



## 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; Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office

**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 (hereafter “USPTO” or “Agency”), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0012 (Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office). 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 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 “0651-0012 comment” in the subject line of the message.
- Federal eRulemaking 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.
- Telephone: Diana Oleksa, Office of Enrollment and Discipline, 571-272-4097.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Diana Oleksa at: Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; 571-272-4097; or Diana.Oleksa@uspto.gov with “0651-0012 comment” in the subject line. Additional information about this information collection is also available at <https://www.reginfo.gov> under “Information Collection Review.”

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This collection of information is authorized by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR §§ 1.21 and 11.5-11.11, which set forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the USPTO, which is accessible through the USPTO website. This information collection is used by

the USPTO to review applications for the examination for registration, and to determine whether an applicant may be added to the Register of Patent Attorneys and Agents. Additionally, it is used to determine whether an applicant may remain on the Register.

Since the previous renewal of this information collection, certain items have been changed and reordered. The USPTO is adding an item (Item 6 - Undertaking Under 37 CFR § 11.10(b)) to this information collection. Additionally, the following items have been removed, as they have been declared exempt from the Paperwork Reduction Act by OMB under 5 CFR §§ 1320.3(h)(1), 1320.3(h)(2), and 1320.3(h)(7):

- Registration Examination to Become a Registered Practitioner
- Reasonable Accommodation - PTO 158RA
- Change of Registration from Agent to Attorney - PTO 158
- Written Requests (Certificate of Good Standing, Disciplinary History)

## **II. Method of Collection**

Items in this information collection may be submitted as electronic submissions. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

## **III. Data**

*OMB Control Number:* 0651-0012.

*Forms:*

- PTO-107A: (Data Sheet – Register of Patent Attorneys and Agents)
- PTO-107R: (Reinstatement – Data Sheet – Register of Patent Attorneys and Agents)
- PTO-107S: (Registration Statement – Data Sheet – Register of Patent Attorneys and Agents)
- PTO-158: (Application for Registration to Practice Before the United States Patent and Trademark Office)
- PTO-158A: (Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR § 11.6(c) by a Foreign Resident)

- PTO-158T: (Application for Recognition to Practice Before the United States Patent and Trademark Office Under 37 CFR § 11.14(c) by a Foreign Resident)
- PTO-275: (Undertaking Under 37 CFR § 11.10(b))
- PTO-1209: (Oath or Declaration)

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

*Affected Public:* Individuals or Households.

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

*Frequency:* On occasion.

*Estimated Number of Annual Respondents:* 11,085 respondents.

*Estimated Number of Annual Responses:* 11,085 responses.

*Estimated Time per Response:* The USPTO estimates that the responses in this information collection will take the public approximately 5 minutes (0.08 hours) to 45 minutes (0.75 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 2,767 hours.

*Estimated Total Annual Respondent Hourly Cost Burden:* \$1,236,849.

**Table 1: Total Hourly Reporting Burden for Individual or Household Respondents**

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 <sup>1</sup> (\$/hour) (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
1	<p>Application for Registration to Practice Before the United States Patent and Trademark Office. Includes:</p> <ul style="list-style-type: none"> <li>Former examiners (examination waived) (PTO-158)</li> <li>Under 37 CFR § 11.6(c) by a Foreign Resident (examination waived) (PTO-158A)</li> <li>37 CFR § 11.14(c) by a Foreign Resident (examination waived) (PTO-158T)</li> </ul>	3,293	1	3,293	0.50 (30 minutes)	1,647	\$447	\$736,209
2	Data Sheet – Register of Patent Attorneys and Agents <b>PTO-107A</b>	1,103	1	1,103	0.50 (30 minutes)	552	\$447	\$246,744
3	Registration Statement of Patent Attorneys and Agents <b>PTO-107S</b>	1	1	1	0.50 (30 minutes)	1	\$447	\$447
4	Oath or Affirmation <b>PTO-1209</b>	1,034	1	1,034	0.08 (5 minutes)	83	\$447	\$37,101
5	Reinstatement to the Register <b>PTO-107R</b>	77	1	77	0.08 (5 minutes)	6	\$447	\$2,682
6	Undertaking Under 37 CFR § 11.10(b) <b>PTO-275</b>	61	1	61	0.50 (30 minutes)	31	\$447	\$13,857
7	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR § 11.2(c)	8	1	8	0.75 (45 minutes)	6	\$447	\$2,682

<sup>1</sup> 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>).

<b>8</b>	Petition to USPTO Director under 37 CFR § 11.2(d)	1	1	1	0.75 (45 minutes)	1	\$447	\$447
	<b>Totals</b>	<b>5,578</b>	<b>---</b>	<b>5,578</b>	<b>---</b>	<b>2,327</b>	<b>---</b>	<b>\$1,040,169</b>

The USPTO Office of Enrollment and Discipline General Requirements Bulletin recommends that “an applicant should make and keep a copy of every document submitted to the Office in connection with an application for registration.”<sup>2</sup> The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the submissions and that approximately 5,507 responses requiring record keeping (based on the response numbers from Table 1) will be made per year, for a total of 440 hours.

**Table 2: Total Hourly Recordkeeping Burden for Individual or Household Respondents**

Item No.	Item	Estimated Annual Respondents (year) (a)	Estimated Time for Response (hours) (b)	Estimated Annual Burden (hour/year) (a) x (b) = (c)	Rate <sup>3</sup> (\$/hour) (d)	Estimated Annual Respondent Cost Burden (c) x (d) = (e)
<b>1</b>	Application for Registration to Practice Before the United States Patent and Trademark Office	3,293	0.08	263	\$447	\$117,561
<b>2</b>	Data Sheet – Register of Patent Attorneys and Agents	1,103	0.08	88	\$447	\$39,336
<b>4</b>	Oath or Affirmation	1,034	0.08	83	\$447	\$37,101
<b>5</b>	Reinstatement to the Register	77	0.08	6	\$447	\$2,682
	<b>Totals</b>	<b>5,507</b>	<b>---</b>	<b>440</b>	<b>---</b>	<b>\$196,680</b>

*Estimated Total Annual Respondent Non-hourly Cost Burden:* \$798,130. There are no capital start-up costs or maintenance 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 \$798,130.

### Filing Fees

**Table 3: Filing Fees**

Item No.	Fee Code	Item	Responses (yr) (a)	Filing Fee (\$) (b)	Total Non-Hour Respondent Cost Burden (\$/hr) (a) x (b) = (c)
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<sup>2</sup> General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases before the United States Patent and Trademark Office; [https://www.uspto.gov/sites/default/files/documents/OED\\_GRB.pdf](https://www.uspto.gov/sites/default/files/documents/OED_GRB.pdf).

<sup>3</sup> Ibid footnote in Table 1.

1	9001	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office. Includes: <ul style="list-style-type: none"> <li>• When used for registration fees only (former examiners; examination waived)</li> <li>• Under 37 CFR § 11.6(c) by a Foreign Resident (examination waived)</li> <li>• Under 37 CFR § 11.14(c) by a Foreign Resident (examination waived)</li> </ul>	3,293	\$118	\$388,574
1	9030	Request for extension of time in which to schedule examination for registration to practice (non-refundable)	764	\$124	\$94,736
1	9014	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR § 1.21(a)(10) (those who must prove fitness to practice)	21	\$1,806	\$37,926
3	9003	On Registration to Practice Under 37 CFR § 11.6	1,094	\$226	\$247,244
3	9026	On Grant of Limited Recognition Under 37 CFR §11.9(b)	36	\$226	\$8,136
5	9004	Reinstatement to the Register	77	\$226	\$17,402
7	9012	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR § 11.2(c)	8	\$452	\$3,616
8	9013	Review of Decision of the Director of Enrollment and Discipline Under 37 CFR § 11.2(d)	1	\$452	\$452
		<b>Totals</b>	<b>5,294</b>	<b>---</b>	<b>\$798,086</b>

#### Postage

Submissions in this information collection are accepted via email, postal mail, and hand delivery. The USPTO expects that at most 1% of the 5,578 reporting submissions in this information collection will be submitted in the mail through the United States Postal Service, resulting in 56 mailed items. The remaining items will be submitted electronically. The average postage cost for a mailed submission, using a First Class 1-ounce letter envelope, is \$0.78. Therefore, the USPTO estimates that the total mailing costs for this information collection is \$44.

In prior renewals of this information collection, attorneys or agents seeking registration before the USPTO would incur notary costs when they were required to obtain and submit an Oath or Affirmation. The USPTO no longer requires the Oath or Affirmation to be notarized.

#### **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 advised that the entire comment—including PII—may be made publicly available at any time. While one may request in a 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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