

SUPPORTING STATEMENT A
United States Patent and Trademark Office
Invention Promoters/Promotion Firms Complaints
OMB Control Number 0651-0044
2022

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.**

Under the Inventors' Rights Act of 1999 (Public Law 106-113, sec. 4101 *et seq.*), as found in 35 U.S.C. § 297 and implemented by 37 CFR Part 4, the United States Patent and Trademark Office (USPTO) is required to provide a forum for the publication of complaints concerning invention promoters and responses from the invention promoters to those complaints. An individual may submit a complaint concerning an invention promoter to the USPTO, which will forward the complaint to the invention promoter for response. The complaints and responses will be published and made available to the public on the USPTO website. The USPTO does not investigate these complaints or participate in any legal proceedings against invention promoters or promotion firms.

Congress enacted the Inventors' Rights Act to protect independent inventors from being defrauded by invention promoters and promotion firms. Invention promoters assist inventors, particularly independent inventors, with developing, financing, manufacturing, and marketing their inventions. However, some independent inventors were paying large sums of money to these firms but not receiving comparable services from them. The Inventors' Rights Act requires invention promoters to disclose certain information about their invention promotion services before entering into a contract with a customer.

A complaint submitted to the USPTO must be clearly marked, or otherwise identified, as a complaint. The complaint must include: (1) the name and address of the complaint; (2) the name and address of the invention promoter; (3) the name of the customer; (4) the invention promotion services offered or performed by the invention promoter; (5) the name of the mass media in which the invention promoter advertised providing such services; (6) an example of the relationship between the customer and the invention promoter; and (7) a signature of the complainant. Identifying information is necessary so that the USPTO can both forward the complaint to the invention promoter or promotion firm as well as notify the complainant that the complaint has been forwarded. Complainants should understand that the complaints will be forwarded to the invention promoter for response and the complaint and response will be made available to the public as required by the Inventors' Rights act. If the USPTO does not receive a response from the invention promoter, the complaint will still be published without the

response. The USPTO does not accept complaints under this program if the complainant requests confidentiality.

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

Table 1: Information Requirements

Item Number	Requirement	Statute	Regulation
1	Complaint Regarding Invention Promoter	Inventors' Rights Act of 1999 (Public Law 106-113, sec. 4101 <i>et seq.</i>), 35 U.S.C. § 297	37 CFR Part 4
2	Responses to the Complaints	Inventors' Rights Act of 1999 (Public Law 106-113, sec. 4101 <i>et seq.</i>), 35 U.S.C. § 297	37 CFR Part 4

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 a complaint to the USPTO regarding an invention promoter or promotion firm. The USPTO requests responses from the subjects of the complaints as required by the Inventors' Rights Act of 1999 and then publishes the complaints and responses. To ensure that the public provides the minimum information necessary to process the complaint under this program, the USPTO provides a form that the public may use to submit a complaint. This form is available for download from the USPTO website. Use of this form is not mandatory as long as the complaint includes the necessary information and clearly marks their submission as a complaint filed under the Inventors' Rights Act. There is no associated form for submitting response to the complaints. The USPTO is not required to enforce the provisions of the Inventors' Rights Act, investigate the complaints, or participate in any legal proceedings against the invention promoter.

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

Table 2: Needs and Uses

Item Number	Form/Function	Form Number	Needs and Uses
1	Complaint Regarding Invention Promoter	PTO 2048	<ul style="list-style-type: none"> Used by the public to submit a complaint to the USPTO regarding an invention promoter or promotion firm. Used by the USPTO to ensure that all of the necessary information is provided for the complaint. Used by the USPTO to make the complaint publicly available and to forward complaints for response by the invention promoter or promotion firm named in the complaint.

2	Responses to the Complaints	No Form Associated	<ul style="list-style-type: none"> • Used by the invention promoter or promotion firm to respond to a complaint. • Used by the USPTO to make the response to the complaint publicly available.
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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 USPTO Information Quality Guidelines.

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 collection. Also describe any consideration of using information technology to reduce burden.

The USPTO offers a form for complaints that customers may download from the USPTO website. The complaint form may be emailed to innovationdevelopment@uspto.gov with “Scam prevention complaint – submission” in the subject line. Additionally, the complaints and responses to the complaints are published on the USPTO website at <https://www.uspto.gov/patents/basics/using-legal-services/scam-prevention>.

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.

This information is collected only when a customer is dissatisfied with the services received from an invention promoter or promotion firm and voluntarily decides to file a complaint with the USPTO. It is not collected elsewhere. These regulations do not cover complaints against registered attorneys or agents. Customers who have such complaints should file them under the existing USPTO guidelines for complaints concerning registered attorneys and agents, which are covered under USPTO information collection 0651-0017 (Practitioner Conduct and Discipline). Therefore, this information collection does not result in a duplication of effort or collection of data.

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

The USPTO believes that the complaints covered by this information collection will be submitted by independent inventors, not businesses or firms, since they are the primary

customers of invention promoters and promotion firms. The USPTO developed the minimum information requirements and the complaint form with this fact in mind. The USPTO believes that this collection of information does not impose a significant economic impact on small entities or small businesses. There is no fee for submitting or responding to a complaint, and all submissions are voluntary. The same information is required of every customer and is not available from any other source.

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

Congress has directed the USPTO to collect and publish complaints regarding invention promoters and promotion firms, and the USPTO has implemented rules for this complaint program accordingly. Failure to collect and publish the voluntarily-submitted information would put the USPTO in violation of a statutory duty. This information is collected only when a customer of an invention promoter or promotion firm files a complaint against that entity with the USPTO and when the invention promoter responds to the complaint. This collection of information could not be conducted less frequently. If this information were not collected, the USPTO would not be able to publish complaints concerning invention promoters and their responses to the complaints as required by the Inventors' Rights Act of 1999.

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 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 March 31, 2022. The comment period ended on May 31, 2022. No comments were received.

The USPTO has long-standing relationships with groups who frequently communicate their views on information collections, including the American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), Patent Public Advisory Council (PPAC) as well as business groups, inventor associations, and users of its public facilities. Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an information collection. These organized groups did not communicate any comments regarding the present renewal.

- 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 collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The Inventors' Rights Act of 1999 requires the USPTO to accept complaints against invention promoters and promotion firms and make those complaints available to the public. In addition, the Act requires the USPTO to forward copies of the complaints to the invention promoters so that the promoters can submit responses to the complaints, which are also published. Due to these requirements to forward and publish the complaints, the USPTO will not accept any complaints submitted under this Act that request that the complaint be kept confidential.

The USPTO must collect personal information in order to respond to a complaint, though only the complainant's name is included in the publication of the complaint. If a complainant fails to provide all of the necessary information, the USPTO may not be able to publish the complaint and may even return the submission to the complainant. To process a complaint, the USPTO requests the complainant's name and address. These records may be retrieved by a personal identifier and include personal information that is subject to the Privacy Act of 1974. Form PTO/SB/2048 includes a Privacy Act statement.

The complaint form includes a Privacy Act statement, and a system of records notice for this collection entitled COMMERCE/PAT-TM-15, System for Maintenance of Invention Promoter Complaints: available at Federal Register / Vol. 65, No. 80 / Tuesday, April 25, 2000 / Notices 24177, <https://www.govinfo.gov/content/pkg/FR-2000-04-25/pdf/00-10269.pdf>.

This SORN identifies the categories of individuals covered by the system containing inventors making a complaint, invention promoters, and interested members of the public. Categories of records in the system comprise the following: complainant names; addresses, and telephone numbers; invention promoter names, addresses, and telephone numbers; complaints regarding invention promoters; responses to complaints by invention promoters; and correspondence relating to these complaints and responses.

The information provided 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; 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 assistance; to members of Congress working on behalf of an individual; to the Office of Personnel Management for

personnel research purposes; to National Archives and Records Administration for records management purposes; and to the Office of Management and Budget for legislative coordination and clearance. Failure to provide any part of the requested information may result in an inability to process requests for access and information.

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 information 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'.**
- **Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

Tables 34 and 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 22 responses per year from 22 respondents for this information collection,.

The USPTO estimates that approximately 50% of the annual responses for this information collection will be submitted electronically.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public approximately 15 minutes (0.25 hours) to gather the necessary information, prepare the complaint, and submit that complaint to the USPTO and approximately 30 minutes (0.50 hours) for an invention promoter or promotion firm to prepare and submit a response to a complaint. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 8 hours per year.

- **Cost Burden Calculation Factors**

The USPTO expects that independent inventors will be filing the complaints. The USPTO estimates that this group has an average hourly rate of \$52.92. USPTO uses the mean hourly rate for physical scientists as an estimate for independent inventor and pro se applicantes.

The USPTO uses a professional rate of \$71.59 per hour for for respondent cost burden calculations, which is the median rate for Lawyers according to the data from the Bureau of Labor Statistics' Occupational Employment Statistics program.

Using these hourly rates, the USPTO estimates that the total respondent cost burden for this information collection is \$517 per year.

Table 3: Total Hourly Burden for Individuals or Household Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time For Response (hours)	Estimated Burden (hour/year)	Rate ¹ (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Complaint Regarding Invention Promoter (PTO/2048)	12	1	12	.25 (15 min)	3	\$52.93	159
		12		12		3		\$159

Table 4: Total Hourly Burden for Private Sector Respondents

¹ The USPTO uses the mean hourly wage (\$52.93) for physical scientists according to the data from the Bureau of Labor Statistics' Occupational Employment Statistics program (occupational code 19-2099; <https://www.bls.gov/oes/current/oes192099.htm>)

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time For Response (hours)	Estimated Burden (hour/year)	Rate ² (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
2	Response to the Complaint	10	1	10	.5 (30 min)	5	\$71.59	\$358
		10		10		5		\$358

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.

There are no capital startup, maintenance fees, operating fees, processing fees, or filing fees associated with this information collection. There is a non-hourly cost associated with this information collection in the form of postage costs. The total (non-hour) respondent cost burden for this information collection is estimated to be \$51 per year.

Postage Costs

² The USPTO uses the mean hourly wage (71.59) for Lawyers according to the data from the Bureau of Labor Statistics' Occupational Employment Statistics program (occupational code 23-1011; <https://www.bls.gov/oes/current/oes231011.htm>)

For this information collection, it is estimated that 6 complaints will be received by first-class mail. The USPTO estimates that the cost of first-class mail will be \$0.58, resulting in a total of \$4 for mailed complaints. The USPTO also estimates that it will receive 5 responses to complaints using overnight mail services. The USPTO estimates that the average postage cost for a mailed submission using a Priority Mail 2 day flat rate legal envelope, will be \$9.25; resulting in \$47 for mailed compliant responses. The total (non-hour) respondent cost burden for this information collection is estimated to be \$51 per year.

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 a [GS-9](#) to complete the intake administrative process, a [GS-15](#) to review the complaint, and a [GS-9](#) and a [GS-11](#) to publish the complaint.

The USPTO estimates the cost of a GS-9, step 1 is \$38.58 (GS hourly rate of \$29.68 with 30% (\$8.90) added for benefits and overhead). The USPTO estimates that the cost of a GS-11, step 1 is \$46.68 (GS hourly rate of \$35.91 with 30% (\$10.77) added for benefits and overhead). The USPTO estimates that the cost of a GS-15, step 1 is \$92.50 (GS-hourly rate of \$71.15 with 30% (\$21.35) added for benefits and overhead). The average of these rates is \$59.25.

The USPTO estimates that it takes the employees 2.25 hours to process a submission in this information 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

Item Number	Item	Estimated Annual Responses (a)	Estimated Burden Hours (a)	Estimated Hourly Burden (a) x (b) = (c)	Rate (\$/hr) (d)	Total Federal Government Cost (c) x (d) = (e)
1	Complaints Regarding Invention Promoters (PTO/SB/2048)	12	2.25	27	\$59.25	\$1,600
2	Responses to the Complaints	10	2.25	23	\$59.25	\$1,363
	TOTAL	22	- - - -	50	- - - - -	\$2,963

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

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	22	0	0	0	0	22
Annual Time Burden (Hr)	8	0	0	0	0	8
Annual Cost Burden (\$)	51	0	0	-195	0	246

Change due to Adjustment in Agency Estimate

The total number of respondents and time burden remain stable; unchanged for this information collection renewal. The estimated cost burden has decreased due to changes in the postages rates used for estimating mailing costs.

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. The submissions under this information collection are published and available to the public on the [USPTO website](#)³.

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 form in this information collection will display the OMB Control Number and the

³ <https://www.uspto.gov/patents/basics/using-legal-services/scam-prevention/published-complaints/published>

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.