

**SF-83 SUPPORTING STATEMENT
UNITED STATES PATENT AND TRADEMARK OFFICE
Substantive Submissions Made During the Prosecution
of the Trademark Application
OMB Control Number 0651-0054**

A. JUSTIFICATION

1. Necessity of Information Collection

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 allegations of use; requests for extension of time to file a statement of use; petitions to revive abandoned applications; requests to delete section 1(b) basis, intent to use; requests for express abandonment; requests to divide; and other petitions. Registered marks remain on the register for ten years and can be renewed, but will be canceled unless the owner files with the USPTO a declaration attesting to the continued use (or excusable non-use) of the mark in commerce within specific deadlines.

The rules implementing the Trademark Act are set forth in 37 CFR Part 2. These rules require that each certificate of registration include a reproduction of the mark, the particular goods and/or services for which it is registered, ownership information, dates of use, the number and date of the registration, and certain other information. The USPTO provides similar information concerning pending applications. The information set forth in the register, and information provided in pending applications, can be accessed through the USPTO website by individuals and businesses to determine the availability of a mark. By searching the USPTO's database, parties may lessen the likelihood of initiating use of a mark that was previously adopted by another party. Additionally, the trademark registration process may lessen litigation between parties.

The information in this collection can be submitted to the USPTO in paper or electronically through the Trademark Electronic Application System (TEAS). There are six electronic forms in this collection; however, there are only three official paper forms. The USPTO does not provide an official paper form for the petition to revive abandoned applications – failure to respond timely to office action; petition to revive abandoned applications – failure to file timely statement of use or extension request; request to delete section 1(b) basis, intent to use; request for express abandonment (withdrawal) of application; nor for the other petitions. Individuals and businesses can submit their own paper forms, following the USPTO's rules and guidelines to ensure that they

provide all of the necessary information. Applicants who choose to submit their applications electronically must use the TEAS forms.

The USPTO is proposing to delete the electronic Request to Divide requirement and introduce a TEAS request to divide functionality as part of the existing Allegation of Use and Extension Requests forms in the near future, as well as a stand-alone request to divide form at a later point. In the meantime, if the applicant wants to file a post-notice of action request to divide with a Statement of Use (SOU) and extension request, it should be filed on paper. The extension request may first be filed through TEAS if the extension is for all goods/services in the application. If not, then all three documents should be filed on paper.

If the applicant is committed to filing a request to divide electronically, the applicant must 1) file the extension for all of the goods; 2) fax in a request to divide with the appropriate USPTO credit card authorization form; and 3) file the SOU wherein the goods not in use are deleted, with a specific statement inserted in the description of the specimen field that “A request to divide and extension request have been filed, and the goods are not being deleted, but simply divided.”

Table 1 identifies the statutory and regulatory provisions pursuant to which the USPTO collects the information:

Table 1: Information Requirements for Substantive Submissions Made During Prosecution of the Trademark Application

| Requirement | Statute | Rule |
|---|------------------------|------------------------------------|
| Allegation of use of a trademark/service mark | 15 U.S.C. § 1051 | 37 CFR Part 2, 2.76, 2.86 and 2.88 |
| Request for extension of time to file a statement of use | 15 U.S.C. § 1051(d)(2) | 37 CFR Part 2, 2.89 |
| Petition to revive abandoned application – failure to respond timely to an office action | 15 U.S.C. § 1123 | 37 CFR Part 2, 2.66 |
| Petition to revive abandoned application – failure to file timely statement of use or extension request | 15 U.S.C. § 1051(d)(4) | 37 CFR Part 2, 2.66 |
| Request to delete section 1(b) basis, intent to use | 15 U.S.C. § 1123 | 37 CFR Part 2, 2.35 |
| Request for express abandonment (withdrawal) of an application | 15 U.S.C. § 1123 | 37 CFR Part 2, 2.68 |
| Request to divide | Not Applicable | 37 CFR Part 2, 2.87 |
| Other petitions | Not Applicable | 37 CFR Part 2, 2.146 |

2. Needs and Uses

The USPTO uses the information described in this collection to process the substantive submissions made during prosecution of the trademark application. The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed at the USPTO’s

website. Additionally, the USPTO provides the information to other entities, including Patent and Trademark Depository Libraries (PTDLs). The PTDLs maintain the information for use by the public.

The Information Quality Guidelines set forth in Section 515 of Public Law 106-554, Treasury and General Government Appropriations Act for Fiscal Year 2001, apply to this information collection and comply with all applicable information quality guidelines, *i.e.*, OMB and specific operating unit guidelines.

This proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with all applicable OMB and USPTO Information Quality Guidelines. (See Ref. A, the *USPTO Information Quality Guidelines*.)

Table 2 lists the information identified in this collection and explains how this information is used by the public and by the USPTO:

Table 2: Needs and Uses of Substantive Submissions Made During Prosecution of the Trademark Application

| Form and Function | Form # | Needs and Uses |
|---|--------------------|--|
| Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Ref. B) | PTO Form 1553 | <ul style="list-style-type: none"> • Used by the public to notify the USPTO that a mark for which registration is sought is in use in commerce. • Used by the USPTO to complete processing of applications for registration. |
| TEAS Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Ref. C) | PTO Form 1553 | <ul style="list-style-type: none"> • Used by the public to electronically complete and file a notification to the USPTO that a mark for which registration is sought is in use in commerce. • Used by the USPTO to review electronically-filed applications for registration. |
| Request for Extension of Time to File a Statement of Use (Ref. D) | PTO Form 1581 | <ul style="list-style-type: none"> • Used by the public to request a six-month extension of time to file a statement that the mark for which registration is sought is in use in commerce. • Used by the USPTO to grant an extension of time to file a statement that the mark for which registration is sought is in use in commerce. |
| TEAS Request for Extension of Time to File a Statement of Use (Ref. E) | PTO Form 1581 | <ul style="list-style-type: none"> • Used by the public to electronically complete and file a request for a six-month extension of time to file a statement that the mark for which registration is sought is in use in commerce. • Used by the USPTO to grant an extension of time to electronically-filed statements that the mark for which registration is sought is in use in commerce. |
| Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | No Form Associated | <ul style="list-style-type: none"> • Used by the applicant to petition the USPTO to revive an application that abandoned because of a failure to submit a timely response to an office action. • Used by the USPTO to process a request to revive an application that abandoned because of a failure to submit a timely response to an office action. |

| | | |
|---|--|---|
| TEAS Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Ref. F) | Form 2194 | <ul style="list-style-type: none"> Used by the applicant to electronically complete and file a petition to the USPTO to revive an application that abandoned because of a failure to submit a timely response to an office action. Used by the USPTO to process electronically-filed petitions to revive an application that abandoned because of a failure to submit a timely response to an office action. |
| Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | No Form Associated | <ul style="list-style-type: none"> Used by the applicant to petition the USPTO to revive an application that abandoned because of a failure to file a timely statement of use or extension request. Used by the USPTO to process a petition to revive an application that abandoned because of a failure to file a timely statement of use or extension request. |
| TEAS Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Ref. G) | Form 2195 | <ul style="list-style-type: none"> Used by the applicant to electronically complete and file a petition to revive an application that abandoned because of a failure to file a timely statement of use or extension request. Used by the USPTO to process electronically-filed petitions to revive an application that abandoned because of a failure to file a timely statement of use or extension request. |
| Request to Delete Section 1(b) Basis, Intent to Use | No Form Associated | <ul style="list-style-type: none"> Used by the applicant to submit a request to delete a particular statutory filing basis, section 1(b) basis, from an entire class of goods and/or services from an application. Used by the USPTO to process requests to delete a section 1(b) basis from an application. |
| TEAS Request to Delete Section 1(b) Basis, Intent to Use (Ref. H) | Form 2200 | <ul style="list-style-type: none"> Used by the applicant to electronically complete and file a request to delete a particular statutory filing basis, section 1(b) basis, from an entire class of goods and/or services from an application. Used by the USPTO to process electronically-filed requests to delete a section 1(b) basis from an application. |
| Request for Express Abandonment (Withdrawal) of Application | No Form Associated | <ul style="list-style-type: none"> Used by an applicant to submit a request to withdraw an application. Used by the USPTO to process requests to withdraw an application. |
| TEAS Request for Express Abandonment (Withdrawal) of Application (Ref. I) | Form 2202 | <ul style="list-style-type: none"> Used by an applicant to electronically complete and file a request to withdraw an application. Used by the USPTO to process electronically-filed requests to withdraw an application. |
| Request to Divide | Can be filed as part of Forms 1553 and/or 0581 | <ul style="list-style-type: none"> Used by the public to request that an application for registration that identifies multiple goods and/or services be divided into two or more separate applications. Used by the USPTO to process requests that applications for registration that identify multiple goods and/or services be divided into two or more separate applications. |
| Other Petitions | No Forms Associated | <ul style="list-style-type: none"> Used by an applicant or registrant to submit petitions to the USPTO to request that the USPTO take, or refrain from taking, particular actions with respect to registrations or applications for registration. Used by the USPTO to process petitions in which applicants or registrants request that the USPTO take, or refrain from taking, particular actions submitted after prosecution of the trademark application. |

3. Use of Information Technology

The USPTO currently offers four IT systems in support of this collection that are accessible through the online Trademark Electronic Business Center (TEBC). The

TEBC provides descriptions of the systems, and the systems feature online “help” programs. Thus, the USPTO offers the public a single source for a variety of IT systems useful both for making submissions to the USPTO and for tracking the status of these submissions.

The USPTO provides online electronic forms through the web-accessible Trademark Electronic Application System (TEAS). Once completed, TEAS forms are transmitted to the USPTO via the Internet. The TEAS forms include “help” instructions, as well as a “Form Wizard” that tailors the form to the particular characteristics of the application or registration in question, based on responses provided by the user to questions posed by the “Wizard.” The forms filed are received within seconds after transmission, and a confirmation of filing is immediately issued via e-mail to the user.

Users do not affix digital signatures to the TEAS forms. Instead, these forms are signed using a combination of alphanumeric characters that the user selects and types between two forward slashes. TEAS forms can be signed in this manner or the text form of the application can be e-mailed to a second party who can then electronically sign the application. The forms can also be signed by printing the signature page of the form, signing it in ink, scanning the signed page, and then transmitting the entire form and scanned signature page to the USPTO.

Please note that electronic forms can only be submitted via TEAS; filers may not e-mail their own forms to the USPTO. Additionally, filers who submit drawings of marks that are not “standard character” drawings must attach digitized images of these drawings to their submissions.

The USPTO maintains an online image database of the electronic trademark application or registration file wrapper entitled the Trademark Document Retrieval (TDR) system. The USPTO also maintains an online system called the Trademark Application and Registration Retrieval (TARR) system, which provides users with information regarding the status of trademark applications and registrations. The data in the TARR system is updated daily.

The USPTO provides a web-based record of registered marks, and marks for which applications for registration have been submitted, called the Trademark Electronic Search System (TESS). TESS can be used by potential applicants for trademark registration to assist in the determination of whether or not a particular mark may be available. The data in TESS is identical to the data reviewed by examining attorneys at the USPTO in their determination of whether marks for which registration is sought are confusingly similar to marks in existing registrations or to marks in pending applications for registration. TESS allows for the user to choose from four different search tools, is updated daily, and is easy to use.

4. Efforts to Identify Duplication

This information is collected only when allegations of use; requests for extension of time to file a statement of use; petitions to revive abandoned applications; requests to delete section 1(b) basis, intent to use; requests for express abandonment; requests to divide; and other petitions are submitted to the USPTO. This collection does not solicit any data already available at the USPTO. This collection does not create a duplication of effort.

5. Minimizing the Burden to Small Entities

The USPTO believes that the submission of the information provided places no undue burden on small businesses or other small entities. The same information is required from every customer and is not available from any other source.

6. Consequences of Less Frequent Collection

This information collection could not be conducted less frequently, since the information is collected only when voluntarily submitted by the public. If the information were not collected, the public would not be able to allege use of a trademark/service mark, request an extension of time to file a statement of use, could not petition to revive abandoned applications, could not request that a section 1(b) basis be deleted from their applications, could not request express abandonment, could not file a request to divide, or could not file petitions. The information could not be collected less frequently. If this information were not conducted, the USPTO could not comply with the requirements of the Trademark Act, 15 U.S.C. § 1051 and 37 CFR Part 2.

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultation Outside the Agency

The 60-Day Notice was published in the *Federal Register* on April 4, 2008 (73 Fed Reg. 66). The public comment period ended on June 3, 2008. No public comments were received.

Large and well-organized bar associations frequently communicate their views to the USPTO. Also, the Trademark Public Advisory Committee (T-PAC) was created by the American Inventors Protection Act of 1999 to advise the Director of the USPTO on the agency's operations, including its goals, performance, budget, and user fees. T-PAC includes nine voting members who are appointed by and serve at the pleasure of the Secretary of Commerce. The statute also provides non-voting membership on the Committee for the agency's three recognized unions. Members include inventors, lawyers, corporate executives, entrepreneurs, and academicians with significant experience in management, finance, science, technology, labor relations, and intellectual property issues. The members of T-PAC reflect the broad array of USPTO's

stakeholders and embrace the USPTO's e-government initiative. This diversity of interests is an effective tool in helping the USPTO nurture and protect the intellectual property that is the underpinning of America's strong economy.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent.

10. Assurance of Confidentiality

Trademark applications and registrations are open to public inspection. Confidentiality is not required in the processing of trademark applications.

Apart from the substantive components and burden statements, the TEAS forms also include a link to the USPTO's Web Privacy Policy. The "Privacy Policy Statement" link is located above the PRA Burden Statement found at the end of the "Wizard" and at the end of the forms themselves. The Web Privacy Policy Statement explains how the USPTO handles any personal information collected from the public through the website, and how it handles e-mails. Additionally, the statement also explains what information is collected through the USPTO's Kids Pages, and whether and why the USPTO uses cookies to collect information.

11. Justification for Sensitive Questions

None of the required information in this collection is considered to be of a sensitive nature.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the anticipated burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**
The USPTO estimates that it will receive the 228,115 responses per year for this collection, with 196,051 filed electronically.
- **Burden Hour Calculation Factors**
The USPTO estimates that it will take the public an average of 3 to 20 minutes (0.05 to 0.33 hours) to complete the collections of information described in this submission, depending on the nature of the information. This includes time to gather the necessary information, create the documents, and mail the completed request. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.
- **Cost Burden Calculation Factors**
The professional rate of \$310 per hour used in this submission to calculate the respondent cost burden is the median rate for associate attorneys in private firms as published in the 2007 report of the Committee on Economics of Legal Practice of the

American Intellectual Property Law Association. This report summarized the results of a survey with data on hourly billing rates. This is a fully-loaded hourly rate.

The USPTO believes that the information in this collection will primarily be prepared by attorneys, although some submissions may be prepared by *pro se* registrants.

Table 3: Burden Hour/Burden Cost to Respondents for Substantive Submissions Made During Prosecution of the Trademark Application

| Item | Hours (a) | Responses (yr) (b) | Burden (hrs/yr) (c) (a) x (b) | Rate (\$/hr) (d) | Total Cost (\$/hr) (e) (c) x (d) |
|--|--------------|--------------------------|--|------------------------|---|
| Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (PTO Form 1553) | 0.22 | 10,475 | 2,305 | \$310.00 | \$714,550.00 |
| TEAS Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (PTO Form 1553) | 0.18 | 54,992 | 9,899 | \$310.00 | \$3,068,690.00 |
| Request for Extension of Time to File a Statement of Use (PTO Form 1581) | 0.17 | 10,211 | 1,736 | \$310.00 | \$538,160.00 |
| TEAS Request for Extension of Time to File a Statement of Use (PTO Form 1581) | 0.15 | 117,429 | 17,614 | \$310.00 | \$5,460,340.00 |
| Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | 0.20 | 2,004 | 401 | \$310.00 | \$124,310.00 |
| TEAS Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (PTO Form 2194) | 0.08 | 8,015 | 641 | \$310.00 | \$198,710.00 |
| Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | 0.20 | 2,004 | 401 | \$310.00 | \$124,310.00 |
| TEAS Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (PTO Form 2195) | 0.08 | 8,015 | 641 | \$310.00 | \$198,710.00 |
| Request to Delete Section 1(b) Basis, Intent to Use | 0.07 | 194 | 14 | \$310.00 | \$4,340.00 |
| TEAS Request to Delete Section 1(b) Basis, Intent to Use (PTO Form 2200) | 0.05 | 1,100 | 55 | \$310.00 | \$17,050.00 |
| Request for Express Abandonment (Withdrawal) of Application | 0.07 | 4,686 | 328 | \$310.00 | \$101,680.00 |
| TEAS Request for Express Abandonment (Withdrawal) of Application (PTO Form 2202) | 0.05 | 6,500 | 325 | \$310.00 | \$100,750.00 |
| Request to Divide | 0.08 | 1,990 | 159 | \$310.00 | \$49,290.00 |
| Other Petitions | 0.33 | 500 | 165 | \$310.00 | 51,150.00 |
| Total | - - - - | 228,115 | 34,684 | - - - - | \$10,752,040.00 |

13. Total Annualized (Non-hour) Cost Burden

There are no capital start-up, maintenance, or record keeping costs. There is, however, non-hour cost burden in the way of filing fees and postage costs.

Filing fees of \$27,945,500 are associated with this collection. Filing fees are based on per class filing of goods and services; therefore, the total filing fees can vary depending on the number of classes. The filing fees shown here are the minimum fees associated with this information collection.

Table 4 calculates the filing fees associated with this collection of information:

Table 4: Filing Fees – Non-hour Cost Burden for Substantive Submissions Made During Prosecution of the Trademark Application

| Item | Responses (yr) (a) | Filing fee* (\$) (b) | Total Non-Hour Cost Burden (yr) (a) x (b) (c) |
|--|--------------------------|----------------------------|---|
| Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) | 10,475 | \$100.00 | \$1,047,500.00 |
| TEAS Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) | 54,992 | \$100.00 | \$5,499,200.00 |
| Request for Extension of Time to File a Statement of Use | 10,211 | \$150.00 | \$1,531,650.00 |
| TEAS Request for Extension of Time to File a Statement of Use | 117,429 | \$150.00 | \$17,614,350.00 |
| Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | 2,004 | \$100.00 | \$200,400.00 |
| TEAS Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | 8,015 | \$100.00 | \$801,500.00 |
| Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | 2,004 | \$100.00 | \$200,400.00 |
| TEAS Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | 8,015 | \$100.00 | \$801,500.00 |
| Request to Delete Section 1(b) Basis, Intent to Use | 194 | \$0.00 | \$0.00 |
| TEAS Request to Delete Section 1(b) Basis, Intent to Use | 1,100 | \$0.00 | \$0.00 |
| Request for Express Abandonment (Withdrawal) of Application | 4,686 | \$0.00 | \$0.00 |
| TEAS Request for Express Abandonment (Withdrawal) of Application | 6,500 | \$0.00 | \$0.00 |
| Request to Divide | 1,990 | \$100.00 | \$199,000.00 |
| Other Petitions | 500 | \$100.00 | \$50,000.00 |
| Total | 228,115 | - - - - | \$27,945,500.00 |

*Note: All fees listed are based on a per class filing.

Applicants and registrants incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The

USPTO estimates that the majority of submissions for these paper forms are made via first class mail. First class postage is 42 cents. Therefore, a total estimated mailing cost of \$13,468 is incurred for this collection.

Table 5 calculates the postage costs for the substantive submissions made during prosecution of the trademark application:

Table 5: Postage Costs for Substantive Submissions Made During Prosecution of the Trademark Application

| Item | Responses (yr) (a) | Postage Costs (b) | Total Cost (yr) (a) x (b) |
|---|--------------------------|----------------------|---------------------------------|
| Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) | 10,475 | \$0.42 | \$4,400.00 |
| Request for Extension of Time to File a Statement of Use | 10,211 | \$0.42 | \$4,289.00 |
| Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | 2,004 | \$0.42 | \$842.00 |
| Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | 2,004 | \$0.42 | \$842.00 |
| Request to Delete Section 1(b) Basis, Intent to Use | 194 | \$0.42 | \$81.00 |
| Request for Express Abandonment (Withdrawal) of Application | 4,686 | \$0.42 | \$1,968.00 |
| Request to Divide | 1,990 | \$0.42 | \$836.00 |
| Other Petitions | 500 | \$0.42 | \$210.00 |
| Total | 32,064 | - - - - | \$13,468.00 |

In sum, the total annual non-hour cost burden for this collection in the form of filing fees (\$27,945,500) and postage costs (\$13,468) amounts to \$27,958,968.

14. Annual Cost to the Federal Government

The USPTO estimates that it takes the combined efforts of a GS-5, step 5 and a GS-7, step 5 employee between 11 and 14 minutes to process the allegations of use and the requests for extensions of time to file a statement of use. The direct rate of pay for contractor data entry/processing is \$17.24 (equivalent to a GS-5, step 5) and \$21.36 (equivalent to a GS-7, step 5). The combined efforts of a GS-5, step 5 and a GS-7, step 5 results in a direct rate of pay of \$19.30. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for these contractors is \$19.30 + \$5.79, for a rate of \$25.09.

The USPTO estimates that it takes six USPTO employees at the following rates between 1 and 5 minutes to process the petitions to revive and 14 minutes to process the “other petitions”: two at GS-12, step 2; one at GS-12, step 5; and three at GS-11, step 4. The current hourly rate for a GS-12, step 2 is \$34.54 for a total of \$69.08 per hour for two employees. The current hourly rate for a GS-12, step 5 is \$37.89, while the

current hourly rate for a GS-11, step 4 is \$30.68, totaling \$92.04 per hour for three employees. Adding the total hourly rates of \$69.08, \$37.89, and \$92.04 amounts to a total of \$199.01, which in turn results in an average hourly rate of \$33.17 for the six employees processing the petitions to revive and the “other petitions.” When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the combined cost per hour for a GS-12, step 2, GS-12, step 5, and GS-11, step 4 is \$33.17 + \$9.95, for a rate of \$43.12.

Requests to delete section 1(b) filing basis are expected to take between 2 and 5 minutes to process and requests to abandon an application are expected to take between 1 and 5 minutes to process by contractors retained by the USPTO at an hourly rate equivalent to the average hourly rate that would be paid to GS-4, step 4 and GS-5, step 4 employees. The current hourly rates for GS-4, step 4 and GS-5, step 4 employees are \$14.96 and \$16.73, respectively. Based on these rates, the USPTO estimates that the average hourly rate for the contractors processing these documents is \$15.85. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for these contractors is \$15.85 + \$4.76, for a rate of \$20.61.

The USPTO estimates that it takes a GS-5, step 5 four minutes to process the request to divide. The direct rate of pay for contractor data entry/processing is \$17.24 (equivalent to a GS-5, step 5). When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for these contractors is \$17.24+ \$5.17, for a rate of \$22.41.

Table 6 calculates the processing hours and costs of this information collection to the Federal Government:

Table 6: Burden Hour/Burden Cost to the Federal Government for Substantive Submissions Made During Prosecution of the Trademark Application

| Item | Hours (a) | Responses (yr) (b) | Burden (hrs/yr) (c) (a) x (b) | Rate (\$/hr) (d) | Total Cost (\$/hr) (e) (c) x (d) |
|---|--------------|--------------------------|--|------------------------|---|
| Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) | 0.23 | 10,475 | 2,409 | \$25.09 | \$60,442.00 |
| TEAS Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) | 0.18 | 54,992 | 9,899 | \$25.09 | \$248,366.00 |
| Request for Extension of Time to File a Statement of Use | 0.23 | 10,211 | 2,349 | \$25.09 | \$58,936.00 |
| TEAS Request for Extension of Time to File a Statement of Use | 0.18 | 117,429 | 21,137 | \$25.09 | \$530,327.00 |
| Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | 0.08 | 2,004 | 160 | \$43.12 | \$6,899.00 |
| TEAS Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action | 0.02 | 8,015 | 160 | \$43.12 | \$6,899.00 |

| | | | | | |
|--|-----------|----------------|---------------|-----------|---------------------|
| Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | 0.08 | 2,004 | 160 | \$43.12 | \$6,899.00 |
| TEAS Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request | 0.02 | 8,015 | 160 | \$43.12 | \$6,899.00 |
| Request to Delete Section 1(b) Basis, Intent to Use | 0.08 | 194 | 16 | \$20.61 | \$330.00 |
| TEAS Request to Delete Section 1(b) Basis, Intent to Use | 0.03 | 1,100 | 33 | \$20.61 | \$680.00 |
| Request for Express Abandonment (Withdrawal) of Application | 0.08 | 4,686 | 375 | \$20.61 | \$7,729.00 |
| TEAS Request for Express Abandonment (Withdrawal) of Application | 0.02 | 6,500 | 130 | \$20.61 | \$2,679.00 |
| Request to Divide | 0.07 | 1,990 | 139 | \$22.41 | \$3,115.00 |
| Other Petitions | 0.23 | 500 | 115 | \$43.12 | \$4,959.00 |
| Total | - - - - - | 228,115 | 37,242 | - - - - - | \$945,159.00 |

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

This information collection was approved by OMB in November of 2005 with a total of 183,710 responses and 29,174 burden hours per year. With this renewal, the USPTO estimates that the responses will be 228,115 and the burden hours 34,684, which is an increase of 44,405 responses and 5,510 burden hours from the currently approved burden for this collection.

The USPTO estimates that the total annual (non-hour) cost burden will increase by \$5,066,306 for this renewal, from \$22,892,662 currently reported on the OMB inventory to the present \$27,958,968 per year.

Change in Respondent Cost Burden

In 2005, the estimated hourly rate for attorneys was \$286. Using that rate, the reported burden hours yielded a respondent cost burden of \$8,343,764. This renewal reports an estimated hourly rate of \$310 for a respondent cost burden of \$10,752,040, an increase of \$2,408,276.

Changes in Response and Burden Hours

With this renewal, the number of responses increased by 44,405, from 183,710 to 228,115 and the burden hours increased by 5,510, from 29,174 to 34,684 per year. The increase in burden hours is due to a revised number of estimated submissions as an administrative adjustment, as follows:

- The USPTO believes that the number of Trademark/Service Mark Allegations of Use (Amendments to Allege Use/Statements of Use) submitted per year will decrease by 2,018 responses, from 12,493 to 10,475. **Therefore, this submission takes a burden decrease of 443 hours as an administrative adjustment.**
- The USPTO believes that the number of TEAS Trademark/Service Mark Allegations of Use (Amendments to Allege Use/Statements of Use) submitted per year will increase by 5,020 responses, from 49,972 to 54,992. **Therefore, this submission takes a burden increase of 904 hours as an administrative adjustment.**
- The USPTO believes that the number of Requests for Extension of Time to File a Statement of Use submitted per year will decrease by 10,021 responses, from 20,232 to 10,211. **Therefore, this submission takes a burden decrease of 1,703 hours as an administrative adjustment.**
- The USPTO believes that the number of TEAS Requests for Extension of Time to File a Statement of Use submitted per year will increase by 36,502 responses, from 80,927 to 117,429. **Therefore, this submission takes a burden increase of 5,475 hours as an administrative adjustment.**
- The USPTO believes that the number of Petitions to Revive Abandoned Applications – Failure to Respond Timely to an Office Action submitted per year will increase by 744 responses, from 1,260 to 2,004. **Therefore, this submission takes a burden increase of 149 hours as an administrative adjustment.**
- The USPTO believes that the number of TEAS Petitions to Revive Abandoned Applications – Failure to Respond Timely to an Office Action submitted per year will increase by 2,975 responses, from 5,040 to 8,015. **Therefore, this submission takes a burden increase of 238 hours as an administrative adjustment.**
- The USPTO believes that the number of Petitions to Revive Abandoned Applications – Failure to File Timely Statements of Use or Extension Requests submitted per year will increase by 744 responses, from 1,260 to 2,004. **Therefore, this submission takes a burden increase of 149 hours as an administrative adjustment.**
- The USPTO believes that the number of TEAS Petitions to Revive Abandoned Applications – Failure to File Timely Statements of Use or Extension Requests submitted per year will increase by 2,975 responses, from 5,040 to 8,015. **Therefore, this submission takes a burden increase of 238 hours as an administrative adjustment.**

- The USPTO believes that the number of Requests to Delete Section 1(b) Basis, Intent to Use submitted per year will increase by 37 responses, from 157 to 194. **Therefore, this submission takes a burden increase of 3 hours as an administrative adjustment.**
- The USPTO believes that the number of TEAS Requests to Delete Section 1(b) Basis, Intent to Use submitted per year will increase by 472 responses, from 628 to 1,100. **Therefore, this submission takes a burden increase of 24 hours as an administrative adjustment.**
- The USPTO believes that the number of Requests for Express Abandonment (Withdrawal) of Application submitted per year will increase by 3,743 responses, from 943 to 4,686. **Therefore, this submission takes a burden increase of 262 hours as an administrative adjustment.**
- The USPTO believes that the number of TEAS Requests for Express Abandonment (Withdrawal) of Application submitted per year will increase by 2,728 responses, from 3,772 to 6,500. **Therefore, this submission takes a burden increase of 136 hours as an administrative adjustment.**
- The USPTO believes that the number of Requests to Divide submitted per year will increase by 1,673 responses, from 317 to 1,990. **Therefore, this submission takes a burden increase of 134 hours as an administrative adjustment.**
- The previous submission included an electronic Request to Divide. The USPTO is proposing to delete that requirement and introduce a TEAS Request to Divide functionality as part of the existing Allegation of Use and Extension Requests forms in the near future as well as a stand-alone request to divide form at a later point. **Therefore, this collection takes a burden decrease of 89 hours as a program change.**
- The USPTO believes that the number of Other Petitions submitted per year will increase by 100 responses, from 400 to 500. **Therefore, this submission takes a burden increase of 33 hours as an administrative adjustment.**

A total of 5,599 burden hours have been added to this collection due to administrative adjustments. This increase is offset by a decrease of 89 hours due to a program change. Therefore, this results in a total net burden hour increase of 5,510.

Changes in Annualized (Non-hour) Cost Burden

For this renewal, the USPTO estimates that the total annual non-hour costs will increase by \$5,066,306, from \$22,892,662 currently reported on the OMB inventory to the present \$27,958,968 per year due to the adjustments in estimated responses and

postage rates. **Therefore, this collection has an increase in annualized (non-hour) cost burden of \$5,066,306 as an administrative adjustment.**

[Note: The previously approved estimate of \$22,892,662 in annual (non-hour) costs for this collection is listed as \$22,893,000 in the current inventory system. The \$338 difference is due to rounding the estimate to the nearest thousand dollars in order to accommodate the legacy inventory system. This rounded figure was carried over when the legacy data was migrated to the current inventory system. Consequently, the annual cost burden increase of \$5,066,306 for this collection that is due to administrative adjustments is displayed as an increase of \$5,065,968 (\$5,192,868 in administrative adjustments offset by a program decrease of \$126,900) in the current inventory system in order to compensate for the previously rounded figure and to result in the new annual cost burden of \$27,958,968 for this collection as described above.]

16. Project Schedule

There is no plan to publish this information for statistical use.

17. Display of Expiration Date of OMB Approval

The forms in this information collection will display the OMB Control Number and the date on which OMB's approval of this information collection expires.

18. Exception to the Certificate Statement

This collection of information does not include any exceptions to the certificate statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.

References

- A. USPTO Information Quality Guidelines
- B. Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Form 1553)
- C. TEAS Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Form 1553)
- D. Request for Request for Extension of Time to File a Statement of Use (Form 1581)
- E. TEAS Request for Request for Extension of Time to File a Statement of Use (Form 1581)
- F. TEAS Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Form 2194)
- G. Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Form 2195)
- H. TEAS Request to Delete Section 1(b) Basis, Intent to Use (Form 2200)
- I. TEAS Request for Express Abandonment (Withdrawal) of Application (Form 2202)