

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
United States Patent and Trademark Office
Patent Prosecution Highway (PPH) Program
OMB CONTROL NUMBER 0651-0058
(August 2012)

Background

The United States Patent and Trademark Office (USPTO) is submitting this request to update information collection 0651-0058 Patent Prosecution Highway (PPH) Program. The USPTO is proposing to add two forms to this collection, one for a new participant in the PCT-PPH pilot program and one for a new participant in the PPH pilot program, and to revise an existing form for a participant in the PPH program that is moving from pilot status to full implementation.

The USPTO had discussions with the Israeli Patent Office (ILPO) to launch a PPH pilot program based on Patent Cooperation Treaty (PCT) work products (PCT-PPH pilot program) similar to other PCT-PPH pilot programs. The USPTO and the ILPO agreed that consistency between PCT-PPH pilot programs should be maintained to the extent possible, to avoid creating burdens on applicants and offices, and to ensure maximum work-sharing potential. The USPTO and the ILPO agreed that a PCT-PPH pilot program between the two offices will commence on August 1, 2012, for a period of one year ending on July 31, 2013.

Since July 1, 2011, the USPTO has conducted a PPH pilot program with the ILPO. The USPTO and the ILPO agreed to fully implement the PPH program on a permanent basis starting on July 1, 2012.

The USPTO is also launching a PPH pilot program with the Colombian Superintendence of Industry and Commerce (SIC) on September 1, 2012.

The PPH program allows applicants whose claims are determined to be patentable in the office of first filing to have the corresponding application that is filed in the office of second filing be advanced out of turn for examination. At the same time, the PPH program allows the office of second filing to exploit the search and examination results of the office of first filing, which increases examination efficiency and improves patent quality. The PCT-PPH pilot program is an expansion to the PPH program based on the framework of the PCT. Information collected for the PCT is approved under OMB control number 0651-0021.

PPH agreements streamline the patent system by allowing patent examiners to avail themselves of the work product from other participating patent offices. Originally, the PPH program was limited to the utilization of search and examination results of national applications between cross filings under the Paris Convention. The newer PCT-PPH agreements have greatly expanded the potential of the PPH program by permitting

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participating patent offices to draw upon the positive results of the PCT work product from another participating office. The PCT-PPH pilot program uses international search reports, written opinions, and international preliminary examination reports developed within the framework of the PCT, thereby making the PPH program available to a larger number of applicants.

The forms in this collection allow participants to file a request in a corresponding U.S. application and petition to make the U.S. application special under the PPH or PCT-PPH program. The PPH forms collect similar data; however, there is a unique form for each participant. This collection currently includes forms for the following PPH programs with the USPTO:

- Japan Patent Office (JPO), Form PTO/SB/20JP
- United Kingdom Intellectual Property Office (UKIPO), Form PTO/SB/20UK
- Canadian Intellectual Property Office (CIPO), Form PTO/SB/20CA
- Danish Patent and Trademark Office (DKPTO), Form PTO/SB/20DK
- European Patent Office (EPO), Form PTO/SB/20EP
- Korean Intellectual Property Office (KIPO), Form PTO/SB/20KR
- Intellectual Property Office of Australia (IPAU), Form PTO/SB/20AU
- Intellectual Property Office of Singapore (IPOS), Form PTO/SB/20SG
- German Patent and Trade Mark Office (DPMA), Form PTO/SB/20DE
- National Board of Patents and Registration of Finland (NBPR), Form PTO/SB/20FI
- Russian Patent Office (ROSPATENT), Form PTO/SB/20RU
- Hungarian Patent Office (HPO), Form PTO/SB/20HU
- Spanish Patent and Trademark Office (SPTO), Form PTO/SB/20ES
- Austrian Patent Office (APO), Form PTO/SB/20AT
- Israeli Patent Office and the USPTO, Form PTO/SB/20IL
- Mexican Institute of Industrial Property (IMPI) and the USPTO, Form PTO/SB/20MX
- State Intellectual Property Office of the P.R.C. (SIPO) and the USPTO, Form PTO/SB/20CN
- Instituto Nacional da Propriedade Industrial (INPI) and the USPTO, Form PTO/SB/20BR
- Taiwan Intellectual Property Office (TIPO) and the USPTO, Form PTO/SB/20TW
- Norwegian Industrial Property Office (NIPO) and the USPTO, Form PTO/SB/20NO
- Icelandic Patent Office (IPO) and the USPTO, Form PTO/SB/20IS

The USPTO has also implemented the following PCT-PPH pilot programs:

- European Patent Office (EPO), Form PTO/SB/20PCT-EP
- Japan Patent Office (JPO), Form PTO/SB/20PCT-JP
- Korean Intellectual Property Office (KIPO), Form PTO/SB/20PCT-KR
- Austrian Patent Office (APO), Form PTO/SB/20PCT-AT
- Russian Patent Office (ROSPATENT), Form PTO/SB/20PCT-RU
- Spanish Patent and Trademark Office (SPTO), Form PTO/SB/20PCT-ES
- Intellectual Property Office of Australia (IPAU), Form PTO/SB/20PCT-AU

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- National Board of Patents and Registration of Finland (NBPR), Form PTO/SB/20PCT-FI
- Canadian Intellectual Property Office (CIPO), Form PTO/SB/20PCT-CA
- Swedish Patent and Registration Office (PRV), Form PTO/SB/20PCT-SE
- Nordic Patent Institute (NPI), Form PTO/SB/20PCT-NPI
- State Intellectual Property Office of the P.R.C. (SIPO), Form PTO/SB/20PCT-CN
- U.S. Applications Where the USPTO was the ISA or IPEA, Form PTO/SB/20PCT-US

Summary of Changes

The USPTO is proposing to add two forms to this collection for new participants in the PCT-PPH and PPH pilot programs:

- Request for Participation in the PCT-PPH Pilot Program Between the Israeli Patent Office (ILPO) and the USPTO (PTO/SB/20PCT-IL)
- Request for Participation in the PPH Pilot Program Between the Colombian Superintendence of Industry and Commerce (SIC) and the USPTO (PTO/SB/20CO)

The USPTO is also revising the existing form, Request for Participation in the PPH Pilot Program Between the Israeli Patent Office and the USPTO (PTO/SB/20IL), to reflect the change in status from pilot program to full implementation.

The forms will be available on the PPH area of the USPTO Web site, http://www.uspto.gov/patents/init_events/pph/index.jsp, when the respective programs launch.

Changes in Burden

The addition of the two forms will result in the following burden changes for this information collection:

Burden Type	Currently approved	Proposed change	New estimates
Responses	3,900	200	4,100
Hours	7,800	400	8,200
Annual (non-hour) costs	\$0	\$0	\$0

The USPTO estimates that it will receive 100 responses per year each for the PCT-PPH ILPO pilot program and the PPH SIC pilot program, and that it will take the public approximately 2 hours to prepare and submit the information for each request, for a total of 400 burden hours per year. **Therefore, this collection takes an increase of 200 responses and 400 burden hours as a program change.**

There are no changes in burden associated with the revision of the PPH Israel form.

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This collection does not include any annual (non-hour) costs, and there are no annual (non-hour) costs associated with the proposed changes to this collection.

The USPTO estimates that the proposed changes for this collection will result in the following total burden changes:

- Increase of 200 responses as a program change
- Increase of 400 burden hours as a program change
- No change in annual (non-hour) costs

Therefore, this collection would have the following revised total burden:

- 4,100 responses
- 8,200 hours
- \$0 in annual (non-hour) costs