

SUPPORTING STATEMENT
United States Patent and Trademark Office
Trademark Petitions
OMB CONTROL NUMBER 0651-0061
June 2015

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.

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

Table 1: Information Requirements for Trademark Petitions

IC Number	Requirement	Statute	Rule
1	Letter of Protest	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
2	Request to Make Special	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
3	Response to Petition to Director Inquiry Letter	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
4	Petition to Make Special	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
5	Request to Restore Filing Date	15 U.S.C. §§ 1051 and 1123	37 CFR 2.146
6	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 in this collection can be submitted in paper format or electronically through the Trademark Electronic Application System (TEAS).

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 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

IC Number	Form and Function	Form #	Needs and Uses
1	Letter of Protest (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to electronically submit an objection to the registration of a pending application. Used by the USPTO to decide whether the letter of protest should be accepted.
1	Letter of Protest (Paper)	None	<ul style="list-style-type: none"> Used by the public to submit an objection to the registration of a pending application. Used by the USPTO to decide whether the letter of protest should be accepted.

2	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.
2	Request to Make Special (Paper)	None	<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.
3	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 needs to complete the review of the petition.
3	Response to Petition to Director Inquiry Letter (Paper)	None	<ul style="list-style-type: none"> Used by the public to respond 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 needs to complete the review of the petition.
4	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.
4	Petition to Make Special (Paper)	None	<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.
5	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.
5	Request to Restore Filing Date (Paper)	None	<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.
6	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.
6	Request for Reinstatement (Paper)	None	<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 currently offers four IT systems in support of this collection that are accessible through the online Trademark Electronic Business Center (TEBC). The TEBC provides descriptions of the systems, and the systems feature online “help” programs. Thus, the USPTO offers the public a single source for a variety of IT systems useful both for making submissions to the USPTO and for tracking the status of these submissions.

The USPTO provides online electronic forms through a web-accessible electronic application system (i.e., 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. TEAS improves the efficiency of the application process by providing users with less burdensome alternatives to paper application forms and also reduces the processing time for the applications.

In addition, the TEAS Global Forms are an interim workaround as the USPTO develops TEAS forms for items that are currently collected only in paper. A TEAS Global Form allows the user to attach a .jpg or .pdf image file that contains the complete text for the actual filing. This method allows for electronic filing of documents for which there is not currently a TEAS form with dedicated data fields.

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.

The USPTO maintains an online image database, called the Trademark Status and Document Retrieval (TSDR) system, which includes images of each of the documents that make up the “electronic file wrapper” of a trademark application or registration, and also provides users with information regarding the status of trademark applications and registrations. The data in the TSDR system is updated daily.

The USPTO provides a web-based record of registered marks, and marks for which applications for registration have been submitted, called the Trademark Electronic Search System (TESS). 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 the user to choose from four different search tools, is updated daily, and is easy to use.

The Trademark Reporting and Monitoring (TRAM) system is also maintained by the USPTO. This system is an internal USPTO database only and provides support to all facets of Trademark operations, from the receipt of a new application in the USPTO, through processing and examination of the application, and into the post-registration activities required to maintain registered trademarks. Bibliographic data in TRAM for pending applications and active registrations is updated in real time. The TRAM system maintains current location and status information on applications and registrations, enabling the USPTO to promptly determine the status of any file and to locate files. Data is received in an electronic format that permits expedited transfer to TRAM, thereby reducing processing steps and improving the reliability and quality of the data that is transferred.

4. Efforts to Identify Duplication

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

Since registration of a trademark/service mark is a voluntary activity on the part of the public, the USPTO has not collected data to determine if the collection of information impacts small businesses or other small entities.

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 March 20, 2015 (80 Fed Reg. 14968). The public comment period ended on May 19, 2015. No public comments were received.

In addition, several large and well-organized bar associations frequently communicate their views to the USPTO, as does the Trademark Public Advisory Committee (TPAC). TPAC 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. The TPAC 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 the TPAC 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.

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.

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 2,988 responses per year for this collection, with 2,447—or 82 percent—filed electronically. Estimates are based upon the USPTO's 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 approximately 35 minutes (0.58 hours) to 75 minutes (1.25 hours) 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 expects that the information in this collection will be prepared by attorneys. The USPTO uses a professional rate of \$389 per hour for respondent rate cost burden calculations, which is the mean rate for attorneys in private firms as shown in the *2013 AIPLA Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA).

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

IC Number	Information Collection Instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (c) x (d) = (e)
1	Letter of Protest (TEAS Global)	1.0	1,692	1,692.00	\$389.00	\$658,188.00

IC Number	Information Collection Instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (c) x (d) = (e)
1	Letter of Protest (Paper)	1.25	423	528.75	\$389.00	\$205,683.75
		0.58	90	52.50	\$389.00	\$20,422.50
2	Request to Make Special (Paper)	0.75	10	7.50	\$389.00	\$2,917.50
3	Response to Petition to Director Inquiry Letter (TEAS Global)	0.58	200	116.67	\$389.00	\$45,383.33
3	Response to Petition to Director Inquiry Letter (Paper)	0.75	35	26.25	\$389.00	\$10,211.25
4	Petition to Make Special (TEAS Global)	0.58	202	117.83	\$389.00	\$45,837.17
4	Petition to Make Special (Paper)	0.75	22	16.50	\$389.00	\$6,418.50
5	Request to Restore Filing Date (TEAS Global)	0.58	1	0.58	\$389.00	\$226.92
5	Request to Restore Filing Date (paper)	0.75	5	3.75	\$389.00	\$1,458.75
6	Request for Reinstatement (TEAS Global)	0.58	262	152.83	\$389.00	\$59,452.17
6	Request for Reinstatement (paper)	0.75	46	34.50	\$389.00	\$13,420.50
Total	.....	.....	2,988	2,749.67	.....	\$1,069,620.33

13. Total Annual (Non-hour) Cost Burden

The total (non-hour) respondent cost burden for this collection is estimated to be \$22,660.19 per year, which includes \$22,400 in fees and \$260.19 in postage.

Fees

The only item in this collection with a filing fee is the Petition to Make Special, with a total estimated cost of \$22,400 per year.

Table 4: Filing Fees – Non-hour Cost Burden for Information Requirements in This Collection

IC Number	Information Collection Instrument	Responses (yr) (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
4	Petition to Make Special (TEAS Global)	202	\$100.00	\$20,200.00
4	Petition to Make Special (Paper)	22	\$100.00	\$2,200.00
Total	.....	224	.....	\$22,400.00

Postage Costs

Customers may incur postage costs when submitting the Information Collection instruments covered by this collection to the USPTO by mail. The USPTO expects that approximately 82 percent of the responses in this collection will be submitted electronically. Of the remaining 18 percent, the vast majority—approximately 98 percent—will be submitted by mail, for a total of 531 mailed submissions. The average first class USPS postage cost for a mailed submission will be 49 cents. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will total \$260.19.

Table 5: Postage Cost to Respondents for Trademark Petitions

IC Number	Information Collection Instrument	Responses (yr) (a)	Postage Costs (b)	Total Cost (yr) (a) x (b) = (c)
1	Letter of Protest	415	\$0.49	\$203.35
2	Request to Make Special	10	\$0.49	\$4.90
3	Response to Petition to Director Inquiry Letter	34	\$0.49	\$16.66
4	Petition to Make Special	22	\$0.49	\$10.78
5	Request to Restore Filing Date	5	\$0.49	\$2.45
6	Request for Reinstatement	45	\$0.49	\$22.05
	TOTAL	531	- - - -	\$260.19

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs (\$260.19) and filing fees (\$22,400.00), is \$22,660.19 per year.

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 \$68.56. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour is \$89.13 (\$68.56 + \$20.57).

The USPTO estimates that it takes a GS-11, step 8, 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 8 is currently \$37.66. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour is \$48.96 (\$37.66 + \$11.30).

The USPTO estimates that it takes a GS-11, step 8, 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 8 is currently \$37.66. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour is \$48.96 (\$37.66 + \$11.30).

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 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 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	1,692	846.00	\$89.13	\$75,403.98
Letter of Protest (Paper)	0.67	423	282.00	\$89.13	\$25,134.66
Request to Make Special (TEAS Global)	0.50	90	45.00	\$48.96	\$2,203.20
Request to Make Special (Paper)	0.67	10	6.67	\$48.96	\$326.40
Response to Petition to Director Inquiry Letter (TEAS Global)	0.50	200	100	\$89.13	\$8,913.00
Response to Petition to Director Inquiry Letter (Paper)	0.67	35	23.33	\$89.13	\$2,079.70
Petition to Make Special (TEAS Global)	0.33	202	67.33	\$48.96	\$3,296.64
Petition to Make Special (Paper)	0.50	22	11	\$48.96	\$538.56
Request to Restore Filing Date (TEAS Global)	0.33	1	0.33	\$48.96	\$16.32
Request to Restore Filing Date (Paper)	0.50	5	2.50	\$48.96	\$122.40

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 Reinstatement (TEAS Global)	0.50	262	131	\$48.96	\$6,413.76
Request for Reinstatement (Paper)	0.67	46	30.67	\$48.96	\$1,501.44
Total	- - - - -	0	0	- - - - -	\$125,950.06

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 2012 with 2,135 responses and 1,689 burden hours, and \$15,551 in annual (non-hour) costs. There have been no interim approvals.

For this renewal, the USPTO estimates that the total annual responses will be 2,988 and the total annual burden hours will be 2,749.67. This increase of 853 responses and 1,060.67 burden hours is due to administrative adjustments.

The currently approved annual (non-hour) cost burden for this collection is \$15,551. For this renewal, the USPTO estimates that the total annual (non-hour) costs will be \$22,660.19. This increase of \$7,109.19 is due to both an increase in the number of responses—both overall and specifically in the IC lines to which filing fees are applied—as well as adjustments in postage rates applicable to mailed submissions.

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

There has been no change to the burden estimates since the publication of the 60-Day Federal Register Notice.

Changes in Respondent Cost Burden

The total respondent cost burden for this collection has increased by \$443,001.33, from \$626,619 to \$1,069,620.33, from the previous renewal of this collection in September 2012, due to:

- **Increase of \$18 in estimated hourly rate.** The 2012 renewal used an estimated rate of \$371 per hour for attorneys to prepare the information in this collection. For the current renewal, the USPTO is using the updated rate of \$389 per hour for attorneys.
- **Increase of 853 responses.** The 2012 renewal of this collection estimated that the information collection items in this collection would receive 2,135 responses. For this renewal, the USPTO has increased the number of respondents estimated to respond to items in this collection to 2,988, for an increase of 853 responses.

- **Increase of 8 minutes in average response time.** In 2012, the average response time estimated for the items in this collection totaled approximately 47 minutes. In this renewal, that average time has increased by 8 minutes to a total of 55 minutes.

Changes in Annual (Non-Hour) Costs

For this renewal, the USPTO estimates that the annual (non-hour) costs will increase by \$7,109.19, from \$15,551 to \$22,660.19, due to the following administrative adjustments:

Administrative Adjustments:

- **Decrease of \$290.81 in postage costs.** This collection is currently approved with a total of \$551.00 in postage costs for the items submitted by mail. First-class postage has increased slightly since 2012—from \$0.45 to \$0.49—but a decrease of 692 mailed responses from the previous renewal to this renewal led to a decrease of \$290.81 in postage costs. The estimated postage cost submitted in this renewal is \$260.19.
- **Increase of \$7,400 in filing fees.** This collection has only one item with a filing fee: the Petition to Make Special, which carries a \$100 fee per submission. In 2012, 150 responses were estimated to be received, for a total of \$15,000 in filing fees. For this renewal, the USPTO has increased that estimate to 224 responses, which led to a corresponding estimate of \$22,400 in filing fees.

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.