

SUPPORTING STATEMENT
United States Patent and Trademark Office
United States Patent Applicant Survey
OMB CONTROL NO. 0651-0052
Modified Submission
(January 2011)

A. JUSTIFICATION

1. Necessity of Information Collection

For several years, the United States Patent and Trademark Office (USPTO) has supported an ongoing forecasting program for patent application filings that includes the use of quantitative and qualitative methodologies. Given the importance of accurate application filings forecasts, the USPTO considers more than one type of methodology. As part of this strategy, information from a survey of the inventor community may be included when formulating application filings forecasts. In addition to using the survey as part of a comprehensive approach to forecasting, the USPTO is also using this tool in response to the Senate Appropriations Report 106-404 (September 8, 2000). This report directed the USPTO to “develop a workload forecast with advice from a representative sample of industry and the inventory community” (Ref A).

The USPTO developed the United States Patent Applicant Survey as part of the continuing effort to better predict the future growth of patent application filings by understanding applicant intentions. The main purpose of the survey is to determine the number of application filings that the USPTO can expect to receive over the next three years from patent-generating entities, ranging from large domestic corporations to independent inventors.

In recent years, the rate of patent application filings to the USPTO steadily increased with expanding technological innovations. However, newly emerging technologies, evolving business patenting strategies, patent valuations and costs, and intellectual property legislative changes, among other factors, may significantly impact patent applicants’ decisions to file applications at the USPTO. These factors cannot easily be accounted for in other methodologies or sufficient information is not available from databases or other sources and the USPTO may wish to conduct the United States Patent Applicant Survey to obtain information directly from applicants. The information would allow the agency to anticipate demand and estimate future revenue flow more reliably; to identify input and output triggers and allocate resources to meet and understand customer needs; and to reassess output and capacity goals and re-align organization quality control measures with applicant demand by division.

In the past the USPTO has partnered with Synovate, an independent research firm, to administer the United States Patent Applicant Survey. However, the USPTO may consider a different partner if the agency decides to conduct the survey in the future. If a survey is conducted, each entity that is surveyed will be asked to provide the number of patent applications that it submitted to the USPTO in the previous year and to provide estimates for the number of patent applications that it expects to submit in the current fiscal year as well as the next three fiscal years.

The USPTO would survey four groups of respondents: large domestic corporations (including those with 500+ employees), small and medium-size businesses, universities and non-profit research organizations, and independent inventors. The USPTO does not plan to survey foreign entities and will rely on the European Patent Office (EPO), the Japan Patent Office (JPO) and the Korean Intellectual Property Office (KIPO) to provide forecasts of application filings by foreign entities. Due to variances in filing and the varying needs of the different patent applicant populations, the USPTO has developed two versions of the survey: one for the large domestic corporations and small and medium-sized businesses and one for universities, non-profit research organizations, and independent inventors.

There are no statutes or regulations requiring the USPTO to conduct these customer surveys. The USPTO uses surveys to implement Executive Order 12862 of September 11, 1993, *Setting Customer Service Standards*, published in the *Federal Register* on September 14, 1993 (Volume 58, Number 176). These surveys also support various strategic plan initiatives developed by the USPTO to fulfill customer service and performance goals, to assist the USPTO in strategic planning for future initiatives, to verify existing service standards, and to establish new ones.

2. Needs and Uses

The United States Patent Applicant Survey is a mail survey, although respondents have the option to complete the survey electronically. They may also provide their responses verbally over the telephone.

A survey packet, containing the survey, a cover letter explaining the purpose of and outlining instructions for completing the survey, and a postage-paid, pre-addressed return envelope will be mailed to all survey groups.

In the case of large businesses (more than 500 employees, excluding the top 185 patent-generating entities) and small to medium-size businesses, a pre-notification letter will be sent asking respondents to confirm the name and mailing address of the person to whom the survey should be sent. An example of a typical pre-notification letter that will be sent to these large and small to medium-size businesses is provided in this submission (Ref B). Follow-up phone calls will be made to all of the original contacts in the large domestic corporations, the universities, and non-profit research organizations approximately two weeks after the initial packet mailing. A suggested script has been

developed to ensure that all of the staff conducting the follow-up phone calls asks the same questions, in the same manner (Ref C). Approximately one week after the initial packet mailing, reminder cards will be mailed to the original contacts in large domestic corporations with 500 or more employees, independent inventors, and small to medium-size businesses. An example of such a card is also provided in this submission (Ref D).

Survey packets are mailed to all of the target groups. Respondents can then choose whether to mail the completed survey back to the USPTO’s survey contractor or respond to the survey online through the contractor’s website. The cover letter included with the questionnaire booklets contains instructions for accessing the survey online through the contractor’s website and provides the 6-digit access code that respondents need to access the electronic survey.

The Information Quality Guidelines from 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 (Ref E).

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.

Table 1 outlines how these collections of information are used by the public and the USPTO. There are two versions of the survey. One version is sent to the large domestic corporations and small and medium-sized businesses; the other version is sent to the universities, non-profit research organizations, and independent inventors. The mail and online versions of the survey are exactly the same, so separate copies of the online versions of these surveys have not been included in this submission.

Table 1: Needs and Uses of Information Collected from the United States Patent Applicant Survey

Form and Function	Form #	Needs and Uses
Large Domestic Corporations (paper and electronic survey) (Ref F)	No Form # Associated	<ul style="list-style-type: none"> • Used by the Vice Presidents for Intellectual Property for the top 209 patent-generating corporations and large domestic corporations with 500 or more employees to provide the USPTO with the number of domestic, international, and combined filings that their corporation plans to submit and with general feedback concerning industry trends and the survey for themselves and their subsidiaries. • Used by the USPTO to gather feedback to assist them in estimating future revenue flow, to allocate resources, and to determine quality control measures to meet the filing demands of the large domestic corporations.
Small and Medium-Size Businesses (paper and electronic survey) (Ref F)	No Form # Associated	<ul style="list-style-type: none"> • Used by the Chief Executive Officer of small to medium-size businesses (less than 500 employees), U.S. research institutions, government agencies, and non-profit

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		<p>organizations to provide the USPTO with the number of domestic, international, and combined filings that their businesses and organizations plan to submit and with general feedback concerning industry trends and the survey.</p> <ul style="list-style-type: none"> Used by the USPTO to gather feedback to assist them in estimating future revenue flow, to allocate resources, and to determine quality control measures to meet the filing demands of the small and medium-size businesses.
<p>Universities and Non-Profit Research Organizations (paper and electronic survey) (Ref G)</p>	<p>No Form # Associated</p>	<ul style="list-style-type: none"> Used by the top 45 patent-generating universities based in the United States to provide the USPTO with the number of domestic, international, and combined filings that their universities plan to submit and with general feedback concerning industry trends and the survey. Used by non-profit research organizations based in the United States to provide the USPTO with the number of domestic, international, and combined filings that their organizations plan to submit and with general feedback concerning industry trends and the survey. Used by the USPTO to gather feedback to assist them in estimating future revenue flow, to allocate resources, and to determine quality control measures to meet the filing demands of universities and non-profit research organizations.
<p>Independent Inventors (paper and electronic survey) (Ref H)</p>	<p>No Form # Associated</p>	<ul style="list-style-type: none"> Used by randomly selected independent inventors to provide the USPTO with the number of domestic, international, and combined filings that they plan to submit and with general feedback concerning industry trends and the survey. Used by the USPTO to gather feedback to assist them in estimating future revenue flow, to allocate resources, and to determine quality control measures to meet the filing demands of independent inventors.

3. Use of Information Technology

The USPTO does not generally use mechanical collection techniques to collect the responses to these surveys. However, those respondents who choose to respond to the surveys can do so electronically and through automated collection methods. Although the United States Patent Applicant Survey is a mail survey, respondents can also provide their responses electronically or in some cases over the telephone. Respondents can choose to mail their survey to the contractor or they can provide their responses electronically over the Internet. The cover letter that accompanies the survey provides instructions for completing the survey online through the survey contractor's website and provides the 6-digit access code for the survey.

In the case of large domestic corporations and the universities and non-profit research

organizations, the contractor will make follow-up phone calls approximately two weeks after the initial packet has been mailed. Although the primary purpose of these phone calls is to answer any questions that the respondents may have concerning the survey, the respondent can choose to complete the survey over the phone. The contractor will guide the respondent through the same questionnaire that the respondent received in the mail. A script is used to ensure that all of the necessary questions are asked of the respondents in the same manner.

At this time, the USPTO does not disseminate any of the information collected from the surveys electronically. As more of these surveys are conducted, the USPTO will reevaluate whether this would be beneficial. After the survey is completed, a report summarizing the survey results will be prepared by the contractor.

4. Efforts to Identify Duplication

This information is collected only when large domestic corporations, small or medium-size businesses, universities and non-profit organizations, and independent inventors respond to the United States Patent Applicant Survey. Currently, there are no available methods to gather the types of information proposed by these surveys directly from our customers. The survey questions request contact information, information about subsidiaries, domestic, international, and combined filings, general feedback concerning industry trends that might affect patent application submissions, and any difficulties encountered in trying to complete this survey. This information is not generally available from other sources and is not collected elsewhere. Therefore, this collection does not create a duplication of effort.

5. Minimizing Burden to Small Entities

In order to reduce the burden on those responding to these surveys, the USPTO developed two versions of the survey: one for the large domestic corporations and small and medium-sized businesses, and one for universities, non-profit research organizations, and independent inventors. The surveys are sent to the contacts that have the most knowledge about the patent activity at his or her corporation, business, or organization. The survey for the universities, non-profit research organizations, and independent inventors is shorter than the other surveys because it does not ask questions about subsidiaries. Therefore, universities, non-profit research organizations, and independent inventors should take less time than businesses when completing the survey.

In an effort to minimize burden, sample sizes are kept small and the number of questions are limited to the minimum required to obtain useful information. All sizes of businesses and individual customers will participate in these various surveys to accurately portray customer requirements and service quality. It is important to include small businesses in these surveys because the USPTO wants to encourage their use of

the patent and trademark systems.

6. Consequences of Less Frequent Collection

The information collected from the United States Patent Applicant Survey is used so the USPTO can anticipate demand and estimate future revenue flow more reliably, identify customer needs and allocate resources to meet those needs, to reassess output and capacity goals, and to realign organization quality measures with workload demand by type. Timely, valid information on customer requirements and assessment of the USPTO's performance is needed in order for the USPTO to accomplish these measures.

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 June 2, 2010 (75 Fed Reg 30773). The public comment period ended on September 2, 2010. No comments from the public were received.

There have been no comments received from the corporations/businesses, law firms, educational institutions, and independent inventors frequently interviewed through these types of surveys concerning the time required to provide the information requested in the United States Patent Applicant Survey.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent. This survey is voluntary, so the respondent is not required to answer the questions.

10. Assurance of Confidentiality

Data collected from the surveys will not be linked to the respondents. All contact information collected from the questionnaire will be maintained in a separate file from the quantitative data. At the end of the data collection, two files will be maintained by the survey contractor. One file will contain respondent contact information and will establish a current and continuous sample file for use in future survey administrations. The second file will contain the aggregate quantitative data and will be delivered to the USPTO. Once the two files are created, respondent information will not be realigned with the data collected.

Applicants can also choose to complete their survey online through the contractor's

website. A six digit access code is needed to access the survey. This access code is generated by the contractor and is provided in the initial cover letter that is sent with the mail survey.

Confidentiality is an explicit part of the terms of any contract in which the USPTO undertakes with regards to these surveys. The contractor will only retain aggregate information and not any personally identifiable information. Responses are not linked to individuals, but to demographic designations. Contact information will be maintained in a separate file from quantitative and qualitative data. Survey responses will not be retained after the conclusion of the survey.

11. Justification for Sensitive Questions

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

12. Estimate of Hour and Cost Burden to Respondents

Table 2 calculates the burden hours and costs of this information collection to the public, based on the following calculation factors:

- **Respondent Calculation Factors**

Based on the response rates of the previous survey, the USPTO expects that it will receive 400 responses for the 20xx survey. Of these surveys, the USPTO estimates that 267 of them will be completed electronically.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take approximately 30 minutes (0.50 hours) for all of the patent applicant populations to provide their responses, with the exception of the independent inventors. The USPTO estimates that it will take independent inventors approximately 15 minutes (0.25 hours) to provide their responses, since individually they do not file as many patents as businesses, universities, or non-profits. These estimates include the time to gather the necessary information, complete the survey, and submit it to the USPTO. The USPTO estimates that it will take the same amount of time to complete the surveys whether they are completed on paper and mailed to the USPTO or completed and submitted electronically.

- **Cost Burden Calculation Factors**

The USPTO estimates that 31% of the respondents completing these surveys will be lawyers, about 9% will be legal assistants, and 60% will have diverse occupations. Using the professional hourly rate of \$325 for intellectual property lawyers, a legal assistant specializing in intellectual property rate of \$100, and a rate of \$20 for the majority of the respondents, the USPTO estimates that the average hourly rate for completing these surveys will be approximately \$122 (\$101 + \$9 + \$12). This is a fully-loaded hourly rate.

The professional rate used for the intellectual property lawyers is based on the median rate for attorneys in private firms as published in the 2009 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. The estimated hourly rate used for the legal assistants specializing in intellectual property is based on the rates for the 2008 National Utilization and Compensation Survey, published in March 2008 by the National Association of Legal Assistants (NALA). Due to the many different occupations that can possibly be held by the majority of respondents, the USPTO is estimating \$20 per hour as the hourly rate for those respondents.

Table 2. Burden Hour/Burden Cost to Respondents

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr)	Total Cost (\$/yr) (e) (c) x (d)
Large Domestic Corporations	0.50	27	14	\$122.00	\$1,708.00
Large Domestic Corporations (electronic surveys)	0.50	53	27	\$122.00	\$3,294.00
Small and Medium-Size Businesses	0.50	18	9	\$122.00	\$1,098.00
Small and Medium-Size Businesses (electronic surveys)	0.50	37	19	\$122.00	\$2,318.00
Universities and Non-Profit Research Organizations	0.50	5	3	\$122.00	\$366.00
Universities and Non-Profit Research Organizations (electronic surveys)	0.50	10	5	\$122.00	\$610.00
Independent Inventors	0.25	83	21	\$122.00	\$2,562.00
Independent Inventors (electronic surveys)	0.25	167	42	\$122.00	\$5,124.00
Totals	-----	400	140	-----	\$17,080.00

13. Total Annualized Cost Burden

There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. Respondents do not submit filing fees with these surveys. The USPTO provides postage-paid, pre-addressed return envelopes for the completed mail surveys, so there are no postage costs associated with this information collection. Therefore, this information collection does not impose any additional annual (non-hour) costs on the respondent.

14. Annual Cost to the Federal Government

If the USPTO conducts a survey, it will hire a contractor to conduct the United States Patent Applicant Survey, so it will not be conducted or processed by USPTO personnel. The USPTO estimates that the contractor will spend \$10,000 each year to conduct and

process the annual United States Patent Applicant Survey. This estimate includes various tasks such as processing the related survey correspondence, performing data entry tasks, sampling, analyzing the data gathered, and preparing reports on the findings.

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

The OMB approved this information collection on December 28, 2007, with 400 responses, 140 burden hours, and no annualized (non-hour) costs. There is no change in responses or burden hours for this renewal.

Changes in Respondent Cost Burden

The USPTO estimates that the surveys will be completed by lawyers, legal assistants, and respondents with diverse occupations and that the majority of people who choose to respond to the survey will be respondents with diverse occupations. The USPTO estimates that the hourly rate will be based on 31% of lawyers, 9% of legal assistants, and 60% of respondents with diverse occupations responding to the survey. The USPTO has re-estimated the hourly rates for Intellectual Property lawyers (\$325) and legal assistants (\$100) and estimates that the hourly rate for the rest of the respondents will be \$20. The USPTO estimates that the total respondent cost burden for this collection will increase by \$12,740, from \$4,340 to \$17,080.

Changes in Annual (Non-Hour) Costs

There are no changes in the annual (non-hour) costs from the previous renewal. The United States Patent Applicant Survey does not impose any additional annual (non-hour) costs, in the form of capital start-up, operation and maintenance, recordkeeping, and postage costs or filing fees, on respondents.

16. Project Schedule

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

After the survey is completed, a report summarizing the results of the survey will be prepared by the USPTO's contractor. Each participant in the survey will receive a copy of this report.

The primary goal is to forecast the change in the number of patent applications to be submitted to the USPTO in the year before, the year of, and three years after the survey. Respondents will be asked to estimate the number of patent applications that they or their organization expects to submit.

The estimator for the expected change will be in the form of the stratified ratio estimator. The stratified ratio estimator is a relatively straightforward method. The steps to be taken are the following:

- a) The sample is separated into the respective entities or groups: large domestic corporations, small-to-medium businesses, independent inventors, and universities and non-profit research organizations. These groups comprise the strata.
- b) The total number of applications to be submitted for each stratum is estimated. The respondent's answers are calibrated using an external measure of the number of applications received and/or applications granted using the ratio estimator. For example, we will estimate the total number of applications for the first stratum – the largest companies – by calibrating to an external measure. By using this calibration, we will forecast the number of applications to be submitted next year. This process will be repeated for the next three strata.
- c) The total number of applications is the sum of the four strata estimates.
- d) The relative change in patent applications will be relative change between next year's estimated number of applications and this year's.

Formally, the ratio estimator within a stratum will have the following form:

$$T_h = N_h \bar{X}_h \frac{y_h}{x_h}$$

where X_h is the mean number of applications in the sample and y_h and x_h are the corresponding values from the independent measure of the number of applications and the sample.

Standard errors will be calculated using a repeated-replicated standard estimation method called the Jackknife method. This method provides a nearly unbiased estimate of the standard error for the percentage change from the stratified ratio estimator.

The USPTO does not currently have a projected schedule for the survey.

17. Display of Expiration Date of OMB Approval

These surveys do not have USPTO form numbers associated with them. Once they are approved, they will carry the OMB Control Number and the expiration date.

18. Exception to the Certificate Statement

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

REFERENCES

- A. Senate Appropriations Report 106-404 (September 8, 2000)
- B. Example of typical pre-notification letter sent to large and small to medium-sized businesses
- C. Suggested script developed to ensure that all follow-up phone calls ask the same questions
- D. Reminder card
- E. USPTO Information Quality Guidelines
- F. Survey for Large Domestic Corporations
- F. Survey for Small and Medium-Sized Businesses
- G. Survey for Universities and Non-Profit Research Organizations
- H. Survey for Independent Inventors