

SUPPORTING STATEMENT
United States Patent and Trademark Office
Trademark Petitions
OMB CONTROL NUMBER 0651-0061
July 2018

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 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 unveiled 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. To support such a request, the applicant must include evidence of the USPTO error.

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

Table 1: Information Requirements

IC Number	Requirement	Statute	Rule
1	Letter of Protest	15 U.S.C. §§ 1051 and 1123	N/A
2	Request to Make Special	15 U.S.C. §§ 1051 and 1123	N/A
3	Response to Petition to Director Inquiry Letter	15 U.S.C. §§ 1051 and 1123	37 CFR 2.66, 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 2.64

2. Needs and Uses

The public uses this information collection for a variety of private business purposes related to establishing and enforcing trademark rights. 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 a filing date, and requests for reinstatement. 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 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

IC Number	Form and Function	Form #	Needs and Uses
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1	Letter of Protest (TEAS Global)	None	<ul style="list-style-type: none"> Used by the public to electronically submit evidence bearing on the registrability of a mark. 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 evidence bearing on the registrability of a mark. 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 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 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 to the Wizard.

The forms filed are received within seconds after transmission, and a confirmation of filing is immediately issued via email 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.

Additionally, 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 registration is updated in real time. The TRAM system maintains status information on applications and registrations, enabling the USPTO to promptly determine the status of any file. 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 a filing date, and requests for reinstatement and the USPTO could not comply with the requirements of the Trademark Act and rules of practice (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 April 17, 2018 (83 CFR 16835). The comment period ended on June 18, 2018. No 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). The 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 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 Factor**

The USPTO estimates that it will receive approximately 4,768 total responses per year for this collection.

The USPTO estimates that approximately 98% of the annual responses for this collection will be submitted electronically via TEAS, which customers may access through the USPTO Web site.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public approximately between 35 minutes (0.58 hours) to 75 minutes (1.25 hours) to complete this information. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

- **Cost Burden Calculation Factors**

The USPTO uses a professional rate of \$438 per hour for respondent cost burden calculations, which is the mean rate of 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 Number	Item	Hours (a)	Estimated Annual Responses (b)	Burden (hrs/yr) (a) x (b) = (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) = (e)
1	Letter of Protest (TEAS Global)	1 (60 minutes)	3,475	3,475.00	\$438.00	\$1,522,050.00
1	Letter of Protest (Paper)	1.25 (75 minutes)	10	12.50	\$438.00	\$5,475.00
2	Request to Make Special (TEAS Global)	0.58 (35 minutes)	150	87.00	\$438.00	\$38,106.00
2	Request to Make Special (Paper)	0.75 (45 minutes)	1	0.75	\$438.00	\$328.50
3	Response to Petition to Director Inquiry Letter (TEAS Global)	0.75 (45 minutes)	274	205.50	\$438.00	\$90,009.00
3	Response to Petition to Director Inquiry Letter (Paper)	1 (60 minutes)	1	1.00	\$438.00	\$438.00
4	Petition to Make Special (TEAS Global)	0.58 (35 minutes)	531	307.98	\$438.00	\$134,895.24
4	Petition to Make Special (Paper)	0.75 (45 minutes)	2	1.50	\$438.00	\$657.00
5	Request to Restore Filing Date (TEAS Global)	0.58 (35 minutes)	5	2.90	\$438.00	\$1,270.20
5	Request to Restore Filing Date (Paper)	0.75 (45 minutes)	1	0.75	\$438.00	\$328.50
6	Request for Reinstatement (TEAS Global)	0.75 (45 minutes)	317	237.75	\$438.00	\$104,134.50
6	Request for Reinstatement (Paper)	1 (60 minutes)	1	1.00	\$438.00	\$438.00
	Total	- - - -	4,768	4,333.63	- - - -	\$1,898,129.94

13. Total Annual (Non-hour) Cost Burden

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

Fees

There is only one fee associated with this information collection, for a total of \$53,500 per year, as outlined in Table 4 below.

Table 4: Filing Fees

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
4	Petition to Make Special (TEAS Global)	531	\$100.00	\$53,100.00
4	Petition to Make Special (Paper)	2	\$200.00	\$400.00
Total	533	\$53,500.00

Postage Costs

The non-electronic items in this collection have associated first-class postage costs when submitted by mail for a total of \$8.

Customers may incur postage costs when submitting materials covered by this collection to the USPTO by mail. The USPTO expects that approximately 98 percent of the responses in this collection will be submitted electronically. Of the remaining 2 percent, the vast majority will be submitted by first-class mail for a total of 16 mailed submissions. The average first-class USPS postage cost for a mailed submission is 49 cents. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will be \$8

Table 5: Postage Costs

IC Number	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
1	Letter of Protest	10	\$0.50	\$5.00
2	Request to Make Special	1	\$0.50	\$0.50
3	Response to Petition to Director Inquiry Letter	1	\$0.50	\$0.50
4	Petition to Make Special	2	\$0.50	\$1.00
5	Request to Restore Filing Date	1	\$0.50	\$0.50
6	Request for Reinstatement	1	\$0.50	\$0.50
	Total	16	\$7.84

Total

The total (non-hour) respondent cost burden for this collection is estimated to be \$53,508 per year, which includes \$53,500 in fees and \$8 in postage costs.

14. Annual Cost to the Federal Government

The USPTO employs GS-11 employees and GS-15 employees to process the materials in this information collection.

The USPTO estimates that the cost of a GS-11, step 9 employee is \$53.68 per hour (\$41.29 with 30% (\$12.39) added for benefits and overhead). The USPTO estimates that the cost of a GS-15, step 5 employee is \$95.16 per hour (\$73.20 with 30% (\$21.96) added for benefits and overhead).

The USPTO estimates that it takes the employees between approximately 30 minutes (0.50 hours) and 45 minutes (0.67 hours) to process the materials submitted as a part of this collection.

Table 6 calculates the burden hours and costs to the Federal Government for processing this information collection:

Table 6: Burden Hour/Burden Cost to the Federal Government

IC Number	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
1	Letter of Protest (TEAS Global)	0.67 (40 minutes)	3,475	2,328.25	\$95.16	\$221,556.27
1	Letter of Protest (Paper)	0.75 (45 minutes)	10	7.50	\$95.16	\$713.70
2	Request to Make Special (TEAS Global)	0.50 (30 minutes)	150	75.00	\$53.68	\$4,026.00
2	Request to Make Special (Paper)	0.67 (40 minutes)	1	0.67	\$53.68	\$35.97
3	Response to Petition to Director Inquiry Letter (TEAS Global)	0.50 (30 minutes)	274	137.00	\$95.16	\$13,036.92
3	Response to Petition to Director Inquiry Letter (Paper)	0.67 (40 minutes)	1	0.67	\$95.16	\$63.76
4	Petition to Make Special (TEAS Global)	0.50 (30 minutes)	531	265.50	\$53.68	\$14,252.04
4	Petition to Make Special (Paper)	0.67 (40 minutes)	2	1.34	\$53.68	\$71.93
5	Request to Restore Filing Date (TEAS Global)	0.50 (30 minutes)	5	2.50	\$53.68	\$134.20
5	Request to Restore Filing Date (Paper)	0.67 (40 minutes)	1	0.67	\$53.68	\$35.97
6	Request for Reinstatement (TEAS Global)	0.67 (40 minutes)	317	212.39	\$53.68	\$11,401.10

6	Request for Reinstatement (Paper)	0.75 (45 minutes)	1	0.75	\$53.68	\$40.26
	Total	- - - -	4,768	3,032.24	- - - -	\$265,368.10

15. Reason for Change in Burden

A. Changes in Collection since previous OMB approval in 2018

OMB previously approved the renewal of this information collection in July 2015. The current collection contains:

- 2,988 responses
- 2,749.67 burden hours
- \$1,069,622.33 in respondent hourly cost burden
- \$22,660.19 in annual (non-hour) costs

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:

- 4,768 responses
- 4,333.63 burden hours
- \$1,898,129.94 in respondent hourly cost burden
- \$53,508 in annual (non-hour) costs

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses will increase by 1,780 (from 2,988 to 4,768) and the total burden hours will increase by 1,583.96 (from 2,749.67 to 4,333.63) from the currently approved burden for this collection.

Changes in Respondent Cost Burden

The total respondent cost burden for this collection has increased by \$828,507.61 (from \$1,069,622.33 to \$1,898,129.94) from the previous renewal in July 2015:

- Increases in estimated hourly rate. The 2015 renewal used an estimated rate of \$389 per hour for respondents to this collection, which is the estimated hourly rates for intellectual property attorneys in private firms. For the current renewal, the USPTO is using an updated hourly rate of \$438 for attorneys.
- Increases in estimated burden hours. The total estimated burden hours have increased from 2,749.67 in the 2015 renewal to 4,333.63 for the current renewal due to overall increases/decreases 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 increase by \$30,847.81(from \$22,660.19 to \$53,508).

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.