

SUPPORTING STATEMENT
United States Patent and Trademark Office
Applications for Trademark Registration
OMB CONTROL NUMBER 0651-0009
December 2017

A. JUSTIFICATION

1. Necessary 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 Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses who use their marks, or intend to use their marks, in commerce regulable by Congress, may file an application with the USPTO to register their marks. Registered marks remain on the register indefinitely, so long as the owner of the registration files the necessary maintenance documents. The rules implementing the Trademark Act are set forth in 37 CFR Part 2.

The Act and rules mandate that each certificate of registration include the mark, the particular goods and/or services for which the mark is registered, the owner's name, dates of use of the mark in commerce, and certain other information. The USPTO also provides similar information to the public concerning pending applications. Individuals or businesses may determine the availability of a mark by accessing the register through the USPTO's website. Accessing and reviewing the USPTO's publicly available information may reduce the possibility of initiating use of a mark previously registered or adopted by another. Thus, the Federal trademark registration process reduces unnecessary litigation and its associated costs and burdens. The information in this collection is available to the public.

Trademarks can be registered on either the Principal or Supplemental Register. Registrations on the Principal Register confer all of the benefits of registration provided under the Trademark Act. Certain marks that are not eligible for registration on the Principal Register, but are capable of functioning as a trademark, may be registered on the Supplemental Register. Registrations on the Supplemental Register cannot be transferred to the Principal Register, but owners of registrations on the Supplemental Register may apply for registration of their marks on the Principal Register.

Table 1 provides the specific statutes and regulations authorizing the USPTO to collect the information discussed above:

Table 1: Information Requirements

IC #	Requirement	Statute	Rule
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1	Use-Based Trademark/Service Mark Applications, including: <ul style="list-style-type: none"> - Trademark/Service Mark Application - Collective Trademark/Service Mark Application - Collective Membership Mark Application - Certification Mark Application - Supplemental Register Application 	15 U.S.C. §§ 1051-1054, 1061-1063, 1091-1096	37 CFR Part 2, 2.32, 2.34-2.38, 2.41-2.47, 2.51-2.54, 2.56, 2.59, 2.76, 2.80-2.89
2	Intent to Use Trademark/Service Mark Application, including: <ul style="list-style-type: none"> - Trademark/Service Mark Application - Collective Trademark/Service Mark Application - Collective Membership Mark Application - Certification Mark Application - Supplemental Register Application 	15 U.S.C. § 1126	37 CFR Part 2, 2.32, 2.34-2.38, 2.41-2.47, 2.51-2.54, and 2.80-2.87
3	Applications for Registration of Trademark/Service Mark under §44, including: <ul style="list-style-type: none"> - Trademark/Service Mark Application - Collective Trademark/Service Mark Application - Collective Membership Mark Application - Certification Mark Application - Supplemental Register Application 	15 U.S.C. §§ 1051-1054, 1061-1062, 1091, 1094 1095, and 35 U.S.C. § 41 and 44	37 CFR Part 2, 2.22, 2.32, 2.34-2.38, 2.41-2.47, 2.51-2.54, and 2.86

2. Needs and Uses

The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed at the USPTO's website. Additionally, the USPTO provides the information to other entities, including Patent and Trademark Resource Centers (PTRCs). The PTRCs maintain the information for use by the public.

The information in this collection can be submitted in paper format or electronically through TEAS using a regular TEAS application form or a TEAS Plus application form. This collection contains three paper forms and six electronic forms. In addition, TEAS Plus applications are only available for trademark/service mark applications. There are no TEAS Plus application forms available for certification marks, collective marks, collective membership marks, or applications for registration on the Supplemental Register at this time.

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 USPTO information quality guidelines.

Table 2 outlines how this collection of information is used by the public and the USPTO:

Table 2: Needs and Uses

	Form and Function	Form #	Needs and Uses
1	Use-Based Trademark/Service Mark Applications (Paper)	PTO Forms 1478, 1480 - 1482	<ul style="list-style-type: none"> • Used by the public to apply for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks that identify goods and/or services classified in single or multiple classes. • Used by the USPTO to receive and process applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks. • Used by the USPTO to determine whether marks may be registered.
1	Use-Based Trademark/Service Mark Applications (TEAS)	PTO Forms 1478 - 1482	<ul style="list-style-type: none"> • Used by the public to complete and electronically submit applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks that identify goods and/or services classified in single or multiple classes. • Used by the USPTO to receive and process electronically filed applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks. • Used by the USPTO to determine whether marks may be registered.
1	Use-Based Trademark/Service Mark Applications (TEAS RF)	PTO Forms 1478 - 1482	<ul style="list-style-type: none"> • Used by the public to complete and electronically submit applications for registration of trademarks/service marks for a reduced filing fee. • Used by the USPTO to receive and process electronically filed applications for registration of trademarks/service marks. • Used by the USPTO to determine whether marks may be registered.
1	Use-Based Trademark/Service Mark Applications (TEAS Plus)	PTO Form 1478	<ul style="list-style-type: none"> • Used by the public to complete and electronically submit applications for registration of trademarks/service marks for a reduced filing fee. • Used by the USPTO to receive and process electronically filed applications for registration of trademarks/service marks. • Used by the USPTO to determine whether marks may be registered.
2	Intent to Use Trademark/Service Mark Application (Paper)	PTO Forms 1478, 1480 - 1482	<ul style="list-style-type: none"> • Used by the public to apply for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks that identify goods and/or services classified in single or multiple classes. • Used by the USPTO to receive and process applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks. • Used by the USPTO to determine whether marks may be registered.

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2	Intent to Use Trademark/Service Mark Application (TEAS)	PTO Forms 1478 - 1482	<ul style="list-style-type: none"> Used by the public to complete and electronically submit applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks that identify goods and/or services classified in single or multiple classes. Used by the USPTO to receive and process electronically filed applications for registration of trademarks/service marks, collective trademarks/service marks, collective membership marks, and certification marks. Used by the USPTO to determine whether marks may be registered.
2	Intent to Use Trademark/Service Mark Application (TEAS RF)	PTO Forms 1478 - 1482	<ul style="list-style-type: none"> Used by the public to complete and electronically submit applications for registration of trademarks/service marks for a reduced filing fee. Used by the USPTO to receive and process electronically filed applications for registration of trademarks/service marks. Used by the USPTO to determine whether marks may be registered.
2	Intent to Use Trademark/Service Mark Application (TEAS Plus)	PTO Form 1478	<ul style="list-style-type: none"> Used by the public to complete and electronically submit applications for registration of trademarks/service marks for a reduced filing fee. Used by the USPTO to receive and process electronically filed applications for registration of trademarks/service marks. Used by the USPTO to determine whether marks may be registered.
3	Applications for Registration of Trademark/Service Mark under §44 (Paper)	PTO Forms 1478, 1480 - 1482	<ul style="list-style-type: none"> Used by the public to apply for a priority filing date and/or for registration based upon foreign registration of a mark. Used by the USPTO to process applications for registration of a mark based upon earlier-filed foreign applications or a foreign registration Used by the USPTO to determine whether marks may be registered.
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS)	PTO Forms 1478 - 1482	<ul style="list-style-type: none"> Used by the public to complete and electronically submit applications seeking a priority filing date and/or registration based upon foreign registration of a mark. Used by the USPTO to receive and process electronically filed applications for registration of marks based upon earlier filed foreign applications or a foreign registration. Used by the USPTO to determine whether marks may be registered.
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS RF)	PTO Forms 1478 - 1482	<ul style="list-style-type: none"> Used by the public to complete and electronically submit applications seeking a priority filing date and/or registration based upon foreign registration of a mark for a reduced filing fee. Used by the USPTO to receive and process electronically filed applications for registration of marks based upon earlier filed foreign applications or a foreign registration. Used by the USPTO to determine whether marks may be registered.

	Form and Function	Form #	Needs and Uses
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS Plus)	PTO Forms 1478	<ul style="list-style-type: none"> • Used by the public to complete and electronically submit applications seeking a priority filing date and/or registration based upon foreign registration of a mark for a reduced filing fee. • Used by the USPTO to receive and process electronically filed applications for registration of marks based upon earlier filed foreign applications or a foreign registration. • Used by the USPTO to determine whether marks may be registered.

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). Once completed, TEAS forms are transmitted to the USPTO 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 or registration in question, based on responses provided by 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 Global Form allows the user to submit documents electronically by identifying a document type through a drop-down list, entering text in a free-text box, and attaching files in JPG or PDF format. 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.

7. Consequences of Less Frequent 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 September 29th, 2017 (82 Fed. 45579). The comment period ended on November 28th, 2017. No comments were received.

9. Payments or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent.

10. Assurance of Confidentiality

Trademark applications are open to public inspection. Confidentiality is not required in the processing of trademark applications.

11. Justification for Sensitive Questions

None of the required information in this collection is considered to be sensitive.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the 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 437,599 total responses per year for this collection. For this collection, the USPTO does not collect data to determine how many applications are filed by small entities.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public approximately between 23 minutes (0.38 hours) and 35 minutes (0.58 hours) to respond to this information collection, depending on the application form used. This includes the time to gather the information, prepare the application, and submit the complete request to the USPTO. 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 form.

- **Cost Burden Calculation**

The USPTO uses a professional rate of \$438 per hour for respondent cost burden calculations, which is the median rate for intellectual property attorneys in private firms as shown in the 2017 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA).

Table 3: Burden Hour/Burden Cost to Respondents

IC #	Item	Estimated Time for Responses (Hours) (a)	Estimated Responses (b)	Estimated Burden Hours (c) (a) x (b)	Rate (d)	Estimated Respondent Cost (e) (c) x (d)
1	Use-Based Trademark/Service Mark Applications (Paper)	0.58 (35 minutes)	58	33.64	\$438.00	\$14,734.32
1	Use-Based Trademark/Service Mark Applications (TEAS)	0.50 (30 minutes)	7,752	3,876.00	\$438.00	\$1,697,688.00

1	Use-Based Trademark/Service Mark Applications (TEAS RF)	0.50 (30 minutes)	94,756	47,378.00	\$438.00	\$20,751,564.00
1	Use-Based Trademark/Service Mark Applications (TEAS Plus)	0.58 (35 minutes)	82,053	47,590.74	\$438.00	\$20,844,744.12
2	Intent to Use Trademark/Service Mark Application (Paper)	0.47 (28 minutes)	70	32.90	\$438.00	\$14,410.20
2	Intent to Use Trademark/Service Mark Application (TEAS)	0.38 (23 minutes)	9,390	3,568.20	\$438.00	\$1,562,871.60
2	Intent to Use Trademark/Service Mark Application (TEAS RF)	0.38 (23 minutes)	114,779	43,616.02	\$438.00	\$19,103,816.76
2	Intent to Use Trademark/Service Mark Application (TEAS Plus)	0.47 (28 minutes)	99,392	46,714.24	\$438.00	\$20,460,837.12
3	Applications for Registration of Trademark/Service Mark under §44 (Paper)	0.50 (30 minutes)	9	4.50	\$438.00	\$1,971.00
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS)	0.40 (24 minutes)	1,232	492.80	\$438.00	\$215,846.40
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS RF)	0.40 (24 minutes)	15,064	6,025.60	\$438.00	\$2,639,212.80
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS Plus)	0.50 (30 minutes)	13,044	6,522.00	\$438.00	\$2,856,636.00

	Totals		437,599	205,854.64	\$90,164,332.32

13. Total Annual (Non-hour) Cost Burden

This collection has non-hourly costs in both fees paid by the public and associated postage costs for mailing items to the USPTO.

Fees

There are both filing fees and processing fees associated with submitting trademark registration applications for a total of \$109,770,586 (\$109,561,086 in filing fees and \$209,500 in processing fees), outlined in Table 4 below.

Table 4: Filing Fees/Processing Fees

IC #	Item	Responses (a)	Filing Fee (b)	Total Fee Cost (c) (a) x (b)
	Filing Fees			
1	Use-Based Trademark/Service Mark Applications (Paper)	58	\$600.00	\$34,800.00
1	Use-Based Trademark/Service Mark Applications (TEAS)	7,752	\$400.00	\$3,100,800.00
1	Use-Based Trademark/Service Mark Applications (TEAS RF)	94,756	\$275.00	\$26,057,900.00
1	Use-Based Trademark/Service Mark Applications (TEAS Plus)	82,053	\$225.00	\$18,461,925.00
2	Intent to Use Trademark/Service Mark Application (Paper)	70	\$600.00	\$42,000.00
2	Intent to Use Trademark/Service Mark Application (TEAS)	9,390	\$400.00	\$375,600.00
2	Intent to Use Trademark/Service Mark Application (TEAS RF)	114,779	\$275.00	\$31,564,225.00
2	Intent to Use Trademark/Service Mark Application (TEAS Plus)	99,392	\$225.00	\$22,363,200.00

3	Applications for Registration of Trademark/Service Mark under §44 (Paper)	9	\$600.00	\$5,400.00
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS)	1,232	\$400.00	\$492,800.00
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS RF)	15,064	\$275.00	\$4,127,536.00
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS Plus)	13,044	\$225.00	\$2,934,900.00
	Totals	437,599		\$109,561,086.00
	Processing Fees			
1	Processing fee for applications that fail to meet the additional filing and processing requirements for the reduced filing fee (TEAS RF)	898	\$125.00	\$112,250.00
1	Processing fee for applications that fail to meet the additional filing and processing requirements for reduced filing fee (TEAS Plus)	778	\$125.00	\$97,250.00
	Totals	1,676		\$209,500.00
	Total Fee Amount			\$109,770,586.00

Postage Costs

The non-electronic items in this collection have associated first-class postage costs when submitted by mail for a total of \$67.13.

Total Non-hour Cost Burden

The total (non-hour) respondent cost burden for this collection is estimated to be \$109,770,653.13 per year, which includes \$109,770,596 in fees (\$108,561,086 in filing fees and \$209,500 in processing fees) and \$67.13 in postage costs.

14. Annual Cost to the Federal Government

The USPTO employs a GS-7, step 9 employee to process submissions for this information collection.

The USPTO estimates that the cost of a GS-7, step 9 employee is \$35.46 per hour (GS hourly rate of \$27.28 with 30% (8.18) added for benefits and overhead). The USPTO also estimates that it takes an employee between 3 minutes (0.05 hours) and 10 minutes (0.17 hours) to process the materials submitted in this collection.

Table 5 calculates the burden hours and costs to the Federal Government for processing this information collection.

Table 5: Burden Hour/Cost to the Federal Government

IC #	Item	Hours (a)	Responses (b)	Burden (a) x (b) (c)	Rate (\$) (d)	Total Cost (c) x (d) (e)
1	Use-Based Trademark/Service Mark Applications (Paper)	0.17 (10 minutes)	58	9.86	\$35.46	\$349.64
1	Use-Based Trademark/Service Mark Applications (TEAS)	0.07 (4 minutes)	7,752	542.64	\$35.46	\$19,242.01
1	Use-Based Trademark/Service Mark Applications (TEAS RF)	0.05 (3 minutes)	94,756	4,737.80	\$35.46	\$168,002.39
1	Use-Based Trademark/Service Mark Applications (TEAS Plus)	0.05 (3 minutes)	82,053	4,102.65	\$35.46	\$145,479.97
2	Intent to Use Trademark/Service Mark Application (Paper)	0.17 (10 minutes)	70	11.90	\$35.46	\$421.97
2	Intent to Use Trademark/Service Mark Application (TEAS)	0.07 (4 minutes)	9,390	657.30	\$35.46	\$23,307.86
2	Intent to Use Trademark/Service Mark Application (TEAS RF)	0.07 (4 minutes)	114,779	8,034.53	\$35.46	\$284,904.43

2	Intent to Use Trademark/Service Mark Application (TEAS Plus)	0.05 (3 minutes)	99,392	4,696.69	\$35.46	\$176,222.02
3	Applications for Registration of Trademark/Service Mark under §44 (Paper)	0.17 (10 minutes)	9	1.53	\$35.46	\$54.25
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS)	0.07 (4 minutes)	1,232	86.24	\$35.46	\$3,058.07
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS RF)	0.07 (4 minutes)	15,064	1,054.48	\$35.46	\$37,391.86
3	Applications for Registration of Trademark/Service Mark under §44 (TEAS Plus)	0.05 (3 minutes)	13,044	652.20	\$35.46	\$23,127.01
	TOTAL	- - - -	437,599	24,860.73	- - - -	\$881,561.49

15. Reason for Change in Burden

A. Changes in Collection since previous OMB approval in 2015

OMB previously approved the renewal of this information collection in February 2015. In October 2016, a change worksheet was approved to reflect modifications made by a rulemaking action. The current collection contains:

- 425,122 responses
- 161,273 burden hours
- \$58,064,863 in respondent hourly cost burden
- \$118,525,744 in annual (non-hour) costs

Changes due to rulemaking activity

In 2016, the fees in this collection were updated as a result of the NPRM 0651-AD08 rulemaking action. A change worksheet was submitted to OMB to update the respondent numbers and annual non-hour costs. The respondent numbers were updated from 387,981 to 425,122 and the annual non-hour cost was updated from \$103,001,414 to \$118,525,744.

B. Changes proposed in this request to OMB

The proposed collection, as outlined in the tables above, seeks to modify the existing collection. The proposed collection contains an estimated:

- 437,599 responses
- 205,854.64 burden hours
- \$90,165,332.32 in respondent hourly cost burden
- \$109,770,653.13 in annual (non-hour) costs

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses will increase by 12,477 (from 425,122 to 437,599) and the total burden hours will increase by 44,581.64 (from 161,273 to 205,854.64) from the currently approved burden for this collection.

Changes in Respondent Cost Burden

The total respondent cost burden for this collection has increased by \$32,100,459.32 (from \$58,064,863 to \$90,165,332.32) from the previous approval of this collection in October 2016:

- **Increase in estimated hourly rates.** The previous renewal used an estimated rate of \$389 per hour for respondents to this collection, which was the estimated attorney rate at the time. For the current renewal, the USPTO is using an updated hourly rate of \$438 for attorneys.
- **Increases in estimates burden hours.** The total estimated burden hours have increased from 161,273 in the 2016 approval to 205,854.64 for the current renewal due to overall increases in the estimated annual responses for this collection.

Changes in Annual (Non-hour) Costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will decrease by \$8,755,090.87 (from \$118,525,744 to \$109,770.653.13). This change is due to administrative adjustments.

16. Project Schedule

The USPTO does not 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 expiration date of OMB approval.

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.