**JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE**

**Madrid Protocol**

**OMB Control Number 0651-0051**

Background

This collection of information is required by the Trademark Act of 1946, 15 U.S.C. § 1051 et seq., which provides for the Federal registration of trademarks, service marks, collective trademarks and 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 the marks with the United States Patent and Trademark Office (USPTO). Both the register and the information provided in pending applications for registration can be accessed by the public in order to determine the availability of a mark and lessen the likelihood of initiating the use of a mark previously adopted by another.

The request is to update the fees attached to this collection that are affected by the rulemaking NPRM 0651-AD08. Respondent numbers are also changing due to agency discretion in conjunction with the rule.

Four fees (Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period (Paper), Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period (Electronic), Application Fee Filed at WIPO, and Subsequent Designation Fee Filed at WIPO), are also being added to the collection that were not previously counted. The forms for the Application Fee and Subsequent Designation Fee are available on the WIPO website listed under form titles MM2 and MM4, respectively, <http://www.wipo.int/madrid/en/forms/>.

**Respondents**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Currently Approved Respondents** | **Proposed Respondents** | **Respondent Increase** |
| Certifying an International Application Based on a Single Application or Registration, Filed on Paper, per Class | 33  (Currently filed under same IC line) | 15 | -2 |
| Certifying an International Application Based on More Than One Basic Application or Registration Filed on Paper, per Class | 1 | -15 |
| Transmitting a Request to Record an Assignment or Restriction, or Release of a Restriction, under §7.23 or §7.24 Filed on Paper | 5 | 1 | -4 |
| Filing a Notice of Replacement under §7.28 on Paper, per Class | 1 | 1 | --- |
| Transmitting a Subsequent Designation under §7.21, Filed on Paper | 2 | 3 | 1 |
| Filing an Affidavit Under §71 of the Act on Paper, per Class | 10 | 31 | 21 |
| Filing an Affidavit Under §71 of the Act through TEAS, per Class | 3,411 | 4,316 | 905 |
| Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class, Paper | - | 1 | 1 |
| Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class, Electronic | - | 779 | 779 |
| Application Fee Filed at WIPO | - | 26,152 | 26,152 |
| Subsequent Designation Fee Filed at WIPO | - | 1,968 | 1,968 |
| **Totals** | --- | --- | **29,806** |

**Burden Hours**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Currently Approved Hours** | **Proposed Hours** | **Hour Increase** |
| Certifying an International Application Based on a Single Application or Registration, Filed on Paper, per Class | 17.60  (Currently filed under same IC line) | 8 | -1.07 |
| Certifying an International Application Based on More Than One Basic Application or Registration Filed on Paper, per Class | 0.53 | -8.00 |
| Transmitting a Request to Record an Assignment or Restriction, or Release of a Restriction, under §7.23 or §7.24 Filed on Paper | 2.50 | 0.5 | -2.00 |
| Filing a Notice of Replacement under §7.28 on Paper, per Class | 0.75 | 0.75 | - |
| Transmitting a Subsequent Designation under §7.21, Filed on Paper | 0.73 | 1.10 | 0.37 |
| Filing an Affidavit Under §71 of the Act on Paper, per Class | 3.83 | 11.88 | 8.05 |
| Filing an Affidavit Under §71 of the Act through TEAS, per Class | 1,023.30 | 1,294.80 | 271.50 |
| Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class, Paper | - | - | - |
| Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class, Electronic | - | - | - |
| Application Fee Filed at WIPO | - | - | - |
| Subsequent Designation Fee Filed at WIPO | - | - | - |
| **Totals** | --- | --- | **268.85** |

**Fees**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Currently Approved Fee** | **Proposed Fee** | **Fee Increase** |
| Certifying an International Application Based on a Single Application or Registration, Filed on Paper, per Class | $100 | $200 | $100 |
| Certifying an International Application Based on More Than One Basic Application or Registration Filed on Paper, per Class | $150 | $250 | $100 |
| Transmitting a Request to Record an Assignment or Restriction, or Release of a Restriction, under §7.23 or §7.24 Filed on Paper | $100 | $200 | $100 |
| Filing a Notice of Replacement under §7.28 on Paper, per Class | $100 | $200 | $100 |
| Transmitting a Subsequent Designation under §7.21, Filed on Paper | $100 | $200 | $100 |
| Filing an Affidavit Under §71 of the Act on Paper, per Class | $100 | $250 | $150 |
| Filing an Affidavit Under §71 of the Act through TEAS, per Class | $100 | $150 | $50 |

The four fees being added to this collection are listed below:

|  |  |
| --- | --- |
| **Item** | **Fee** |
| Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class, Paper | $200 |
| Electronic Filing- Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class | $100 |
| Application Fee Filed at WIPO | $400 |
| Subsequent Designation Fee Filed at WIPO | $400 |

**Non-Hourly Cost Total Increases**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Currently Approved Estimate** | **Proposed Estimate** | **Fee Increases** |
| Certifying an International Application Based on a Single Application or Registration, Filed on Paper, per Class | $1,700 | $3,000 | $1,300 |
| Certifying an International Application Based on More Than One Basic Application or Registration Filed on Paper, per Class | $2,400 | $250 | -$2,150 |
| Transmitting a Request to Record an Assignment or Restriction, or Release of a Restriction, under §7.23 or §7.24 Filed on Paper | $500 | $200 | -$300 |
| Filing a Notice of Replacement under §7.28 on Paper, per Class | $100 | $200 | $100 |
| Transmitting a Subsequent Designation under §7.21, Filed on Paper | $200 | $600 | $400 |
| Filing an Affidavit Under §71 of the Act on Paper, per Class | $1,000 | $7,750 | $6,750 |
| Filing an Affidavit Under §71 of the Act through TEAS, per Class | $341,100 | $647,400 | $306,300 |
| Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class, Paper | - | $200 | $200 |
| Electronic Filing- Surcharge for Filing Affidavit Under §71 of the Act During the Grace Period, Per Class | - | $77,900 | $77,900 |
| Application Fee Filed at WIPO | - | $10,460,800 | $10,460,800 |
| Subsequent Designation Fee Filed at WIPO | - | $787,200 | $787,200 |
| **Totals** | **-** | **-** | **$11,638,500** |

Summary of Changes

The addition of 29,806 responses, 268.85 burden hours, four fees, and $11,638,500 in fee totals to collection 0651-0051 is to account for the changes following the addition of two fees not previously counted and the rulemaking action NPRM 0651-AD08.

Changes in Burden

|  |  |  |  |
| --- | --- | --- | --- |
| **Burden Type** | **Currently Approved** | **Proposed Change** | **New Estimate** |
| Respondents | 16,557 | 29,806 | 46,363 |
| Burden Hours | 4,918.45 | 268.85 | 5,187.30 |
| Non-hour costs | $2,175,480.36 | $11,638,500 | $13,813,980.36 |

The 0651-0051 revised total burden is as follows:

* 46,363 respondents
* 5,187.30 burden hours
* $13,813,980.36 in annual (non-hour) fees