

SUPPORTING STATEMENT
United States Patent and Trademark Office
Proposed Addition to
Admittance to Practice and Roster of Registered Patent
Attorneys and Agents Admitted to Practice Before the
United States Patent and Trademark Office (USPTO)
(Proposed Addition – Request for Reasonable Accommodation)
OMB CONTROL NUMBER 0651-0012
(August 5, 2011)

A. JUSTIFICATION

1. Necessity of Information Collection

35 U.S.C. § 2(b)(2)(D) 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 technical and legal qualifications to assist applicants with the patent process and to represent them before the USPTO.

The USPTO administers the statute through 37 CFR 1.21 and 11.5-11.15. These rules address 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 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 USPTO is introducing a new form, Request for Reasonable Accommodation, to facilitate an applicant's request for reasonable accommodation when they apply for the examination for registration to practice before the USPTO. This information is currently collected without a form as part of the approved item, Application for Registration to Practice Before the United States Patent and Trademark Office (PTO Form 158). Applicants currently check Box 1a and then provide the necessary supporting documentation as an attachment (see the form with instructions and details on page 18 at <http://www.uspto.gov/ip/boards/oed/grb.pdf>). This new form will assist applicants in providing the USPTO with the correct and necessary supporting documentation through a standardized format.

To the extent possible, the applicant must provide detailed responses to the questions in the Applicant's Statement. The applicant must also provide a completed Licensed Health Care Professional's Statement and/or other acceptable evidence to support the claim.

An applicant who received a reasonable accommodation(s) for a prior registration examination must submit a new Applicant’s Statement with each new Application for Registration (PTO Form 158). Depending on the type of impairment from which the applicant suffers, the applicant has the option of submitting a new Licensed Health Care Professional’s Statement as well. In deciding whether to submit a new Licensed Health Care Professional’s Statement, the applicant is advised to consider that the Agency’s determination of both whether to grant an accommodation and what accommodation(s) is appropriate is based on an assessment of the current impact of the applicant’s disability on the testing activity. For example, if the applicant suffers from an impairment that is temporary or changes over time, it may not be possible for the Agency to assess whether an accommodation should be granted if the Licensed Health Care Professional’s Statement is not current. For chronic or long-term conditions, a new Licensed Health Care Professional’s Statement may not be necessary.

Table 1 identifies the proposed statutory and regulatory provisions that authorize the USPTO to collect this information:

Table 1: Information Requirements for Attorneys and Agents Registered to Practice Before the USPTO

Requirement	Statute	Rule
Request for Reasonable Accommodation	35 U.S.C. § 2(b)(2)(D)	37 CFR 11.7

2. Needs and Uses

An applicant should provide detailed responses to the questions in the Applicant’s Statement. An applicant may use additional paper, if necessary, to answer the questions. The applicant must also provide a completed Licensed Health Care Professional’s Statement and/or other acceptable medical evidence to support the claim. The completed package should be submitted to the United States Patent and Trademark Office’s Office of Enrollment and Discipline with the completed Application Form 158. A Request for Reasonable Accommodation submitted separately from the Application Form 158 should be addressed to Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. For additional guidance, the Office of Enrollment and Discipline may be contacted at 571-272-4097.

The additional information in this collection is used by the Director of OED to determine whether to grant a reasonable accommodation request for the registration examination.

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 this information collection and its supporting statement comply with all applicable information quality guidelines, *i.e.*, OMB and specific operating unit guidelines.

This proposed collection of information would result in information that will be collected, maintained, and used in a way consistent with all applicable OMB and USPTO Information Quality Guidelines.

Table 2 outlines how this information is used by the public and by the USPTO.

Table 2: Needs and Uses of Information Collected from Registering Attorneys and Agents

Form and Function	Form #	Needs and Uses
Request for Reasonable Accommodation (Ref. A)	Form PTO-158RA	<ul style="list-style-type: none"> • Used by applicants to request reasonable accommodation(s). • Used by the USPTO to determine whether the applicant meets all of the necessary requirements for reasonable accommodation(s).

3. Use of Information Technology

In the future, the USPTO anticipates making form PTO-158RA available as a fillable form.

At the present time, the USPTO does provide the option of fillable forms for the Application Form (PTO-158) and the Undertaking Form (PTO-275). This means that the respondent may type directly into the form on the computer. After typing the information into the form, the form will have to be printed locally, signed, and then submitted to the USPTO in accordance with the instructions in the General Requirements Bulletin.

4. Efforts to Identify Duplication

This information is collected only when an applicant requests reasonable accommodation to take the registration examination. This information is not available elsewhere. Therefore, this collection does not create a duplication of effort or collection of data.

5. Minimizing the Burden to Small Entities

This collection of information does not impose a significant economic impact on small entities or small businesses.

6. Consequences of Less Frequent Collection

This information is collected only at the time of filing for recognition to practice before the USPTO. It could not be conducted less frequently. If the collection of information were not conducted, the USPTO may not be able to properly assess requests for reasonable accommodation.

7. Special Circumstances in the Conduct of Information Collection

In certain cases the agency requests, but does not require, respondents to prepare a written response in fewer than 30 days. When there is a submission of a completed Licensed Health Care Professional's Statement, the USPTO requests that the statement be returned within two weeks to ensure timely processing of the accommodation request.

8. Consultation Outside the Agency

The 60-Day Notice was published in the *Federal Register* on May 31, 2011 (76 Fed Reg. 31306). The comment period ended on August 1, 2011. No public comments were received.

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the American Intellectual Property Law Association (AIPLA), as well as patent bar associations, inventor groups, and users of our public facilities. Their views are expressed in regularly scheduled meetings and considered in developing proposals for information collection requirements. There have been no comments or concerns expressed by these or similar organizations concerning the time required to provide the information under this program.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent. Response to this information collection is necessary to be recognized by the USPTO as a registered attorney or agent.

10. Assurance of Confidentiality

This collection contains information of a confidential (personal) nature, which is subject to the Privacy Act. A Systems of Records Notice was published in the *Federal Register* on November 16, 2005 (70 Fed Reg. 69520). Administrative controls, such as storage of records in lockable metal file cabinets or in metal file cabinets in secured rooms or premises, or electronic files stored in secure premises with access limited to those whose official duties require access, are used to safeguard this information as appropriate.

11. Justification for Sensitive Questions

The USPTO does not request information of a sensitive nature on Form PTO-158RA Request for Reasonable Accommodation.

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 receives approximately 40 responses annually.
- Burden Hour Calculation Factors**
 The USPTO estimates that it will take the public approximately 1.5 hours, depending upon the complexity of the situation, to gather the necessary information, prepare the appropriate form or documents, and submit the information to the USPTO.
- Cost Burden Calculation Factors**
 The USPTO estimates that the information in this collection will primarily be supplied by professionals, at the hourly rate of \$325. This is the hourly (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 (AIPLA). This report summarizes the results of a survey with data on hourly billing rates.

Table 3: Burden Hour/Burden Cost to Respondents

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Request for Reasonable Accommodation Form PTO-158RA	1.50	40	60	\$325.00	\$19,500.00
Total	- - - - -	40	60	- - - - -	\$19,500.00

Current inventory responses = 93,340

Current inventory burden hours = 98,028

Current inventory respondent burden hours = \$23,010,260

Proposed addition impact on responses = increase of 40

Proposed addition impact on burden hours = increase of 60

Proposed addition impact on respondent burden hour costs = increase of \$19,500

Estimated responses after proposed addition = 93,380

Estimated burden hours after proposed addition = 98,088

Estimated respondent burden hour costs after proposed addition = \$23,029,760

13. Total Annualized (Non-hour) Cost Burden

There are no capital start-up or maintenance costs or filing fees associated with this information collection. However, this collection does have (non-hour) costs due to mailing costs.

There are mailing costs from postage fees for the Requests for Reasonable Accommodation. The actions of the OED will be based exclusively on the written record in the USPTO (37 CFR 1.2). All documents may be submitted to the USPTO by first-class mail through the United States Postal Service. All correspondence may include a certificate of mailing for each piece of correspondence enclosed, stating the date of deposit or transmission to the USPTO.

Although the Requests for Reasonable Accommodation are submitted to the USPTO along with the Application for Registration to Practice Before the USPTO, they are additional pages of information and will require additional postage. These documents may be submitted to the USPTO by first-class mail through the United States Postal Service. The USPTO estimates the submission will weigh 3 ounces and that the average first-class postage is 78 cents. Therefore, the USPTO estimates that it will receive 40 responses per year, for a total of \$31 (40 x \$0.78) in postage costs.

Therefore, the USPTO estimates that the Requests for Reasonable Accommodation will add \$31 in mailing costs to the total annualized (non-hour) cost burden for this collection.

Current recordkeeping costs = \$126,590
Current filing fee costs = \$5,561,840
Current mailing costs = \$21,713
Current total annual (non-hour) costs = \$5,710,143

Proposed addition impact on recordkeeping costs = \$0
Proposed addition impact on filing fee costs = \$0
Proposed addition impact on mailing costs = increase of \$31
Proposed addition impact on total annual (non-hour) costs = increase of \$31

Estimated recordkeeping costs after proposed addition = \$126,590
Estimated filing fee costs after proposed addition = \$5,561,840
Estimated mailing costs after proposed addition = \$21,744
Estimated total annual (non-hour) costs after proposed addition = \$5,710,174

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS- 15, step 8, 1 hour to process the information in this collection. The hourly rate for a GS-15, step 8, is currently \$73.14. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the hourly rate is \$95.08 (\$73.14 + \$21.94).

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

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Request for Reasonable Accommodation Form PTO-158RA	1.0	40	40	\$95.08	\$3,803.00
Total	- - - - -	40	40	- - - - -	\$3,803.00

Therefore, the USPTO estimates that the total costs to the USPTO for processing the information in this collection after the proposed addition will be \$7,033,404.

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

The OMB approved this information collection on June 28, 2010 with 93,340 responses, 98,028 burden hours, and \$5,710,143 in annualized (non-hour) costs.

The USPTO proposes adding a new form, PTO-158RA Request for Reasonable Accommodation, into the collection to facilitate an applicant's request for reasonable accommodation when they apply for the examination for registration to practice before the USPTO. As a result, the USPTO estimates that the total burden and annualized (non-hour) costs for this collection will be 93,380 responses, 98,088 burden hours, and \$5,710,174 in annualized costs, which is an increase of 40 responses, 60 burden hours, and \$31 in annualized (non-hour) costs. These increases are due to a program change.

Changes in Respondent Cost Burden

This collection was previously approved with an estimated respondent cost burden of \$23,010,260 per year. The proposed addition of the requests for reasonable accommodation into the collection will add an estimated \$19,500 in respondent cost burden to the collection. Therefore, the USPTO estimates that the total respondent cost burden for the collection will be \$23,029,760.

Changes in Responses and Burden Hours

Currently, this information collection has 93,340 responses and 98,028 burden hours. The USPTO estimates that it will take applicants 1 hour and 30 minutes to complete the new requests for reasonable accommodation, and that 40 requests will be submitted per year, for a total of 60 hours. With this proposed addition, the USPTO estimates that this collection will have 93,380 responses and 98,088 burden hours. **Therefore, this collection takes a burden increase of 60 hours as a program change.**

Changes in Annual (non-hour) Costs

Currently, this information collection has \$5,710,143 in annualized (non-hour) costs, with \$21,713 in mailing costs. The USPTO expects the addition of the requests for reasonable accommodation to increase the mailing costs for the collection. The USPTO estimates that 40 requests will be mailed to the USPTO, at a first-class postage rate of 78 cents, for a total postage cost of \$31. With the addition of this new form, the USPTO estimates that this collection will have \$21,744 in mailing costs, for a total annualized (non-hour) cost of \$5,710,174. **Therefore, this collection takes an increase of \$31 in mailing costs as a program change.**

16. Project Schedule

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

17. Display of Expiration Date of OMB Approval

The new form will display the OMB Control Number and expiration date.

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. Form PTO-158RA Request for Reasonable Accommodation