

SUPPORTING STATEMENT
United States Patent and Trademark Office
Application for Registration to Practice before the United States Patent and
Trademark Office (USPTO)
OMB CONTROL NUMBER 0651-0012
November 2014

A. JUSTIFICATION

1. Necessity of Information Collection

This collection of information is required by 35 U.S.C. 2(b)(2)(D), which 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 applicants to provide information to demonstrate they are of good moral character and reputation and have the necessary qualifications to assist applicants with patent matters and to represent them before the USPTO.

The USPTO administers the statute through 37 CFR 1.21 and 11.5-11.60. These rules address the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered patent attorney or agent before the USPTO and the requirements to practice in trademark and other non-patent matters. 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 patent matters. The OED also collects information to administer and maintain the roster of patent attorneys and agents registered to practice before the USPTO. Information concerning registered patent attorneys and agents is published by the OED in a public roster that can be accessed through the USPTO web site.

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

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

| IC number | Requirement | Statute | Rule |
|-----------|--|----------------------|-------------------------|
| 1 | Application for Registration to Practice Before the United States Patent and Trademark Office | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.6 and 11.7 |
| 2 | Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.6(c) and 11.7 |

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| 3 | Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.14(c) |
| 4 | Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.14(c) |
| 5 | Registration Examination to Become a Registered Practitioner | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.7(b)(1)(ii) |
| 6 | Undertakings Completed by Former USPTO Employees who Served in the Patent Examining Corps Who Desire to Register to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.10(b) | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.10(b) |
| 7 | Data Sheet completed by Patent Attorneys and Agents registering to practice before the United States Patent and Trademark Office | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.5 and 11.11 |
| 8 | Oath or Affirmation | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.8 |
| 9a | Reinstatement to the Register | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.11 |
| 9b | Written request for reconsideration and further review of disapproval notice of application | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.2(c) and (d) |
| 9c | Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.2(c) and (d) |
| 9d | Petition for reinstatement after disciplinary removal under 37 CFR 11.60 | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.60 |
| 9e | Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.28 |
| 10 | Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions) | N/A | N/A |
| 11 | Reasonable Accommodation | 35 U.S.C. 2(b)(2)(D) | 37 CFR 11.6 and 11.7 |

2. Needs and Uses

The OED Director uses the information in this collection to determine whether the applicant is of good moral character and repute; has the necessary legal, scientific, and technical qualifications; and is otherwise competent to advise and assist applicants in the presentation and prosecution of patent applications.

The USPTO uses applicant information in determining whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

The information collected, maintained and used in this collection is based on OMB and USPTO guidelines. This includes the basic information quality standards established in the Paperwork Reduction Act (44 U.S.C. Chapter 35), in OMB Circular A-130, and in the OMB information quality guidelines.

Table 2 outlines how the USPTO and the public use this information. There are eight forms associated with this collection.

Table 2: Needs and Uses of Information Collected from Applicant for Registration

| IC number | Form and Function | Form # | Needs and Uses |
|-----------|--|---------------|---|
| 1 | Application for Registration to Practice Before the United States Patent and Trademark Office (Ref. A) | Form PTO-158 | <ul style="list-style-type: none"> • Used by domestic applicants to apply for registration. • Used by practitioners to ensure that all of the necessary information is provided to the USPTO. • Used by practitioners to show they have met all of the necessary requirements. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants. |
| 2 | Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (Ref. B) | Form PTO-158A | <ul style="list-style-type: none"> • Used by foreign applicants to apply for registration. • Used by practitioners to ensure that all of the necessary information is provided to the USPTO. • Used by practitioners to show they have met all of the necessary requirements. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants. |
| 3 | Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (Ref. C) | Form PTO-158T | <ul style="list-style-type: none"> • Used by foreign applicants to apply for recognition to practice in trademark cases. • Used by foreign applicants to show they have met all the necessary requirements to prosecute an application for trademark registration. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements for trademark prosecution cases. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to recognize applicants. |

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| 4 | Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office (Ref. D) | Form PTO-158LS | <ul style="list-style-type: none"> • Used by students to show that they are enrolled in a law school participating in an Intellectual Property Law Clinic Program. • Used by students to show they have completed all necessary coursework in patent and trademark prosecution. • Used by the USPTO to determine whether the students have the requisite courses for participating in the USPTO Law School Program. • Used by the USPTO to accept students into the USPTO Law School Program. |
| 5 | Registration Examination to Become a Registered Practitioner | No Form Associated | <ul style="list-style-type: none"> • Used by domestic applicants to apply for registration. • Used by domestic applicants to ensure that all of the necessary information is provided to the USPTO. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants. |
| 6 | Undertaking Under 37 CFR 11.10(b) Ref. (E) | Form PTO/275 | <ul style="list-style-type: none"> • Used by applicants who are former USPTO employees to agree in writing that they will not aid in the prosecution or preparation of any papers or applications associated with applications reviewed while in the employ of the USPTO. • Used by former USPTO employees to apply for a waiver in the scope of the undertaking to specify areas where they may not aid in the prosecution or preparation of any papers or applications associated with applications reviewed while in the employ of the USPTO. • Used by the USPTO to determine whether the applicant is a former USPTO employee. |

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| 7 | Data Sheet – Register of Patent Attorneys and Agents (Ref. F) | Form PTO-107A | <ul style="list-style-type: none"> • Used by domestic applicants to request that they be included on the Register of Patent Attorneys and Agents. • Used by applicants and registered practitioners to provide updated information such as addresses. • Used by registered practitioners to respond to periodic surveys to verify current address and status. • Used by the USPTO to determine whether the applicant can be included on the Register of Patent Attorneys and Agents. • Used by the USPTO to determine whether the attorney or agent may remain on the Register of Patent Attorneys and Agents. • Used by the USPTO to update current address and/or status of applicants and registered practitioners. |
| 8 | Oath or Affirmation (Ref. G) | Form PTO-1209 | <ul style="list-style-type: none"> • Used by all applicants requesting to be admitted to practice before the USPTO. • Used by the USPTO to admit an applicant to practice before the USPTO. |
| 9a | Reinstatement to the Register (Ref. F) | Form PTO-107A | <ul style="list-style-type: none"> • Used by registered practitioners to respond to periodic surveys to verify current address and status. • Used by the USPTO to determine whether the applicant can be included on the Register of Patent Attorneys and Agents. • Used by the USPTO to determine whether the attorney or agent may remain on the Register of Patent Attorneys and Agents. • Used by the USPTO to update current address and/or status of applicants and registered practitioners. |
| 9b | Written Request for Reconsideration and Further Review of Disapproval Notice of Application | No Form Associated | <ul style="list-style-type: none"> • Used by the public to submit a written request for reconsideration of a disapproval notice for admission to the registration examination. • Used by the public to request further review or consideration of their application. • Used by the applicant to appeal to the Director of the USPTO for admission to the registration examination. • Used by the USPTO to reconsider a disapproval notice for admission to the registration examination. • Used by the USPTO to grant admission to the registration examination after further review and reconsideration. |

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| 9c | Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) | No Form Associated | <ul style="list-style-type: none"> • Used by the applicant to petition the OED Director for reconsideration of denial of admission to practice before the USPTO. • Used by the applicant to petition the OED Director for reconsideration of denial of recognition to practice before the USPTO. |
| 9d | Petition for reinstatement after disciplinary removal under 37 CFR 11.60 | No Form Associated | <ul style="list-style-type: none"> • Used by a practitioners or agents to apply for recognition or registration after disbarment, suspension on ethical grounds, or resignation pending disciplinary proceedings in any other jurisdiction; for asserting rehabilitation following denial of a previous application on moral character grounds, or on application for recognition of registration after conviction of a felony or a crime involving moral turpitude or breach of fiduciary duty; and on petition for reinstatement after exclusion or suspension on ethical grounds, or exclusion on consent from practice before the USPTO. • Used by the USPTO to process requests for reinstatement after disciplinary removal. |
| 9e | Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | No Form Associated | <ul style="list-style-type: none"> • Used by practitioners or agents to apply for a motion to be held in abeyance after a disciplinary proceeding because of a current disability or addiction. • Used by the USPTO to process requests for holding a disciplinary proceeding in abeyance because of a current disability or addiction. |
| 10 | Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions) | No Form Number | <ul style="list-style-type: none"> • Used by applicants and practitioners (as required) for requesting (1) reconsideration of a decision by OED staff and (2) petitions. • Used by applicants and practitioners (as required) to expedite the processing of applications, documents and correspondence. • Used by the USPTO to provide faster processing of applications and correspondence. |
| 11 | Reasonable Accommodation | PTO 158R | <ul style="list-style-type: none"> • To facilitate an applicant's request for reasonable accommodation, due to a medical condition, to take the examination for registration to practice before the USPTO. • Used by the USPTO to provide reasonable accommodation to eligible applicants. |

3. Use of Information Technology

The USPTO does not presently use automated, electronic, or other technological collection techniques for the items in this collection of information.

At the present time, the USPTO does provide the option of using fillable forms for many items in this collection. 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. The USPTO continues to expand the number of fillable forms and may move toward electronic submission of those forms in the near future.

The basic contact information the USPTO collects about the attorneys and agents on the register, who are recognized to practice before the USPTO in patent matters, can be accessed by the public through the USPTO's website. When the public clicks on the link to the Roster of Patent Attorneys and Agents, the "Patent Attorneys and Agents Registered to Practice before the USPTO" page will open. From this page, the public can search for registered patent attorneys and agents through a search engine, by geographical region, or by searching through the entire list of registered patent attorneys and agents. The actual attorney/agent names are all formatted in the same manner, regardless of the search conducted: last name, street address, city, state, zip code, telephone number (optional), registration number, and an indication of attorney/agent/government employee status.

The OED Director may publish on the Internet the names and business addresses of all individuals seeking registration or recognition who pass the examination or for whom examination has been waived, as well as, publishing a notice in the *Official Gazette of the United States Patent and Trademark Office* to solicit information bearing on their moral character and reputation. The OED Director also publishes notices of administrative suspensions.

If the USPTO is notified by the patent office of another country that a registered patent agent is no longer registered or no longer in good standing before the patent office of that country, and does not show good cause why his or her name should not be removed from the register, the OED Director shall promptly remove the name from the register and publish that the name has been removed. The OED Director will also remove the names of patent agents who are no longer live in the country in which they are registered and publish that the names have been removed.

4. Efforts to Identify Duplication

The information in this collection is received prior to any other use by the USPTO. The business address of the applicant for registration may be duplicated on individual patent applications. Information concerning a practitioner's record with OED is confidential to the attorney/agent, while information regarding a patent may be shared with other members of a firm or be sent directly to an applicant.

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 application for registration or recognition to practice before the USPTO in patent matters or to update the roster of registered practitioners, as needed. It could not be conducted less frequently. If the collection of information were not conducted, the USPTO would not be able to admit registered practitioners to practice before the USPTO or keep the roster of registered practitioners updated.

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 30, 2014 (79 Fed Reg. 36782). The comment period ended on August 29, 2014. One public comment was received.

The comment was directed to a specific regulatory requirement. Specifically, the commenter suggested that the USPTO revise 37 CFR § 11.25(a) to exclude traffic violation convictions from crimes that are required to be reported to the OED Director. However, this collection is not the appropriate forum for this comment. Section 11.25(a) was previously addressed in the Final Rule published at 73 FR 47650 (Aug. 14, 2008). The response to comments in that rulemaking explains that the burden on the practitioner to report such convictions of misdemeanors and felonies is reasonable and the information allows the OED Director to continue to oversee the good moral character of a practitioner. The USPTO continues to review its rules and will evaluate the commenter's suggestion in the event that an update to § 11.25(a) is warranted.

The USPTO has long-standing relationships with groups who frequently communicate their views on information collections, including the American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), and International Trademark Association (INTA), as well as business groups, inventor associations, and users of our public facilities. Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an information collection. These organized groups did not communicate any comments regarding the present renewal.

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 for recognition by the USPTO as a registered attorney or agent.

10. Assurance of Confidentiality

Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection contains information of a confidential nature, which is subject to the Privacy Act. This information is collected on Forms PTO-158 Application for Registration to Practice before the United States Patent and Trademark Office, PTO/275 Undertaking Under 37 CFR 11.10(b), and PTO-107A Data Sheet – Register of Patent Attorneys and Agents. Privacy Act Statements are included on all of these forms. A Systems of Records Notice was published in the *Federal Register* on March 19, 2013 (78 Fed Reg. 16839). 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 request information of a sensitive nature on Forms PTO-158 Application for Registration to Practice Before the United States Patent and Trademark Office, PTO-158A Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) By a Foreign Resident, PTO-158T Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c), PTO-158LS Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office, and PTO-107A Data Sheet – Register of Patent Attorneys and Agents.

35 U.S.C. 31 requires that attorneys, agents, and others possess good moral character and reputation before they are allowed to represent applicants. The information is used to determine the suitability of the applicant as a potential registered patent attorney or agent. On the application forms and the data sheet, the USPTO informs the applicant that candor and truthfulness are considered to be significant elements of fitness relevant for practice before the USPTO, and that they should provide all information, even if it is unfavorable. If the applicant answers “Yes” to any questions, the USPTO also requests that the applicant provide a written statement detailing the facts of the situation and any associated documentation. The USPTO also warns the applicant that failure to disclose any of the requested information may result in either denial of registration or disciplinary proceedings under 37 CFR 11.22 if the applicant becomes a registered patent attorney or agent. The applicant also certifies by his or her signature that all of the information provided in the application is true and correct. The applicant is additionally warned that any willfully false statement or certification is considered to be a criminal offense and is punishable by law under 18 U.S.C. 1001.

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 21,900 responses annually.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public from approximately 3 minutes (0.05 hours) to 40 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 cost to law student respondents for taking the registration examination is estimated to be at the rate of \$47.89 per hour; the median hourly rate the Bureau of Labor Statistics uses for legal occupations (SOC 23-0000). The USPTO estimates that the remaining items in this collection will primarily be supplied by intellectual property legal professionals (patent attorneys and agents). The professional rate for attorneys in private firms is \$389 per hour, as published in a report by the 2013 Committee on Economics of Legal Practice of the American Intellectual Property Law Association.

Table 3: Burden Hour/Burden Cost to Respondents

| IC number | Item | Hours (a) | Responses (yr) (b) | Burden (hrs/yr) (c) (a) x (b) | Rate (\$/hr) (d) | Total Cost (\$/hr) (e) (c) x (d) |
|-----------|--|-----------|--------------------|-------------------------------|------------------|----------------------------------|
| 1 | Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) Form PTO-158 | 0.50 | 4,420 | 2,210 | \$389.00 | \$859,690.00 |
| 1 | Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) Form PTO-158 | 0.50 | 100 | 50 | \$389.00 | \$19,450.00 |
| 2 | Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO-158A | 0.50 | 100 | 50 | \$389.00 | \$19,450.00 |

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|----|--|-------|---------------|---------------|----------|------------------------|
| 3 | Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination waived) Form PTO-158T | 0.50 | 25 | 13 | \$389.00 | \$5,057.00 |
| 4 | Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office Form PTO-158LS | 0.50 | 300 | 150 | \$47.89 | \$7,184.00 |
| 5 | Registration Examination to Become a Registered Practitioner | 7.00 | 4,420 | 30,940 | \$389.00 | \$12,035,660.00 |
| 6 | Undertaking under 37 CFR 11.10(b) PTO/275 | 0.33 | 520 | 172 | \$389.00 | \$66,908.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A | 0.17 | 1,995 | 332.5 | \$389.00 | \$129,342.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A | 0.17 | 100 | 17 | \$389.00 | \$6,613.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107R | 0.17 | 100 | 17 | \$389.00 | \$6,613.00 |
| 8 | Oath or Affirmation PTO-1209 | 0.083 | 2,195 | 182 | \$389.00 | \$70,798.00 |
| 9a | Reinstatement to the Register PTO-107A, PTO-107R | 0.17 | 30 | 5 | \$389.00 | \$1,945.00 |
| 9b | Written request for reconsideration and further review of disapproval notice of application | 1.50 | 30 | 45 | \$389.00 | \$17,505.00 |
| 9c | Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) | 0.75 | 20 | 15 | \$389.00 | \$5,835 |
| 9d | Petition for reinstatement after disciplinary removal under 37 CFR 11.60 | 40.00 | 4 | 160 | \$389.00 | \$62,240.00 |
| 9e | Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | 40.00 | 1 | 40 | \$389.00 | \$15,560.00 |
| 10 | Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions) | 0.05 | 7,500 | 375 | \$389.00 | \$145,875.00 |
| 11 | Reasonable Accommodation PTO 158R | 4 | 40 | 160 | \$389.00 | \$62,240.00 |
| | Total | - - - | 21,900 | 34,933 | - - - - | \$13,408,623.00 |

13. Total Annual Non-hour Cost Burden

There are no capital start-up or maintenance costs associated with this information collection. However, this collection does have non-hourly costs due to recordkeeping requirements, filing fees, and mailing costs.

Because the Oath requires a notary public, there are processing costs for this collection. The average fee for having a document notarized is \$2. The USPTO estimates that it will receive 2,195 responses to this information collection per year as a result of this notary requirement, for a total cost of \$4,390 per year.

The application fees are broken out to demonstrate that the application forms can cover any one of five different categories:

- used for the registration examination fee for the USPTO-administered exam and the computerized exam administered by a commercial entity;
- used for registration fees only (former examiners; examination waived);
- used for registration fees for those who must prove fitness to practice;
- used for registration fees by a foreign resident (examination waived).

The annual non-hour cost burden associated with filing fees is \$1,366,200 as outlined in Table 4 below:

Table 4: Filing Fees – Non-hour Cost Burden

| IC number | Item | Responses (yr) (a) | Filing Fee (\$) (b) | Total Non-Hour Cost Burden (\$/hr) (c)= (a) x (b) |
|-----------|---|--------------------|---------------------|---|
| 1 | Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) | 4,420 | \$40.00 | \$176,800.00 |
| 1 | Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived) | 100 | \$40.00 | \$4,000.00 |
| 2 | Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO-158A | 100 | \$40.00 | \$4,000.00 |
| 3 | Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived) | 25 | \$40.00 | \$1,000.00 |
| 4 | Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office Form PTO-158LS | 300 | \$0.00 | \$0.00 |
| 5 | Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by the USPTO (USPTO-administered exam) | 20 | \$450.00 | \$9,000.00 |
| 5 | Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam) | 4,400 | \$200.00 | \$880,000.00 |

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| 6 | Undertaking under 37 CFR 11.10(b) PTO/275 | 520 | \$0.00 | \$0.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A | 1,995 | \$100.00 | \$199,500.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A | 100 | \$100.00 | \$10000.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107R | 100 | \$100.00 | \$10000.00 |
| 8 | Oath or Affirmation PTO-1209 | 2,195 | \$0.00 | \$0.00 |
| 9a | Reinstatement to the Register PTO-107A, PTO-107R | 30 | \$100.00 | \$3,000.00 |
| 9b | Written request for reconsideration and further review of disapproval notice of application | 30 | \$130.00 | \$3,900.00 |
| 9c | Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) | 20 | \$130.00 | \$2,600.00 |
| 9d | Petition for reinstatement after disciplinary removal under 37 CFR 11.60 | 4 | \$1,600.00 | \$6,400.00 |
| 9e | Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | 1 | \$0 | 0 |
| 9f | Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a)(10) (those who must prove fitness to practice) | 35 | \$1,600.00 | \$56,000.00 |
| 10 | Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions) | 7,500 | \$0.00 | \$0.00 |
| 11 | Reasonable Accommodation PTO 158R | 40 | \$0.00 | 0.00 |
| | Total | 21,935 | - - - - | \$1,366,200.00 |

Since all transactions and correspondence regarding registration occur via United States Postal Service there are mailing costs associated with this collection. The General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases before the USPTO states that all business transactions with the USPTO should be in writing. OED transactions will be based exclusively on the written record pursuant to 37 CFR 1.2. All documents may be submitted to the USPTO by first-class mail through the United States Postal Service. Postage costs will range from \$0.49 to \$1.73.

Consequently, the USPTO estimates that it will receive 21,880 responses to this information collection per year subject to mailing costs, for a total annual postage cost of \$4,171.80.

Table 5: Postage Fees – Non-hour Cost Burden

| IC number | Item | Responses (a) | Postage Fee (\$) (b) | Total Non-Hour Cost Burden (a) x (b) (c) |
|-----------|---|---------------|----------------------|--|
| 1 | Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) | 4,420 | \$0.61 | \$2,696.00 |
| 1 | Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived) | 100 | \$0.61 | \$61.00 |
| 2 | Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO-158A | 100 | \$0.49 | \$49.00 |
| 3 | Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived) | 25 | \$0.61 | \$15.25 |
| 4 | Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office Form PTO-158LS | 300 | \$0.61 | \$183.00 |
| 5 | Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam) | 4,400 | \$0.00 | \$0.00 |
| 6 | Undertaking under 37 CFR 11.10(b) PTO/275 | 520 | \$0.00 | \$0.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A | 1,995 | \$0.49 | \$977.55 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A | 100 | \$0.49 | \$49.00 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107A | 100 | \$0.49 | \$49.00 |
| 8 | Oath or Affirmation PTO-1209 | 2,195 | \$0.00 | \$0.00 |
| 9a | Reinstatement to the Register PTO-107A, PTO-107R | 30 | \$0.49 | \$14.70 |
| 9b | Written request for reconsideration and further review of disapproval notice of application | 30 | \$0.61 | \$18.30 |
| 9c | Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) | 20 | \$1.73 | \$34.60 |

| | | | | |
|----|---|---------------|------------|-------------------|
| 9d | Petition for reinstatement after disciplinary removal under 37 CFR 11.60 | 4 | \$0.00 | \$0.00 |
| 9e | Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | 1 | \$0.00 | \$0.00 |
| 10 | Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions) | 7,500 | \$0.00 | \$0.00 |
| 11 | Reasonable Accommodation PTO 158R | 40 | \$0.61 | \$24.40 |
| | Total | 21,880 | --- | \$4,171.80 |

Therefore, the total annualized non-hour cost burden for this collection based on recordkeeping requirements (\$4,390), filing fees (\$1,366,200), and mailing costs (\$4,171.80) amounts to \$1,372,761.80.

14. Annual Cost to the Federal Government

The USPTO uses a range of resources and staff to handle and process files and related activities associated with this information collection. The USPTO estimates that it takes a GS-9 step 5, a GS-11 step 5, and a GS-15 step 5 between 5 minutes (0.083 hours) and 40 hours to process a significant portion of the information in this collection.

The USPTO estimates that it will take a GS-15, step 5, 1,500 hours to develop and maintain a data bank of 2,000 questions and answers for the registration examination.

The USPTO incurs processing time and costs accounts resend User ID and Password Notices for practitioners. The USPTO estimates that it will take a GS-11, step 5, an average of 2 minutes (0.03 hours) for manual activities associated with account management, that is, generating letters, placing orders for automated notices, etc.

The cover page is a time-saving measure for the USPTO that simplifies document identification. At the present time, document identification is done by contractor support, General Clerk category. The USPTO estimates that it takes a General Clerk approximately 1 minute (0.02 hours) to process a cover page.

The hourly rates for this collection include:

- The hourly rate for a GS-15, step 5, is currently \$67.88. When 30% is added to account for a fully loaded hourly rate, inclusive of benefits and overhead, the cost per hour is \$67.88+ \$20.36, for a rate of \$88.24.
- The hourly rate for a GS-11, step 5, is currently \$34.26. When 30% is added to account for a fully loaded hourly rate, inclusive of benefits and overhead, the cost per hour is \$34.26 + \$10.28, for a rate of \$44.54.

- The hourly rate for a GS-9, step 5, is currently \$28.32. When 30% is added to account for a fully loaded hourly rate, inclusive of benefits and overhead, the cost per hour is \$28.32 + \$8.49, for a rate of \$36.81.
- The hourly rate for a General Clerk is \$31.25 per hour. This is a fully-loaded hourly rate.

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

Table 6: Processing Hours and Costs – Government Burden

| IC number | Item | Hours (a) | Responses (yr) (b) | Burden (hrs/yr) (c) (a) x (b) | Rate (\$/hr) (d) | Total Cost (\$/hr) (e) (c) x (d) |
|-----------|--|-----------|--------------------|----------------------------------|------------------|-------------------------------------|
| 1 | Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) Form PTO-158 | 0.25 | 4,420 | 1105 | \$36.81 | \$40,675.05 |
| 1 | Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) Form PTO-158 | 0.25 | 100 | 25 | \$36.81 | \$920.25 |
| 2 | Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) Form PTO-158A | 0.25 | 100 | 25 | \$36.81 | \$920.25 |
| 3 | Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination waived) Form PTO-158T | 0.25 | 25 | 6.25 | \$36.81 | \$230.06 |
| 4 | Application for Limited Recognition in USPTO Law School Program for Law Students to Practice Before the United States Patent and Trademark Office Form PTO-158LS | 0.25 | 300 | 75 | \$36.81 | \$2,760.75 |
| 5 | Registration Examination to Become a Registered Practitioner | 7.00 | 4,420 | 30,940 | \$36.81 | \$1,138,901.40 |
| 6 | Undertaking under 37 CFR 11.10(b) PTO/275 | 0.25 | 520 | 130 | \$36.81 | \$4,785.30 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (individuals passing the registration exam) PTO-107A | 0.25 | 1,995 | 498.75 | \$36.81 | \$18,358.98 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (foreign applicants) PTO-107A | 0.25 | 100 | 25 | \$36.81 | \$920.25 |
| 7 | Data Sheet – Register of Patent Attorneys and Agents (former examiners seeking registration) PTO-107A | 0.25 | 100 | 25 | \$36.81 | \$920.25 |

| | | | | | | |
|----|--|---------------|---------------|-----------------------|----------------------------|----------------------------|
| 8 | Oath or Affirmation PTO-1209 | 0.083 | 2,195 | 182 | \$36.8 1 | \$6,699.42 |
| 9a | Reinstatement to the Register PTO-107A, PTO-107R GS-15, step 5 GS-9, step 5 | 40.00 0.50 | 30 | 1200 15 | \$88.2 4 \$36.8 1 | \$105,888.00 \$552.15 |
| 9b | Written request for reconsideration and further review of disapproval notice of application GS-15, step 5 GS-11, step 5 | 8.00 1.50 | 30 | 240 45 | \$88.2 4 \$44.5 4 | \$21,177.60 \$1,656.45 |
| 9c | Petition for reinstatement after disciplinary removal under 37 CFR 11.60 GS-15, step 5 GS-11, step 5 | 40.00 0.50 | 4 | 1600 2 | \$88.2 4 \$44.5 4 | \$141,184.00 \$73.62 |
| 9d | Petition to the Director of the Office of Enrollment and Discipline under 11.2(c) GS-15, step 5 GS- 9, step 5 | 16.00 3.00 | 20 | 32 6 | \$88.2 4 \$36.8 1 | \$2,824 \$221 |
| 9e | Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction GS-15, step 5 GS-9, step 5 | 40.00 0.50 | 1 | 40 0.5 | \$88.2 4 \$36.8 1 | \$3,529.60 \$18.40 |
| 10 | Cover pages used for submitting correspondence to OED (for documents submitted with applications, requests for reconsideration, and petitions) | 0.02 | 7,500 | 150 | \$31.2 5 | \$4,687.50 |
| 11 | Reasonable Accommodation PTO 158R | 1 | 40 | 40 | \$88.2 4 | \$3,529.60 |
| | Total | - - - | 21,880 | 36,407.5 0 | - - - - | \$1,501,433.8 8 |

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

OMB previously approved this collection in May 2010 with a total of 92,684 responses and 98,028 annual burden hours. With this renewal, the USPTO estimates that the annual responses will be 21,935, with the annual burden hours at 34,934, with a decrease of 70,784 responses and a decrease of 63,095 annual burden hours. The decrease in responses and annual burden hours is mostly due to several forms and fees categories, listed in table 7 and 8, being removed from this collection. There has been an increase of 390 responses for the Application for Limited Recognition in USPTO Law School Program for Law Students to Practice before the United States Patent and Trademark from 60 to 450 responses per year.

The total annualized non-hour cost burden for this renewal of \$1,372,761.80 is a decrease of \$4,187,078.20 from the currently approved total of \$5,561,052. There is an increase in the non-hour cost due to an increase in postage costs, and increases in fees, however there is a decrease in costs for the current renewal due to several forms and fees categories, listed in table 7 and 8, being removed from this collection.

Change in Burden Estimates Since the 60-Day Notice

There are several changes to the estimated responses and burden hours since the publication of the 60-Day Notice.

- Changes for FR line 12
 - Based on OMB guidance¹, the USPTO has concluded that changes of address forms are exempt from the PRA under section 5 CRF 1320.3. Accordingly, the USPTO is removing the change of address from the list of items in this collection.
 - The USPTO will remove 4,200 responses from this collection which will result in a decrease in the total burden of 140 hours.
- Renumbering of IC lines:
 - To make connections between information more transparent, the USPTO has renumbered the following Federal Register Notice (FRN) lines under a single line which better displays the relationship between forms and fees.
 - Five lines have been consolidated under a new line 9.
 - FRN line 9 renumbered as line 9a.
 - FRN line 10 renumbered as line 9b.
 - FRN line 12 removed from collection.
 - FRN line 13 (Petition to the Director of OED) renumbered as line 9c.
 - FRN line 14 renumbered as line 9d.
 - FRN line 13 (Non-Refundable Application Fee) renumbered as line 9f.
 - FRN line 11 renumbered as line 10.
- Addition of new line 11 to include PTO form 185R; Reasonable Accommodation.
 - This item has 40 respondents per year.
 - The form is estimated to take 4 hour to complete.
 - No fees are associated with this form.
 - Total postage costs are estimated at \$24.40.

Due to errors in the 60-day notice, the following incorrect information has been corrected for this submission:

¹ April 7, 2010 Memorandum from Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, to the Heads of Executive Departments and Agencies, and Independent Regulatory Agencies, titled *Information Collection under the Paperwork Reduction Act*, http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/PRAPrimer_04072010.pdf.

- Information for line 4 (Application for Limited Recognition in USPTO Law School Program for Law Students to Practice before the USPTO)
 - o The number for line 4 should be 300 respondents instead of the published 60.
 - o The hourly rate associated herewith should be \$47.89, not the previously published \$389.
 - o The associated filing fee for line 4 should be \$0, not the published \$0.61.
 - o The higher respondent numbers result in higher postage fees than reported in the 60-day notice. The postage fees for line 4 should total \$183, not the published \$36.60.
- Changes for line 5 (Registration Examination to Become a Registered Practitioner)
 - o The hourly cost of the respondents should be the standard patent lawyer rate of \$389 not \$39.
- Changes for line 9e
 - o The filing fee associated with line FRN14 should be \$0, not \$11,400.00
- Addition of line 9 item (Petition to the Director of the Office of Enrollment and Discipline under 11.12(c).
 - o Added 20 responses into collection and 15 burden hours.

These changes required re-calculations throughout the collections including all of the total burden estimates. The following totals were adjusted as follows:

- The total hourly burden should be 34,933, instead of the 34,530 published in the Federal Register.
- The total postage costs should be \$4,171.80, not the published total of \$4,001.
- The total annual non-hourly cost burden is correctly calculated as 1,372,761, not the published amount of 1,538,386.14.

Changes in Respondent Cost Burden

When this collection was approved by OMB in May 2010, the estimated hourly rate for attorneys was \$325. Using that rate, the reported burden hours yielded a respondent cost burden of \$23,010,260. At the time of last approval, the postage rate was \$0.44. Using that rate, the reported cost burden yielded a respondent cost burden of \$1,304,774.

For this renewal, the USPTO is using the current professional hourly rate of \$389. At this rate, the reported burden hours yield a respondent cost burden of \$13,408,623, which is a decrease of \$9,601,637.00. The current standard postage rate is \$0.49. At this rate, the reported burden hours yield a respondent cost burden of \$1,374,761, which is a decrease of \$69,987. These decreases in respondent cost burden are due to several forms and fees, listed in table 7 and 8, being removed from this collection, which is a program change. There has been an increase in the estimated hourly professional rate, and an increase in postage rates.

Changes in Responses and Burden Hours

With this renewal, a total of 63,154 burden hours have been deducted from the currently approved burden hour total. Program changes resulted in a decrease of the total number of burden hours from 98,088 to 34,934 per year. The decrease in burden hours is due to several forms and fees, listed in tables 7 and 8, being removed from this collection. There has been an increase of 390 responses for the Application for Limited Recognition in USPTO Law School Program for Law Students to Practice before the United States Patent and Trademark Office from 60 to 450 responses per year.

The information for the items listed are being removed from the collection and therefore, the estimate of the burden hours in this submission differs from the currently approved information collection:

Table 7: Burden Hour Items Being Removed From The Collection

| Item | Burden (hrs/yr) (c) (a) x (b) |
|--|-------------------------------|
| Petition for reinstatement after disciplinary removal under 37 CFR 11.60 | 160 |
| Annual Practitioner Maintenance Fee Form PTO-2126 | 5,525 |
| Annual Fee, Limited Recognition Form PTO-2126 | 34 |
| Voluntary Inactive Status Form PTO-2126 | 340 |

| | |
|---|----------------|
| Request for Restoration to Active Status from Voluntary Inactive Status Form PTO-2126 | 119 |
| Balance of Annual Fee Due on Restoration to Active Status from Voluntary Inactive Status Form PTO-2126 | 119 |
| Delinquency Fee for Annual Fee Form PTO-2126 | 357 |
| Reinstatement Fee (fee required to be paid after the due date of the required annual fee) Form PTO-2126 | 71 |
| Sponsor Application for USPTO Continuing Legal Education (CLE) Form PTO-2149 | 350 |
| Certification of Attendance at USPTO-approved CLE Training Form PTO-2150 | 350 |
| Practitioner request for paper version of CLE | 8 |
| On-Line version of the seminar CLE | 56,000 |
| Paper version of the CLE | 200 |
| Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | 40 |
| Total | 63, 673 |

As a result of program changes, 63,499 burden hours have been deleted from this collection. The decrease in burden hours is due to several forms and fees categories being removed from this collection.

Changes in Annual (non-hour) Costs

For this renewal, the USPTO estimates that the total annual non-hour costs will be \$1,374,761 instead of the \$5,710,143 currently on the OMB inventory. The decrease is primarily due to no longer collecting certain fees listed in table 8 below. There has been an increase in the filing fee charges of \$64 to \$389/hr and a \$0.05 increase in postage fees to \$0.49.

Table 8: Fees Being Removed From The Collection

| Item | Responses (a) | Total Non-Hour Cost Burden (a) x (b) (c) |
|---|------------------|---|
| Petition for reinstatement after disciplinary removal under 11.60 | 4 | \$6,400.00 |
| Annual Practitioner Maintenance Fee | 32,500 | \$3,835,000.00 |
| Annual Fee, Limited Recognition | 200 | \$23,600.00 |

| | | |
|---|---------------|-----------------------|
| Voluntary Inactive Status | 2,000 | \$50,000.00 |
| Request for restoration to active from voluntary inactive status | 700 | \$35,000.00 |
| Balance of annual fee due on restoration to active from voluntary inactive status | 700 | \$65,100.00 |
| Delinquency Fee for annual fee (fee paid after the due date and for CLE) | 2,100 | \$105,000.00 |
| Reinstatement Fee (required to be paid after the due date of the required annual fee or CLE) | 420 | \$42,000.00 |
| Sponsor Application for USPTO CLE | 350 | \$21,000.00 |
| Certification of Attendance at USPTO-approved CLE Training | 350 | \$0.00 |
| Practitioner request for paper version of CLE program and furnished narrative | 100 | \$7,500.00 |
| On-line version of the seminar CLE | 28,000 | \$0.00 |
| Paper version of the CLE | 100 | \$0.00 |
| Practitioner's supporting documentation for a motion to hold in abeyance a disciplinary proceeding because of a current disability or addiction | 1 | \$11,440.00 |
| TOTAL | 67,525 | \$4,202,040.00 |

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 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.