# SUPPORTING STATEMENT United States Patent and Trademark Office Recording Assignments OMB CONTROL NUMBER 0651-0027 (2021)

#### A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

This collection of information is required by 35 U.S.C. §§ 261 and 262 for patents and 15 U.S.C. §§ 1057 and 1060 for trademarks and the Leahy Smith America Invents Act, P.L. 112-29 section 4. These statutes authorize the United States Patent and Trademark Office (USPTO) to record patent and trademark assignment documents, including transfers of properties (i.e. patents and trademarks), liens, licenses, assignments of interest, security interests, mergers, and explanations of transactions or other documents that record the transfer of ownership of a particular patent or trademark property from one party to another. Assignments are recorded for patent applications, patents, and trademark registrations.

The USPTO administers these statutes through 37 CFR 2.146, 2.171, 3.11, and 37 CFR Part 3. These regulations permit the public, corporations, other federal agencies, and Government-owned or Government-controlled corporations to submit patent and trademark assignment documents and other documents related to title transfers to the USPTO. In accordance with 37 CFR 3.54, the recording of an assignment document by the USPTO is an administrative action and not a determination of the validity of the document or of the effect that the document has on the title to an application, patent, or trademark.

Once the assignment documents are recorded, they are available for public inspection. The only exceptions are those documents that are sealed under secrecy orders according to 37 CFR 3.58 or related to unpublished patent applications maintained in confidence under 35 U.S.C. § 122 and 37 CFR 1.14. The public uses these records to conduct ownership and chain-of-title searches. The public may view these records either at the USPTO Public Search Facilities or at the National Archives and Records Administration (NARA), depending on the date they were recorded. The public may also search patent and trademark assignment information online through the USPTO website.

In order to file a request to record an assignment, the respondent must submit an appropriate cover sheet along with copies of the assignment documents to be recorded. The USPTO provides two paper forms for this purpose, the Patent Assignment

Recordation Cover Sheet (PTO-1595) and the Trademark Assignment Recordation Cover Sheet (PTO-1594), which capture all of the necessary data for creating various assignment requests.

Customers may also submit assignments online by using the Electronic Patent Assignment System (EPAS) and the Electronic Trademark Assignment System (ETAS), which are available through the USPTO website. These systems allow customers to fill out the required cover sheet information online using Web-based forms and then attach the electronic assignment documents to be submitted for recordation. These forms may also be downloaded in PDF format from the USPTO website.

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

**Table 1: Information Requirements** 

Item No.	Requirement	Statute	Regulations
1	Trademark Assignment System (ETAS) (PTO-1594)	15 U.S.C. §§ 1057 and 1060	37 CFR 3.11, 3.16, 3.25, 3.26, 3.28, 3.31, 3.34, and 3.41; 37 CFR 2.146 and 2.171
2	Patent Assignment System (EPAS) (PTO-1595)	35 U.S.C. §§ 261 and 262	37 CFR 3.11, 3.21, 3.24, 3.26, 3.28, 3.31, 3.34, and 3.41

## 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The public uses this information collection to submit patent and trademark assignment documents recorded by the USPTO. Except for those documents sealed under secrecy orders or related to unpublished patent applications, patent and trademark assignment records may be inspected by the public after they are recorded.

The information collected, maintained and used in this information 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 outlines how this collection of information is used by the public and the USPTO:

Table 2: Needs and Uses

Item No.	Form and Function	Form No.	Needs and Uses
1	Trademark Assignment System (ETAS) (PTO-1594)	PTO-1594	<ul> <li>Used by the public to submit assignment documents indicating the transfer of rights, title, and interest in a trademark property from one party to another for recording by the USPTO.</li> <li>Used by the public to submit corrected cover sheets or documents to the USPTO for recording.</li> <li>Used by the USPTO to process and record marks, assignments, or other associated documents.</li> <li>Used by the USPTO to ensure that all relevant bibliographic data is entered in the files and the searchable public database.</li> </ul>
2	Patent Assignment System (EPAS) (PTO-1595)	PTO-1595	<ul> <li>Used by the public to submit patent assignment documents online through the USPTO website.</li> <li>Used by the public to submit corrected cover sheets or documents to the USPTO for recording.</li> <li>Used by the USPTO to process and record patents, patent assignments, or other associated documents.</li> <li>Used by the USPTO to ensure that all relevant bibliographic data is entered in the files and the searchable public database.</li> </ul>

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of information collection. Also describe any consideration of using information technology to reduce burden.

The forms associated with this information collection, the Patent Assignment Recordation Form (PTO-1595) and the Trademark Assignment Recordation Form (PTO-1594), may be downloaded from the USPTO website as PDF files. These PDFs can be completed electronically and then printed for mailing or faxing to the USPTO. Once received the cover sheets and associated assignment documents are scanned directly into the assignment document workflow system. Fax submission streamlines the processing of paper assignment documents by enabling the USPTO to skip the paper scanning stage and provide the customer with the resulting Notice of Recordation by return fax.

The USPTO also offers electronic filing options for both patent and trademark assignments. EPAS and ETAS are both available to customers on the USPTO website. EPAS and ETAS allow customers to enter the required assignment data, attach the supporting documentation in electronic format, and submit the assignment recordation request online. Payment of filing fees can be made by credit card, USPTO deposit account, or electronic fund transfer (EFT). After the payment transaction is completed, an electronic confirmation receipt is displayed on the screen and emailed to the customer.

After being electronically processed and recorded, the assignment information is fed into the appropriate patent or trademark database system. Information about recorded patent and trademark assignments is disseminated to the public through the USPTO website, where customers may search for the assignment information associated with a specific application, patent, or trademark registration.

### 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collected is required for the USPTO to record an assignment transaction and is not collected elsewhere. However, the information regarding the current owner(s) of the interest (address and type of entity) may already be maintained by the USPTO. However, this information is submitted routinely and could be required to distinguish between entities of the same name. Customers who file electronically using EPAS or ETAS may save this data from an assignment request as a template to be reused in future submissions.

### 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collected is the minimum needed to execute the transaction and to ensure that the recording of the assignment is complete. This collection of information does not impose a significant economic impact or put an unnecessary burden on small entities or small businesses. The same information is required of every applicant and is not available from any other source.

# 6. Describe the consequence to Federal program or policy activities if the information collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

This information is collected only when an applicant submits a patent or trademark assignment document or other associated documents to the USPTO to be recorded. This information collection could not be conducted less frequently. If the collection of information were not conducted, the USPTO could not comply with the requirements of 35 U.S.C. §§ 261 and 262 and 15 U.S.C. §§ 1057 and 1060.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:
  - requiring respondents to report information to the agency more often than quarterly;
  - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
  - requiring respondents to submit more than an original and two copies of any document;
  - requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
  - in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
  - requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
  - that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
  - requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances associated with this collection of information.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of information collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The 60-Day Notice was published in the *Federal Register* on April 16, 2021 (86 FR 20121). The comment period ended on June 15, 2021. No comments were received from the public.

The USPTO has long-standing relationships with groups from whom patent application information is collected, such as the American Intellectual Property Law Association, as well as patent bar associations, independent inventor groups, and users of our public search facilities. Their views are expressed in regularly scheduled meetings and considered in developing proposals for information collection requirements. There have been no comments or concerns expressed by these or similar organizations concerning this collection request.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the information collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The USPTO collects this information under authority of 37 CFR 3.11. The information in this system of records is used to manage patent application serial number, filing date,

title of invention, applicant's or inventor's address and addresses of applicant's duly appointed representatives.

The purposes of the system is to maintain records related to assignments of property rights for patent applications and patents, including the documents submitted to the USPTO for recordation. Categories of individuals covered by the system includes: persons who have given or received property rights under an application for patent or a patent by means of a written instrument recorded in the USPTO, intellectual property owners (deceased or incapacitated), and their legal representatives. Categories of records in the system includes assignments, grants, mortgages, liens, encumbrances, licenses, and other instruments affecting title, letters testamentary, other court certificates and orders.

The information you provide is protected from disclosure to third parties in accordance with the Privacy Act. However, routine uses of this information may include disclosure to the following: to law enforcement and investigation in the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to a Federal, state, local, or international agency, in response to its request, to an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, to non-federal personnel under contract to the agency; to a court for adjudication and litigation; to the Department of Justice for Freedom of Information Act (FOIA) assistance; to members of congress working on behalf of an individual; to the Office of Personnel Management (OPM) for personnel research purposes; to NARA for inspection of records, and to share relevant information contained in this system with the Office of Management and Budget (OMB), which performs legislative coordination and clearance functions. Failure to provide any part of the requested information may result in an inability to process requests for assignment recordal. The applicable Privacy Act System of Records Notice for this information is COMMERCE/PAT-TM-9, Patent Assignment Records: Federal Register / Vol. 78, No. 61 Friday. March 29, 2013 Notices available https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07378.pdf

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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

- 12. Provide estimates of the hour burden of the collection of information. The statement should:
  - Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
  - If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
  - Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.

Tables 3 and 4 calculate 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 649,880 total responses per year for this information collection. The USPTO estimates that approximately 99% of the annual responses for this information collection will be submitted electronically via EPAS or ETAS, which customers may access through the USPTO website.

#### Burden Hour Calculation Factors

The USPTO estimates that it will take the public approximately 30 minutes (0.5 hours) to prepare and submit a patent or trademark recordation request. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 324,941 hours per year.

#### Cost Burden Calculation Factors

The USPTO expects that the information in this information collection will be prepared 50% each by attorneys and paraprofessionals. The rate for attorneys is \$400 and the rate for paraprofessionals is \$145, combining equally to an average of approximately \$273 per hour. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection is \$88,738,893 per year.

**Table 3: Total Hourly Burden For Private Sector Respondents** 

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hour)	Estimated Annual Burden (hours/year)	Rate <sup>1</sup> (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b)= (c)	(d)	(c) x (d)= (e)
	Trademark Assignment System (ETAS) (PTO-1594)	35,984	35,984	0.5 (30 minutes)	17,992	\$273	\$4,911,816
	Patent Assignment System (EPAS) (PTO-1595)	353,945	353,945	0.5 (30 minutes)	176,973	\$273	\$48,313,629
Total		389,929	389,929		194,965		\$53,225,445

Table 4: Total Hourly Burden For Individuals or Households Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hour)	Estimated Annual Burden (hours/year)	Rate <sup>2</sup> (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b)= (c)	(d)	(c) x (d)= (e)
	Trademark Assignment System (ETAS) (PTO-1594)	23,989	23,989	0.5 (30 minutes)	11,995	\$273	\$3,274,635
	Patent Assignment System (EPAS) (PTO-1595)	235,962	235,962	0.5 (30 minutes)	117,981	\$273	\$32,208,813
Total		259,951	259,951		129,976		\$35,483,448

<sup>1 2019</sup> Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour. The hourly rate for paraprofessional/paralegals is estimated at \$145 from data published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA);

https://www.nala.org/paralegals/research-and-survey-findings. The USPTO estimates that the combined rate for respondents will be approximately \$273 per hour.

<sup>2 2019</sup> Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour. The hourly rate for paraprofessional/paralegals is estimated at \$145 from data published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA);

https://www.nala.org/paralegals/research-and-survey-findings. The USPTO estimates that the combined rate for respondents will be approximately \$273 per hour.

- 13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).
  - The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
  - If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
  - Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The total (non-hour) respondent cost burden for this information collection is estimated to be \$3,968,075 per year, which includes \$3,969,795 in fees and \$2,280 in postage.

#### Fees

There are fees associated with submitting patent and trademark assignment documents to be recorded, for a total of \$3,965,795 per year as outlined in Table 5 below.

The filing fee for submitting a patent assignment as indicated by 37 CFR 1.21(h) is \$50 per property for recording each document, while the filing fee for submitting a trademark assignment as indicated by 37 CFR 2.6(b)(6) is \$40 for recording the first property in a document and \$25 for each additional property in the same document. The USPTO estimates that the average fee for a patent assignment recordation request is approximately \$50 and that the average fee for a trademark assignment recordation request is approximately \$65.

**Table 5: Filing Fees** 

Item No.	Item	Estimated Annual Responses (a)	Estimated Cost	Estimated Non-Hour Cost Burden (a) x (b) = (c)
1	Patent Assignment Recordation Cover Sheet (PTO-1595)	1,351	\$50	\$67,550
2	Trademark Assignment Recordation Cover Sheet (PTO-1594)	1,050	\$65	\$68,250
4	Electronic Trademark Assignment System (ETAS) (PTO-1594)	58,923	\$65	\$3,829,995
	Total			\$3,965,795

#### Postage Costs

Customers may incur postage costs when submitting a patent or trademark assignment request to the USPTO by mail. The Patent and Trademark Recordation Cover Sheets can be submitted by mail, for a total of 2,401 mailed submissions. The average postage cost for a mailed Patent or Trademark Recordation Form Cover Sheet is \$0.95, resulting in a total postage cost of \$2,280 per year for this information collection.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The USPTO employs both GS-7 Legal Instrument Examiners and GS-9 Legal Administrative Specialists to process submissions for this information collection. The USPTO estimates that approximately 80% of the employees processing these submissions are GS-7, step 10 and 20% are GS-9, step 9.

The USPTO estimates that the cost of a  $\underline{\text{GS-7}}$ , step  $\underline{10}^3$  employee is \$39.81 per hour (GS hourly rate of \$30.62 with 30% (\$9.19) added for benefits and overhead). The USPTO estimates that the cost of a  $\underline{\text{GS-9}}$ , step  $\underline{9}^4$  employees is \$47.44 per hour (GS hourly rate of \$36.49 with 30% (\$10.95) added for benefits and overhead).

 $<sup>3\</sup> https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB\_h.pdf$ 

<sup>4</sup> https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB\_h.pdf

Based on the percentages of the employees processing these submissions, the average hourly rate for the USPTO staff processing these submissions is \$41.34 (80% of the GS-7, step 10 hourly cost of \$39.81 is \$31.85; and 20% of the GS-9, step 9 hourly cost of \$47.44is \$9.49; for a total of \$41.34).

The USPTO estimates that it takes an employee 30 minutes (0.5 hours) to process a request to record a patent or trademark assignment submitted with a paper cover sheet and 15 minutes (0.25 hours) to process an online submission via EPAS or ETAS.

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

**Table 6: Total Hourly Burden for the Federal Government** 

Item No.	Item	Estimated Annual Responses (year)	Estimated Time for Response (hour)	Estimated Annual Burden (hours/year)	Rate (\$/ hour)	Estimated Annual Costs
		(a)	(b)	(a) x (b)= (c)	(d)	(c) x (d)= (e)
	Trademark Assignment System (ETAS) (PTO-1594)	59,973	0.5 (30 minutes)	17,992	\$41.34	\$743,789
	Patent Assignment System (EPAS) (PTO-1595)	589,907	0.5 (30 minutes)	294,954	\$41.34	\$12,193,398
Total		649,880		312,946		\$12,937,187

### 15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

ICR Summary of Burden:									
	Requested	Program Change Due to New Statute		Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved			
Annual Number of Responses	649,880	0	0	53,353	0	596,527			
Annual Time Burden (Hr)	324,941	0	0	26,677	0	298,264			
Annual Cost Burden (\$)	3,968,075	0	0	775,701	0	3,192,374			

#### Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses will increase by 53,353 and the total burden hours will increase by 26,677 from the currently approved burden for this information collection. These changes are due to increases in Agency estimates.

#### Changes in Annual (Non-hour) Costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$775,701. These increases are due to overall increase usage of the assignment system, especially by those paying fees for trademark assignments.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The USPTO does not plan to publish this information for statistical use. However, patent and trademark assignment records are available to the public at the USPTO Public Search Facilities, NARA, and on the USPTO website.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The forms in this information collection will display the OMB Control Number and the expiration date of OMB approval.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

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.