

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Post Registration (Trademark Processing)
OMB Control Number 0651-0055

Background

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 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 their marks with the USPTO.

The request is to update the fees attached to this collection that are affected by the rulemaking NPRM 0651-AD08, and also to incorporate fees were not counted in previous approvals. Respondent numbers are also changing due to agency discretion in conjunction with the rule. There are 26 fees being added to this collection that were not previously counted.

The incorporation of these fees will affect the number of respondents for certain items, resulting in an increase in hourly burden and cost. These changes reflect the general shift and agency incentives towards electronic filing, and away from paper filing. The change in respondents and hourly burden are listed in Tables 1, 2, and 3 below.

Table 1: Hourly Burden Respondent Increase

IC No.	Item	Current annual responses	Proposed Annual Responses	Increase in Responses
1	Declaration of Use of Mark in Commerce Under Section 8 (TEAS)	16,456	18,697	2,241
1	Declaration of Use of Mark in Commerce Under Section 8 (Paper)	336	79	-257
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS)	75,902	89,775	13,873
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (Paper)	1,549	378	-1,171
3	Declaration of Incontestability of a Mark Under Section 15 (TEAS)	823	1,529	706
3	Declaration of Incontestability of a Mark Under Section 15 (paper)	17	8	-9

4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS)	65,825	78,530	12,705
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (Paper)	1,343	331	-1,012
	Total			27,076

Table 2: Burden Hour Increase

IC No.	Item	Current annual burden hours	Proposed Annual Burden Hours	Burden Hours Increase
1	Declaration of Use of Mark in Commerce Under Section 8 (TEAS)	3,291.20	3,739.40	448.20
1	Declaration of Use of Mark in Commerce Under Section 8 (Paper)	112.00	26.33	-85.67
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS)	16,445.43	19,451.25	3,005.82
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (Paper)	516.33	126.00	-390.33
3	Declaration of Incontestability of a Mark Under Section 15 (TEAS)	68.58	127.42	58.84
3	Declaration of Incontestability of a Mark Under Section 15 (paper)	2.83	1.33	-1.50
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS)	13,165.00	15,706.00	2,541.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (Paper)	447.67	110.33	-337.34
	Total			5,239.02

Table 3: Respondent Cost Increase

IC No.	Item	Current Total Cost (\$)	Proposed Cost Total	Cost Total Increase
1	Declaration of Use of Mark in Commerce Under Section 8 (TEAS)	\$1,280,276.80	\$1,454,626.60	\$174,349.80

1	Declaration of Use of Mark in Commerce Under Section 8 (Paper)	\$43,568.00	\$10,242.37	-\$33,325.63
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS)	\$6,397,273.57	\$7,566,536.25	\$1,169,262.68
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (Paper)	\$200,853.67	\$49,014.00	-\$151,839.67
3	Declaration of Incontestability of a Mark Under Section 15 (TEAS)	\$26,678.92	\$49,566.38	\$22,887.46
3	Declaration of Incontestability of a Mark Under Section 15 (paper)	\$1,102.17	\$517.37	-\$584.80
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS)	\$5,121,185.00	\$6,109,634.00	\$988,449.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (Paper)	\$174,142.33	\$42,918.37	-\$131,223.96
	Total	---	---	\$2,037,974.88

The Fee Rule respondent estimates will also impact the number of non-hourly cost for some existing fees, which are listed in Table 4.

Table 4: Non-hourly cost increase for existing fees

IC No.	Item	Current Total Cost (\$)	Proposed Cost Total	Cost Total Increase
1	Declaration of Use of Mark in Commerce Under Section 8 (TEAS)	\$1,645,600.00	\$1,869,700.00	\$224,100.00
1	Declaration of Use of Mark in Commerce Under Section 8 (Paper)	\$33,600.00	\$7,900.00	-\$25,700.00
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS)	\$30,360,800.00	\$35,910,000.00	\$5,549,200.00
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (Paper)	\$774,500.00	\$189,000.00	-\$585,500.00

3	Declaration of Incontestability of a Mark Under Section 15 (TEAS)	\$164,600.00	\$305,800.00	\$141,200.00
3	Declaration of Incontestability of a Mark Under Section 15 (paper)	\$3,400.00	\$1,600.00	-\$1,800.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS)	\$19,747,500.00	\$23,559,000.00	\$3,811,500.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (Paper)	\$402,900.00	\$99,300.00	-\$303,600.00
	Total	---	---	\$8,809,400.00

The proposed 26 fees, along with their corresponding estimated responses and non-hourly burden are listed in the table below.

Table 5: Non-hour Burden for Proposed Fees

Item	Proposed Respondents	Proposed Fee	Proposed Non-hour burden (\$)
Application for Renewal (Electronic)	78,371	\$300	\$23,511,300
Application for Renewal (Paper)	538	\$500	\$269,000
Correcting a Deficiency in a Renewal Application (Electronic)	97	\$100	\$9,700
Correcting a Deficiency in a Renewal Application (Paper)	3	\$200	\$600
Filing Section 8 Affidavit (Electronic)	169,282	\$150	\$25,392,300
Filing Section 8 Affidavit (Paper)	787	\$250	\$196,750
Additional Fee for Filing a Section 8 Affidavit During the Grace Period (Electronic)	17,688	\$100	\$1,768,800
Additional Fee for Filing a Section 8 Affidavit During the Grace Period (Paper)	82	\$200	\$16,400
For Correcting a Deficiency in a Section 8 Affidavit (Electronic)	1,128	\$100	\$112,800
For Correcting a Deficiency in a Section 8 Affidavit (Paper)	17	\$200	\$3,400
Filing Section 15 Affidavit (Electronic)	76,453	\$200	\$15,290,600
Filing Section 15 Affidavit (Paper)	357	\$300	\$107,100
Filing to Publish a Mark Under Section 12(C) (Electronic)	1	\$100	\$100
Filing to Publish a Mark Under Section 12(C) (Paper)	1	\$200	\$200

Issuing New Certificate of Registration (Electronic)	2	\$100	\$200
Issuing New Certificate of Registration (Paper)	5	\$200	\$1,000
Certificate of Correction, Registrant's Error (Electronic)	3,820	\$100	\$382,000
Certificate of Correction, Registrant's Error, Paper	4	\$200	\$800
Filing Disclaimer to Registration (Electronic)	1	\$100	\$100
Filing Disclaimer to Registration (Paper)	1	\$200	\$200
Filing Amendment to Registration (Electronic)	67	\$100	\$6,700
Filing Amendment to Registration (Paper)	53	\$200	\$10,600
Correcting a Deficiency in an Affidavit Under Section 71 of the Act (Electronic)	1	\$100	\$100
Correcting a Deficiency in an Affidavit Under Section 71 of the Act (Paper)	1	\$200	\$200
Additional Fee for Filing a Renewal During the Grace Period (Electronic)	7,770	\$100	\$777,000
Additional Fee for Filing a Renewal During the Grace Period (Paper)	1	\$200	\$200
Totals	356,531	---	\$67,858,150

Summary of Changes

The addition of 26 fees, 383,607 in non-hourly and hourly responses, 5,239.02 burden hours, \$2,037,974.88 in the hourly cost burden, and \$131,060,068.33 in non-hourly costs to collection 0651-0055 account for the changes following the rulemaking action NPRM 0651-AD08.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Respondents	185,047	383,607	568,654
Hourly Burden	43,095.72	5,239.02	48,334.73
Hourly Cost Burden	\$16,764,233.78	\$2,037,974.88	\$18,802,208.66
Non-hour costs	\$54,392,518.33	\$76,667,550.00	\$131,060,068.33

The 0651-0055 revised total burden is as follows:

- 568,654 respondents
- 48,334.73 burden hours
- \$18,802,208.66 hourly cost burden
- \$131,060,068.33 in annual (non-hour) costs

