.75 (45 minutes)	36	\$447	\$16,092
6	Petition to Director to Review Denial of Certification of International Application	77	1	77	1.25 (75 minutes)	96	\$447	\$42,912
7	Application for Subsequent Designation	1,651	1	1,651	1.25 (75 minutes)	2,064	\$447	\$922,608
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce	13,564	1	13,564	0.83 (50 minutes)	11,258	\$447	\$5,032,326

¹ 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association; pg. F-41. The USPTO uses the average billing rate for intellectual property work in all firms, which is \$447 per hour (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 Cost Burden (e) x (f) = (g)
	Under Section 71							
9	Combined Declaration of Continued Use/ Excusable Nonuse and Incontestability Under Sections 71 and 15	4,887	1	4,887	0.83 (50 minutes)	4,056	\$447	\$1,813,032
10	Petition to the Director for an International Application/ Registration	68	1	68	0.75 (45 minutes)	51	\$447	\$22,797
	Totals	91,024	---	91,024	---	96,109	---	\$42,960,723

Estimated Total Annual Respondent Non-hourly Cost Burden: \$41,700,722. There are no capital start-up costs, maintenance costs, or recordkeeping costs associated with this information collection. However, the USPTO estimates that the total annual non-hour cost burden for this information collection, in the form of filing fees and postage, is \$41,700,722.

Filing Fees

There are fees associated with processing international applications and related requests under the Madrid Protocol, as set forth in 37 CFR 2.6 and 37 CFR 7.6. Most of those fees are charged per class of goods or services. Therefore, the total fees can vary depending on the number of classes.

Table 2: Filing Fees

Item No.	Fee Code(s)	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Non-hourly Cost Burden (a) x (b) = (c)
1	7901	Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (electronic)	12,988	\$100	\$1,298,800

1	6901	Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (paper)	1	\$200	\$200
1	7902	Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (electronic)	2,178	\$150	\$326,700
1	6902	Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (paper)	1	\$250	\$250
1	7903	Transmittal fee for request to record an assignment or restriction to the international registration (electronic)	16	\$100	\$1,600
1	6903	Transmittal fee for request to record an assignment or restriction to the international registration (paper)	1	\$200	\$200
1	7932	Renewal fee filed at WIPO	5,665	\$325	\$1,841,125
2	7931	Request for Extension of Protection of International Registration to the United States (WIPO)	51,001	\$600	\$30,600,600
3	7907	Transmitting a Subsequent Designation under Section 7.21 (electronic)	1,650	\$100	\$165,000
3	6907	Transmitting a Subsequent Designation under Section 7.21 (paper)	1	\$200	\$200
4	7904	Notice of Replacement under Section 7.28 (per international class) (electronic)	6	\$100	\$600
4	6904	Notice of Replacement under Section 7.28 (per international class) (paper)	1	\$200	\$200
5	7009	Transformation Request (per international class) (electronic)	47	\$350	\$16,450
5	6001	Transformation Request (per international class) (paper)	1	\$850	\$850
6	7005	Petition to Director to Review Denial of Certification of International Application (electronic)	76	\$400	\$30,400
6	6005	Petition to Director to Review Denial of Certification of International Application (paper)	1	\$500	\$500
8	7905	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (filed during the statutory period, per international class) (electronic)	12,330	\$325	\$4,007,250
8	6905	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (filed	1	\$425	\$425

		during the statutory period, per international class) (paper)			
8	7905 7906	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (filed during the grace period, per international class) (electronic)	1,232	\$425	\$523,600
8	6905 6906	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (filed during the grace period, per international class) (paper)	1	\$625	\$625
8	7908	Section 71 deficiency fee (electronic)	16	\$100	\$1,600
8	6908	Section 71 deficiency fee (paper)	1	\$200	\$200
9	7905 7208	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (filed during the statutory period, per international class) (electronic)	4,442	\$575	\$2,554,150
9	6905 6208	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (filed during the statutory period, per international class) (paper)	1	\$775	\$775
9	7905 7906 7208	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (filed during the grace period, per international class) (electronic)	442	\$675	\$298,350
9	6905 6906 6208	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (filed during the grace period, per international class) (paper)	1	\$975	\$975
10	7005	Petition to the Director for an International Application/Registration (electronic)	67	\$400	\$26,800
10	6005	Petition to the Director for an International Application/Registration (paper)	1	\$500	\$500
10	7954	Request to Record an Assignment or Restriction, or Release of a Restriction, under Sections 7.23 and 7.24 (electronic)	15	\$100	\$1,500
10	n/a	Request to Record an Assignment or Restriction, or Release of a Restriction, under Sections 7.23 and 7.24 (paper)	1	\$200	\$200
		Total	92,185		\$41,700,625

Postage Costs

Although the USPTO requires that the items in this information collection be submitted electronically, in limited circumstances, responses may be submitted by mail through the United States Postal Service. The USPTO estimates that 0.01% of the 91,024 items will be submitted in the mail resulting in nine mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat-rate envelope, will be \$10.75. Therefore, the USPTO estimates the total mailing costs for this information collection at \$97.

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. The 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, the 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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