

SUPPORTING STATEMENT
United States Patent and Trademark Office
Trademark Petitions
OMB CONTROL NUMBER 0651-0061
(June 2012)

A. JUSTIFICATION

1. Necessity of Information Collection

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.

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.

The information in this collection can be submitted in paper format or electronically through the Trademark Electronic Application System (TEAS). The USPTO has developed a TEAS Global Form format that permits the agency to collect information electronically for which a TEAS form with dedicated data fields is not yet available. With the introduction of the TEAS Global Forms, the information in this collection can be collected in paper format or electronically using the TEAS Global Forms.

As part of this renewal, the USPTO proposes to add four TEAS Global Forms – for responses to petition inquiry letter, petitions to make special, requests to restore filing date, and requests for reinstatement – into the collection. The paper equivalents for the response to petition inquiry letter, petition to make special, request to restore filing date, and request for reinstatement will be added as well.

Although this collection does have electronic forms, there are no official paper forms for these filings. Individuals and businesses can submit their own paper forms following the USPTO’s rules and guidelines to ensure that all of the necessary information is provided.

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

Table 1: Information Requirements for Trademark Petitions

Requirement	Statute	Rule
Letter of Protest	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
Request to Make Special	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
Response to Petition to Director Inquiry Letter	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
Petition to Make Special	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
Request to Restore Filing Date	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
Request for Reinstatement	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146

2. Needs and Uses

The USPTO uses the information described in this collection to process letters of protest, 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 publicly available by the USPTO. The release of information in a letter of protest is controlled and may be available upon request only.

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.

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 Trademark Petitions

Form and Function	Form #	Needs and Uses
Letter of Protest (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to electronically submit an objection regarding a pending application. Used by the USPTO to decide whether the protest should be accepted.
Letter of Protest (Paper)	No Form	<ul style="list-style-type: none"> Used by the public to submit an objection regarding a pending application. Used by the USPTO to decide whether the protest should be accepted.
Request to Make Special (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to submit an electronic request to advance initial examination of an application out of its regular order because the mark in the application was the subject of an inadvertently cancelled or expired previous registration. Used by the USPTO to act upon a request to make special.
Request to Make Special (Paper)	No Form	<ul style="list-style-type: none"> Used by the public to submit a request to advance initial examination of an application out of its regular order because the mark in the application was the subject of an inadvertently cancelled or expired previous registration. Used by the USPTO to act upon a request to make special.
Response to Petition to Director Inquiry Letter (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to respond electronically to a notice of deficiency that the USPTO issued after the filing of an incomplete Petition to the Director. Used by the USPTO to collect information that the petitioner did not supply in the original Petition to the Director and which the USPTO need to complete the review of the petition.
Response to Petition to Director Inquiry Letter (Paper)	No Form	<ul style="list-style-type: none"> Used by the public to respond electronically to a notice of deficiency that the USPTO issued after the filing of an incomplete Petition to the Director. Used by the USPTO to collect information that the petitioner did not supply in the original Petition to the Director and which the USPTO need to complete the review of the petition.
Petition to Make Special (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to submit an electronic petition seeking to advance initial examination of an application out of its regular order. Used by the USPTO to act upon a petition to make special.
Petition to Make Special (Paper)	No Form	<ul style="list-style-type: none"> Used by the public to submit a petition seeking to advance initial examination of an application out of its regular order. Used by the USPTO to act upon a petition to make special.
Request to Restore Filing Date (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to electronically submit evidence that a previously filed application that was denied a filing date met the filing date requirements and to request that the earlier filing date be restored. Used by the USPTO to act upon a request to restore a filing date.

Request to Restore Filing Date (Paper)	No Form	<ul style="list-style-type: none"> Used by the public to submit evidence that a previously filed application that was denied a filing date met the filing date requirements and to request that the earlier filing date be restored. Used by the USPTO to act upon a request to restore a filing date.
Request for Reinstatement (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to submit an electronic request for reinstatement of an application that was abandoned. Used by the USPTO to act upon a request for reinstatement.
Request for Reinstatement (Paper)	No Form	<ul style="list-style-type: none"> Used by the public to submit a request for reinstatement of an application that was abandoned. Used by the USPTO to act upon a request for reinstatement.

3. Use of Information Technology

The USPTO provides online electronic forms through the Web-accessible Trademark Electronic Application System (TEAS). TEAS provides a useful service for all trademark filers. TEAS forms are completed online and transmitted to the USPTO electronically 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 and the mark 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 hand 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 TEAS Global Forms are an interim workaround as the USPTO develops additional TEAS forms covering items that are currently collected only in paper. A TEAS Global Form allows the user to submit documents electronically by identifying a document type through a drop-down list, entering text in a free-text box, and attaching files in JPG or PDF format. This method allows for electronic filing of documents when there is not currently a TEAS form with dedicated data fields for the particular purpose.

In addition to providing a system that allows the electronic transmission of trademark submissions, the USPTO also provides the public with online access to various trademark records. One such online product is the Trademark Electronic Search System (TESS), a Web-based record of registered marks and marks for which

applications for registration have been submitted. TESS can be used by potential applicants for trademark registration to assist in the determination of whether 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 several search tools, is updated daily, and is easy to use.

The USPTO also maintains an online database called Trademark Status & Document Retrieval (TSDR), which features information regarding the status of trademark applications and registrations as well as images of each of the documents that make up the “electronic file wrapper” of a particular trademark application or registration. Currently, images of virtually all pending trademark application and registration files are present in TSDR.

These systems are all accessible on the USPTO Web site. Thus, the USPTO offers a single source for a variety of systems useful both for making submissions to the USPTO and for tracking the status of these submissions.

4. Efforts to Identify Duplication

This information is collected only when letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore filing date, and requests for reinstatement 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 business 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 submit letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore filing date, and requests for reinstatement and the USPTO could not comply with the requirements of the Trademark Act 15 U.S.C. §§ 1051 and 1123 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 February 22, 2012 (77 Fed Reg. 10482). The public comment period ended on April 23, 2012. 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 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. Additional feedback solicited through the USPTO-monitored mailbox of TEAS@uspto.gov helped the USPTO determine that its customers were very interested in the "Global Form format" approach to help bridge the gap where electronic forms with dedicated data fields have yet to be developed. The Global Forms, while not quite as beneficial to the USPTO as a TEAS form with dedicated data fields, nonetheless provides many advantages to both the applicant and the USPTO.

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 this information.

The USPTO Web Privacy Policy Statement explains how the USPTO handles any personal information collected from the public through the web site, 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 approximately 2,135 responses per year for this collection, with 912 or 43% filed electronically. Estimates are based upon agency long-standing institutional knowledge of and experience with the type of information collected and long-standing representative rates of accrual or reduction of similar or like information.
- Burden Hour Calculation Factors**
 The USPTO estimates that it will take the public an average of 30 minutes (0.50 hours) to one hour 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 paper 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 information. Estimates are based upon agency long-standing institutional knowledge of and experience with the type of information collected and the length of time necessary to complete similar or like information.
- Cost Burden Calculation Factors**
 The USPTO uses a professional rate of \$371 per hour for respondent rate cost burden calculations, which is the mean rate for attorneys in private firms as shown in the *2011 AIPLA Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA). The USPTO expects that the information in this collection will be prepared by attorneys, although some submissions may be prepared by *pro se* registrants.

Table 3: Burden Hour/Burden Cost to Respondents for Trademark Petitions

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Letter of Protest (TEAS Global)	0.83	187	155	\$371.00	\$57,505.00
Letter of Protest (Paper)	1.00	1,063	1,063	\$371.00	\$394,373.00
Request to Make Special (TEAS Global)	0.50	90	45	\$371.00	\$16,695.00
Request to Make Special (Paper)	0.67	10	7	\$371.00	\$2,597.00
Response to Petition to Director Inquiry Letter (TEAS Global)	0.50	19	10	\$371.00	\$3,710.00
Response to Petition to Director Inquiry Letter (Paper)	0.67	5	3	\$371.00	\$1,113.00
Petition to Make Special (TEAS Global)	0.50	135	68	\$371.00	\$25,228.00

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Petition to Make Special (Paper)	0.67	15	10	\$371.00	\$3,710.00
Request to Restore Filing Date (TEAS Global)	0.50	1	1	\$371.00	\$371.00
Request to Restore Filing Date (Paper)	0.67	10	7	\$371.00	\$2,597.00
Request for Reinstatement (TEAS Global)	0.50	480	240	\$371.00	\$89,040.00
Request for Reinstatement (Paper)	0.67	120	80	\$371.00	\$29,680.00
Total	- - - -	2,135	1,689	- - - -	\$626,619.00

13. Total Annual (Non-hour) Cost Burden

The total (non-hour) respondent cost burden for this collection is estimated to be \$15,551 per year, which includes \$15,000 in fees and \$551 in postage.

Fees

The only item in this collection with a filing fee is the Petition to Make Special, with a total of \$15,000 per year.

- 150 responses for the Petition to Make Special, at \$100 each = \$15,000.

Postage Costs

The non-electronic items in this collection have associated first-class postage costs when submitted by mail, for a total of \$551 per year.

Table 4: Postage Cost to Respondents for Trademark Petitions

Item	Responses (yr) (a)	Postage Costs (b)	Total Cost (yr) (a x b)
Letter of Protest	1,063	\$0.45	\$478.00
Request to Make Special	10	\$0.45	\$5.00
Response to Petition to Director Inquiry Letter	5	\$0.45	\$2.00
Petition to Make Special	15	\$0.45	\$7.00
Request to Restore Filing Date	10	\$0.45	\$5.00
Request for Reinstatement	120	\$0.45	\$54.00
TOTAL	1,223	- - - -	\$551.00

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-15, step 5, 30 minutes (0.50 hours) to process the Letter of Protest and the Response to Petition to Director Inquiry Letter when they are submitted via TEAS and 40 minutes (0.67 hours) when they are submitted on paper. The hourly rate for a GS-15, step 5 is currently \$67.21. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour is \$87.37 (\$67.21+ \$20.16).

The USPTO estimates that it takes a GS-11, step 5, 30 minutes (0.50 hours) to process the Request to Make Special and the Request for Reinstatement when they are submitted via TEAS and 40 minutes (0.67 hours) when they are submitted on paper. The hourly rate for a GS-11, step 5 is currently \$33.92. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour is \$44.10 (\$33.92+ \$10.18).

The USPTO estimates that it takes a GS-11, step 5, 20 minutes (0.33 hours) to process the Petition to Make Special and the Request to Restore Filing Date when they are submitted via TEAS and 30 minutes (0.50 hours) when they are submitted on paper. The hourly rate for a GS-11, step 5 is currently \$33.92. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour is \$44.10 (\$33.92+ \$10.18).

Estimates of the number of respondents are based upon agency long-standing institutional knowledge of and experience with the type of information collected and long-standing representative rates of accrual or reduction of similar or like information. Estimates of the number of hours are based upon agency long-standing institutional knowledge of and experience with the type of information collected and the length of time necessary to complete similar or like information.

Table 5 calculates the processing hours and costs of this information collection to the Federal Government:

Table 5: Burden Hour/Burden Cost to the Federal Government for Trademark Petitions

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Letter of Protest (TEAS Global)	0.50	187	94	\$87.37	\$8,213.00
Letter of Protest (Paper)	0.67	1,063	712	\$87.37	\$62,207.00
Request to Make Special (TEAS Global)	0.50	90	45	\$44.10	\$1,985.00
Request to Make Special (Paper)	0.67	10	7	\$44.10	\$309.00
Response to Petition to Director Inquiry Letter (TEAS Global)	0.50	19	10	\$87.37	\$874.00
Response to Petition to Director Inquiry Letter (Paper)	0.67	5	3	\$87.37	\$262.00

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Petition to Make Special (TEAS Global)	0.33	135	45	\$44.10	\$1,985.00
Petition to Make Special (Paper)	0.50	15	8	\$44.10	\$353.00
Request to Restore Filing Date (TEAS Global)	0.33	1	1	\$44.10	\$44.00
Request to Restore Filing Date (Paper)	0.50	10	5	\$44.10	\$221.00
Request for Reinstatement (TEAS Global)	0.50	480	240	\$44.10	\$10,584.00
Request for Reinstatement (Paper)	0.67	120	80	\$44.10	\$3,528.00
Total	- - - - -	2,135	1,250	- - - - -	\$90,565.00

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

OMB previously approved the renewal of this information collection in September of 2009 with 953 responses and 862 burden hours, and \$209 in annual (non-hour) costs. There have been no interim approvals.

For this renewal, the USPTO estimates that the total annual responses will be 2,135 and the total annual burden hours will be 1,689. This increase of 827 burden hours is due to both administrative adjustments and program changes.

The currently approved annual (non-hour) cost burden for this collection is \$209. For this renewal, the USPTO estimates that the total annual (non-hour) costs will be \$15,551. This increase of \$15,342 is due to both administrative adjustments and program changes.

Change in Burden Estimates Since the 60-Day Federal Register Notice

There has been no change to the estimated responses and burden hours since the publication of the 60-Day Federal Register Notice. However, the respondent cost burden has increased by \$52,359 due to an increase in the estimated hourly rate.

The 60-Day Federal Register Notice reported total (non-hour) cost burden in the amount of \$15,550. (Non-hour) cost burden is being increased in this submission to \$15,551 due to an adjustment to the postage costs.

Changes in Respondent Cost Burden

The total respondent cost burden for this collection has increased by \$359,399, from \$267,220 to \$626,619, from the previous renewal of this collection in September 2009, due to:

- **Increase in estimated hourly rate.** The 2009 renewal used an estimated rate of \$310 per hour for attorneys to prepare the information in this collection. For the current renewal, the USPTO is using the updated rate of \$371 per hour for attorneys.
- **Increase in estimated burden hours.** The total estimated burden hours have increased from 862 in the 2009 renewal to 1,689 for the current renewal due to an increase in the estimated number of annual filings for this collection and the addition of four new TEAS Global forms and their paper equivalents.

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the total annual responses will increase by 1,182 (from 953 to 2,135) and the total burden hours will increase by 827 (from 862 to 1,689) from the currently approved burden for this collection. These changes are due to the following administrative adjustments and program changes:

Administrative Adjustments:

- **Increase of 397 estimated annual responses** for the Letter of Protest and the Request to Make Special from 953 to 1,350; a **burden increase of 408 hours**.

Program Changes:

- **Increase of 785 estimated annual responses** for the four new TEAS Global forms being added to the collection along with their paper equivalents; a **burden increase of 419 hours**.

Changes in Annual (Non-Hour) Costs

For this renewal, the USPTO estimates that the annual (non-hour) costs will increase by \$15,342, from \$209 to \$15,551, due to administrative adjustments and program changes, as follows:

Administrative Adjustments:

- **Increase of \$274 in postage costs.** This collection is currently approved with a total of \$209 in postage costs for the two original requirements in the collection. First-class postage has increased slightly since 2009 along with the increase in the responses, bringing the postage costs for the two original requirements to \$483.

Program Changes:

- **Increase of \$68 in postage costs.** Postage for the paper versions of the four new requirements in this collection amounts to \$68.
- **Increase of \$15,000 in filing fees.** For this renewal, the USPTO estimates that filing fees will be added to this collection as a result of a new requirement, the Petition to Make Special, in the amount of \$15,000.

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.