



3510-16-P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Trademark Petitions

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection: 0651-0061 (Trademark Petitions).

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:

- *Email:* InformationCollection@uspto.gov. Include “0651-0061 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology 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 to Catherine.Cain@uspto.gov with "0651-0061 comment" in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) administers 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 USPTO.

Individuals and businesses may also submit various communications to the USPTO, including letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore a filing date, and requests for reinstatement. The USPTO uses the information described in this collection to process letters of protests, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore filing date, and requests for reinstatement. The information is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. Information relating to the registration of a trademark is made available to the public by the USPTO. However,

the release of information in a letter of protest is controlled and may be available only upon request.

A letter of protest is an informal procedure whereby third parties who object to the registration of a mark in a pending application may bring to the attention of the USPTO evidence bearing on the registrability of the mark. A letter of protest must identify the application being protested and the proposed grounds for refusing registration and include relevant evidence to support the protest.

A request to make special may be submitted where an applicant requests that initial examination of an application be advanced out of its regular order because the mark in the application was the subject of an inadvertently cancelled or expired previous registration.

A response to a petition inquiry letter is submitted by a petitioner who is responding to a notice of deficiency that the USPTO issued after receiving an incomplete petition to the Director. A petition may be considered incomplete if, for example, it does not include the fee required by 37 CFR 2.6 or if it includes an unverified assertion that is not supported by evidence.

The USPTO generally examines applications in the order in which they are received. A petition to make special is a request by the applicant to advance the initial examination of an application out of its regular order.

A request to restore a filing date is submitted by an applicant who previously filed an application that was denied a filing date. The request must include evidence showing that the applicant is entitled to the earlier filing date.

If an applicant has proof that an application was inadvertently abandoned due to a USPTO error, an applicant may file a request to reinstate the application instead of a formal petition to revive. To support such a request, the applicant must include clear evidence of the USPTO error.

II. Method of Collection

Electronically, if applicants submit the information using the forms available through the Trademark Electronic Application System (TEAS). By mail or hand delivery, if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651-0061.

IC Instruments and Forms: N/A.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit organizations.

Estimated Number of Respondents: 4,768 responses per year.

Estimated Time per Response: The USPTO estimates that it will take approximately between 35 minutes (0.58 hours) to 75 minutes (1.25 hours) to complete items in this collection. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 4,333.63 hours per year.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$1,898,129.94. The USPTO expects that an attorney will complete the instruments associated with this information collection. The professional hourly rate for attorneys is \$438, which is the median

professional rate for intellectual property attorneys in private firms as shown in the 2017 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA). Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$1,898,129.94 per year.

IC #	Item	Time for Response (Hours) (a)	Responses (b)	Burden Hours (c) (a) x (d)	Rate (d)	Total Cost (e) (c) x (d)
1	Letter of Protest (TEAS Global)	1 (60 minutes)	3,475	3,475.00	\$438.00	\$1,522,050.00
1	Letter of Protest (Paper)	1.25 (75 minutes)	10	12.50	\$438.00	\$5,475.00
2	Request to Make Special (TEAS Global)	0.58 (35 minutes)	150	87.00	\$438.00	\$38,106.00
2	Request to Make Special (Paper)	0.75 (45 minutes)	1	0.75	\$438.00	\$328.50
3	Response to Petition to Director Inquiry Letter (TEAS Global)	0.75 (45 minutes)	274	205.50	\$438.00	\$90,009.00
3	Response to Petition to Director Inquiry Letter (Paper)	1 (60 minutes)	1	1.00	\$438.00	\$438.00
4	Petition to Make Special (TEAS Global)	0.58 (35 minutes)	531	307.98	\$438.00	\$134,895/25
4	Petition to Make Special (Paper)	0.75 (45 minutes)	2	1.5	\$438.00	\$657.00
5	Request to Restore Filing Date (TEAS Global)	0.58 (35 minutes)	5	2.90	\$438.00	\$1,270.20
5	Request to Restore Filing Date (Paper)	0.75 (45 minutes)	1	0.75	\$438.00	\$328.50
6	Request for Reinstatement (TEAS Global)	0.75 (45 minutes)	317	237.75	\$438.00	\$104,134.50
6	Request for Reinstatement (Paper)	1 (60 minutes)	1	1.00	\$438.00	\$438.00
	Total		4,768	4,333.63		\$1,898,129.94

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$53,307.84 per year. This collection has no capital start-up, maintenance, or operating fees. This collection does have postage cost and filing fees.

Filing Fees

There are fees associated with this collection, specifically for the Petition to Make Special, which has a fee amount of \$100 per respondent. The total estimated filing-fee cost for this collection is \$53,300.00

IC #	Item	Responses	Filing Fee	Total Cost
4	Petition to Make Special (TEAS Global)	531	\$100.00	\$53,100.00
4	Petition to Make Special (Paper)	2	\$100.00	\$200.00
	Totals	533		\$53,300.00

Postage Cost

Applicants incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service (USPS). The USPTO estimates that the vast majority – approximately 98% – of the paper forms are submitted to the USPTO via first-class mail, while the rest are submitted by hand delivery. The USPTO estimates that 16 forms will be mailed. The average first-class USPS postage cost for a mailed submission is \$0.50. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will total \$8.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of filing fees (\$53,300) and postage costs (\$8), is \$53,308 per year.

IV. Request for Comments

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.

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.

Marcie Lovett,

Records and Information Governance Division Director, OCTO,

United States Patent and Trademark Office.

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