



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Grace Period Study

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. § 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-00xx Grace Period Study comment" in the subject line of the message.
- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Jim Moore, Attorney Advisor, Office of Governmental Affairs, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-5661; or by e-mail to [James.Moore@USPTO.Gov](mailto:James.Moore@USPTO.Gov) with "Paperwork" in the subject line.

#### SUPPLEMENTARY INFORMATION

##### I. Abstract

The United States' grace period, which permits exceptions to absolute novelty, figures centrally in the international discourse on patent law harmonization. The grace period allows individuals to improve upon their ideas by sharing them with the research and business communities

without jeopardizing their intellectual property interests. Many European countries, however, lack adequate grace periods. The consequences of this are not fully understood. Few studies in the past ten years have dealt with the grace period, and none of them have quantified the effects of premature disclosure on researchers' failure to apply for or receive patents. To study this issue, the USPTO plans to conduct a study to estimate the commercial opportunities lost as a result of the lack of grace periods.

As part of this study, the USPTO plans to survey European scientific researchers from select European research institutions. The results from this USPTO-sponsored study would provide current, quantitative data on the effects of the premature disclosure on European patenting. The data collected from the survey can be used to estimate the value of lost commercial opportunities in Europe due to the lack of grace periods for these patents. This study would support the USPTO's efforts to be a leader on intellectual property matters internationally and to promote efficiency and cooperation in the global patent system.

The USPTO plans to survey scientific researchers affiliated with select European universities who have published journal articles disclosing potentially patentable

materials during a five year period. The universities will be selected from the Times Higher Education university rankings for specific, patent-intensive research areas.

The USPTO envisions that the respondents will be surveyed only once. The survey may be distributed in waves for convenience.

The Grace Period Study survey will be an electronic survey. The cover letter that will be distributed with the survey will reference the journal article used to identify the respondent, explain why the USPTO is conducting the survey, explain that the responses will be kept confidential, and provide instructions on how to access the survey. Pre-response and reminder letters, in addition to a brief non-response follow-up for a small sample of nonrespondents, will be used to encourage response from the sample members.

This is a voluntary survey and all responses will remain confidential. The collected data will not be linked to the respondent and contact information that is used for sampling purposes will be maintained in a separate file from the quantitative data. Respondents are not required to provide any identifying information such as their name, address, or Social Security Number. In order to access and

complete the online survey, respondents will need to use a username, password, and survey ID number.

## II. Method of Collection

Electronically over the Internet through a secure, third-party survey distributor using access information supplied by IIPi.

## III. Data

OMB Number: 0651-00xx.

Form Number(s): No form numbers.

Type of Review: New information collection.

Affected Public: Businesses or other for-profits and non-profit institutions.

Estimated Number of Respondents: 420 responses per year. The USPTO estimates that no responses will be received from small entities. Out of a sample size of 3,000, the USPTO estimates that 420 completed surveys will be received, for a response rate of 14%. This estimate is based on the response rate of a similar survey of German researchers conducted by the German Ministry for Education and Research (BMBF).

Estimated Time Per Response: The USPTO estimates that it will take approximately 10 minutes (0.17 hours) to

complete this survey. This estimated time includes reading the instructions for the survey, gathering the necessary information, completing the survey, and submitting it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 71 hours.

Estimated Total Annual Respondent Cost Burden: \$3,287. The USPTO estimates that scientists will be completing these surveys and that their hourly rate will be comparable to the hourly rate for scientists in the United States. Using the hourly mean rate of \$46.29 from the U.S. Bureau of Labor Statistics for physical scientists and others, the USPTO estimates \$3,287 per year for the respondent cost burden for this collection.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Grace Period Study Survey	10 minutes	420	71
<b>Totals</b>	-----	<b>420</b>	<b>71</b>

Estimated Total Annual Non-hour Respondent Cost Burden: \$0. There are no annual (non-hour) costs for this information collection. The USPTO covers the costs of all survey materials.

#### IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 4, 2012

Susan K. Fawcett,  
Records Officer, USPTO,  
Office of the Chief Information Officer

BILLING CODE: 3510-16-P

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