

SUPPORTING STATEMENT
United States Patent and Trademark Office
Application for Registration to Practice before the United States Patent and
Trademark Office
OMB CONTROL NUMBER 0651-0012
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. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR 1.21, and 11.5-11.11, which sets forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO, including the fee requirements. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the USPTO, which is accessible through the USPTO website. The information in this information collection is used by the USPTO to review applications for the examination for registration and to determine whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

Table 1 identifies the proposed statutory and regulatory provisions that require the USPTO to collect this information:

Table 1: Information Requirements for Attorneys and Agents Registered to Practice Before the USPTO

Item No.	Item	Statute	Regulations
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) PTO-158	35 U.S.C. 2(b)(2)(D)	37 CFR 11.6 and 11.7

1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) PTO-158	35 U.S.C. 2(b)(2)(D)	37 CFR 11.6 and 11.7
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) PTO-158A	35 U.S.C. 2(b)(2)(D)	37 CFR 11.6 and 11.7
1	Application for Recognition to Practice Before the United States Patent and Trademark Office under 37 CFR § 11.14(c) by a Foreign Resident (examination waived) PTO-158T	35 U.S.C. 2(b)(2)(D)	37 CFR 11.6 and 11.7
2	Registration Examination to Become a Registered Practitioner	35 U.S.C. 2(b)(2)(D)	37 CFR 11.7(b)(1)(ii)
3	Reasonable Accommodation PTO 158RA	35 U.S.C. 2(b)(2)(D)	37 CFR 11.6 and 11.7
4	Data Sheet – Register of Patent Attorneys and Agents PTO-107A	35 U.S.C. 2(b)(2)(D)	37 CFR 11.5 and 11.11
5	Registration Statement of Patent Attorneys and Agents PTO-107S	35 U.S.C. 2(b)(2)(D)	37 CFR 11.11
6	Oath or Affirmation PTO-1209	35 U.S.C. 2(b)(2)(D)	37 CFR 11.8
7	Reinstatement to the Register PTO-107R	35 U.S.C. 2(b)(2)(D)	37 CFR 11.11
8	Change of Registration from Agent to Attorney PTO-158	35 U.S.C. 2(b)(2)(D)	37 CFR 11.6
9	Written Requests (Certificate of Good Standing, Disciplinary History)	35 U.S.C. 2(b)(2)(D)	37 CFR 11.2(c) and (d)
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	35 U.S.C. 2(b)(2)(D)	37 CFR 11.2(c) and (d)
11	Petition to USPTO Director under 37 CFR 11.2(d)	35 U.S.C. 2(b)(2)(D)	37 CFR 11.2(d)

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 information collection.

The OED Director uses the information in this collection to determine whether the applicant is of good moral character and repute; has the necessary legal, scientific, and technical qualifications; and is otherwise competent to advise and assist applicants in the presentation and prosecution of patent applications.

The USPTO uses applicant information in determining whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

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 OMB information quality guidelines.

Table 2 outlines how the USPTO and the public use this information. There are eight forms associated with this information collection.

Table 2: Needs and Uses for Attorneys and Agents Registered to Practice Before the USPTO

Item No.	Item	Form No.	Needs and Uses
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) PTO-158	PTO-158	<ul style="list-style-type: none"> • Used by domestic applicants to apply for registration. • Used by practitioners to ensure that all of the necessary information is provided to the USPTO. • Used by practitioners to show they have met all of the necessary requirements. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants.
1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) PTO-158	PTO-158A	<ul style="list-style-type: none"> • Used by domestic applicants to apply for registration. • Used by practitioners to ensure that all of the necessary information is provided to the USPTO. • Used by practitioners to show they have met all of the necessary requirements. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants.

<p>1</p>	<p>Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) PTO-158A</p>	<p>PTO-158A</p>	<ul style="list-style-type: none"> • Used by foreign applicants to apply for registration. • Used by practitioners to ensure that all of the necessary information is provided to the USPTO. • Used by practitioners to show they have met all of the necessary requirements. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants.
<p>1</p>	<p>Application for Recognition to Practice Before the United States Patent and Trademark Office under 37 CFR § 11.14(c) by a Foreign Resident (examination waived) PTO-158T</p>	<p>PTO-158T</p>	<ul style="list-style-type: none"> • Used by foreign applicants to apply for recognition to practice in trademark cases. • Used by foreign applicants to show they have met all the necessary requirements to prosecute an application for trademark registration. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements for trademark prosecution cases. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to recognize applicants.
<p>2</p>	<p>Registration Examination to Become a Registered Practitioner</p>	<p>No Form Associated</p>	<ul style="list-style-type: none"> • Used by domestic applicants to apply for registration. • Used by domestic applicants to ensure that all of the necessary information is provided to the USPTO. • Used by the USPTO to determine whether the applicant meets all of the necessary requirements. • Used by the USPTO to determine whether the applicant possesses good moral character. • Used by the USPTO to register applicants.

3	Reasonable Accommodation PTO 158RA	PTO-158RA	<ul style="list-style-type: none"> • Used to facilitate an applicant's request for reasonable accommodation, due to a medical condition, to take the examination for registration to practice before the USPTO. • Used by the USPTO to provide reasonable accomendation to eligible applicants.
4	Data Sheet – Register of Patent Attorneys and Agents PTO-107A	PTO-107A	<ul style="list-style-type: none"> • Used by domestic applicants to request that they be included on the Register of Patent Attorneys and Agents. • Used by applicants and registered practitioners to provide updated information such as addresses. • Used by registered practitioners to respond to periodic surveys to verify current address and status. • Used by the USPTO to determine whether the applicant can be included on the Register of Patent Attorneys and Agents. • Used by the USPTO to determine whether the attorney or agent may remain on the Register of Patent Attorneys and Agents. • Used by the USPTO to update current address and/or status of applicants and registered practitioners.
5	Registration Statement of Patent Attorneys and Agents PTO-107S	PTO-107S	<ul style="list-style-type: none"> • Used by practitioners to supply up-to-date contact information and indicate whether the practitioner desires to remain in active status. • The USPTO is still considering the manner in which this form may be implemented.
6	Oath or Affirmation PTO-1209	PTO-1209	<ul style="list-style-type: none"> • Used by all applicants requesting to be admitted to practice before the USPTO. • Used by the USPTO to admit an applicant to practice before the USPTO.

7	Reinstatement to the Register PTO-107R	PTO-107R	<ul style="list-style-type: none"> • Used by registered practitioners to respond to periodic surveys to verify current address and status. • Used by the USPTO to determine whether the applicant can be included on the Register of Patent Attorneys and Agents. • Used by the USPTO to determine whether the attorney or agent may remain on the Register of Patent Attorneys and Agents. • Used by the USPTO to update current address and/or status of applicants and registered practitioners.
8	Change of Registration from Agent to Attorney PTO-158	PTO-158	<ul style="list-style-type: none"> • Used by registered practitioners to change USPTO status from an agent to an attorney. • Used by USPTO to determine whether an agent may change registration status from agent to attorney.
9	Written Requests (Certificate of Good Standing, Disciplinary History)	No Form Associated	<ul style="list-style-type: none"> • Used by resigstrants to request copies of their certificate of good standing and disciplinary history. • Used by USPTO to receive requests by registrants for their certificate of good standing and disciplinary history.
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	No Form Associated	<ul style="list-style-type: none"> • Used by the applicant to petition the OED Director for reconsideration of denial of admission to practice before the USPTO. • Used by the applicant to petition the OED Director for reconsideration of denial of recognition to practice before the USPTO.
11	Petition to USPTO Director under 37 CFR 11.2(d)	No Form Associated	<ul style="list-style-type: none"> • Used by applicants to petition the Director of the USPTO to request a review of the decision made by the Director of OED regarding enrollment or recognition. • Used by the USPTO to receive petitions to the Director of the USPTO for review of decision made by the Director of OED regarding enrollment or recognition.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological information 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 entire information collection uses pdf printable forms. Some of them are also available electronically through the applicant and practitioner portals as an eform (filled and submitted electronically). The eforms are PTO-158, 107A, 107R, 275 (undertaking), and 1209 (Oath).

The basic contact information the USPTO collects about the attorneys and agents on the register, who are recognized to practice before the USPTO in patent matters, can be accessed by the public through the USPTO's website. When the public clicks on the link to the Roster of Patent Attorneys and Agents, the "Patent Attorneys and Agents Registered to Practice before the USPTO" page will open. From this page, the public can search for registered patent attorneys and agents through a search engine, by geographical region, or by searching through the entire list of registered patent attorneys and agents. The actual attorney/agent names are all formatted in the same manner, regardless of the search conducted: last name, street address, city, state, zip code, telephone number (optional), registration number, and an indication of attorney/agent/government employee status.

The OED Director may publish on the Internet the names and business addresses of all individuals seeking registration or recognition who pass the examination or for whom examination has been waived, as well as, publishing a notice in the *Official Gazette of the United States Patent and Trademark Office* to solicit information bearing on their moral character and reputation. The OED Director also publishes notices of administrative suspensions.

If the USPTO is notified by the patent office of another country that a registered patent agent is no longer registered or no longer in good standing before the patent office of that country, and does not show good cause why his or her name should not be removed from the register, the OED Director shall promptly remove the name from the register and publish that the name has been removed. The OED Director will also remove the names of patent agents who no longer live in the country in which they are registered and publish that the names have been removed.

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 at the time of application for registration or recognition to practice before the USPTO in patent matters or to update the roster of registered practitioners, as needed. In order to practice in other action, individuals must complete the registration process; therefore it does not duplicate information or collection of data found elsewhere.

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

This collection of information does not impose a significant economic impact on small entities or small businesses.

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.

This information is collected only at the time of application for registration or recognition to practice before the USPTO in patent matters or to update the roster of registered practitioners, as needed. It could not be conducted less frequently. If the collection of information were not conducted, the USPTO would not be able to admit registered practitioners to practice before the USPTO or keep the roster of registered practitioners updated.

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 December 23, 2020 (85 Fed. Reg. 83903). One public comment was received during the 60 day comment period. The 30-Day Notice was subsequently published in the *Federal Register* on February 26, 2021 (86 Fed. Reg. 11731). Two public comments were submitted during the 30-day comment period. In total, the USPTO received three comments on this information collection.

Comment: The comments expressed concern that the USPTO did not appear to properly reflect or address the information collection burden, related to the voluntary (continuing legal education) CLE certification. In addition, the comments expressed concern that the burden related to the biennial registration statement were not properly reflected in this information collection.

Response: The USPTO believes the concerns expressed in the comments regarding CLE are misplaced. The USPTO is not imposing CLE requirements. Instead, USPTO developing a system whereby patent practitioners may, if they so choose, simply certify completion of CLE. The USPTO recently notified the public via Federal Register Notice¹ that it may start accepting such voluntary CLE certifications in 2022. That same Federal Register Notice advised the public that the USPTO will not be implementing the registration statement until 2024.

Comment: The comments also raised concerns related to the change to the estimated number of respondents for Form PTO 107S, and that the form sought an undisclosed collection of CLE information.

¹ See *New Implementation Date for Patent Practitioner Registration Statement and Continuing Legal Education Certification*, 86 FR 30920 (June 10, 2021)

Response: The Office has included PTO 107S as a draft modeled after the mandatory survey. The estimated numbers published for PTO 107S represent a 3-year average of the number of respondents that would submit the biennial registration statement, when implemented, over the 3 years covered by this information collection. When the biennial registration statement is implemented, the Office will ensure any relevant information collections, including any associated estimated burden, are updated prior to the collection of any information.

The USPTO has long-standing relationships with groups who frequently communicate their views on information collections, including the American Bar Association (ABA) and American Intellectual Property Law Association (AIPLA), as well as business groups and inventor associations. Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an information collection.

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. Response to this information collection is necessary for recognition as a registered attorney or agent by the USPTO.

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.

Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection contains information of a confidential nature, which is subject to the Privacy Act. This information is collected on Forms PTO-158 Application for Registration to Practice before the United States Patent and Trademark Office, PTO/275 Undertaking Under 37 CFR 11.10(b), and PTO-107A Data Sheet – Register of Patent Attorneys and Agents. Privacy Act Statements are included on all of these forms. The applicable Privacy Act System of Records Notice for this information is COMMERCE/PAT–TM–1 Attorneys and Agents Registered to Practice Before the Office available at Federal Register /Vol. 78, No. 53 /Tuesday, March 19, 2013 /Notices

<https://www.federalregister.gov/documents/2013/03/19/2013-06254/privacy-act-of-1974-system-of-records>

The information in this system of records is used to manage biographical information, personal and professional qualifications, character and fitness reports, investigations of an applicant's suitability or eligibility for registration to practice before the USPTO, undertakings of former patent examiners, current address, and status information.

The information obtained 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 the USPTO web site for publishing and disseminating a public roster including an address of record, law firm or company affiliation, telephone number, and registration number of the active registered individuals; 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 contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the U.S. Patent and Trademark Office, when necessary to accomplish an agency function related to this system of records; 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 National Archives and Records Administration for inspection of records. 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.

The USPTO does request information of a sensitive nature on Forms PTO-158 Application for Registration to Practice Before the United States Patent and Trademark Office, PTO-158A Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) By a Foreign Resident, PTO-158T Application for Recognition to Practice Before the United States Patent and Trademark Office under 37 CFR § 11.14(c) by a Foreign Resident and PTO-107A Data Sheet – Register of Patent Attorneys and Agents.

35 U.S.C. 31 requires that attorneys, agents, and others possess good moral character and reputation before they are allowed to represent applicants. The information is used to determine the suitability of the applicant as a potential registered patent attorney or agent. On the application forms and the data sheet, the USPTO informs the applicant that candor and truthfulness are considered to be significant elements of fitness relevant for practice before the USPTO, and that they should provide all information, even if it is unfavorable. If the applicant answers “Yes” to any questions, the USPTO also requests that the applicant provide a written statement detailing the facts of the situation and any associated documentation. The USPTO also warns the applicant that failure to disclose any of the requested information may result in either denial of registration or disciplinary proceedings under 37 CFR 11.22 if the applicant becomes a registered patent attorney

or agent. The applicant also certifies by his or her signature that all of the information provided in the application is true and correct. The applicant is additionally warned that any willfully false statement or certification is considered to be a criminal offense and is punishable by law under 18 U.S.C. 1001.

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’.**

Table 3 calculates the anticipated burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**

The USPTO estimates that it receives approximately 21,251 respondents and 30,727 responses annually.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public from approximately 5 minutes (0.08 hours) to 7 hours, depending upon the complexity of the situation, to gather the necessary information, prepare the appropriate form or documents, and submit the information to the USPTO. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 18,188 hours per year.

- **Cost Burden Calculation Factors**

The USPTO estimates that the remaining items in this information collection will primarily be supplied by intellectual property legal professionals (patent attorneys and agents). The professional rate for attorneys in private firms is \$400 per hour, as shown in the 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the [American Intellectual Property](#)

[Law Association \(AIPLA\)](#)² . Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection is \$7,275,200 per year.

Table 3: Total Hourly Reporting Burden for Individuals or Households Respondents

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate ³ (\$/hour)	Estimated Annual Respondent Cost Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) PTO-158	2,474	2,474	0.50	1,237	\$400	\$494,800
1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) PTO-158	34	34	0.50	17	\$400	\$6,800
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) PTO-158A	6	6	0.50	3	\$400	\$1,200
1	Application for Recognition to Practice Before the United States Patent and Trademark Office under 37 CFR § 11.14(c) by a Foreign Resident (examination waived) PTO-158T	11	11	0.50	6	\$400	\$2,400
2	Registration Examination to Become a Registered Practitioner	Same as line 1	1,616	7	11,312	\$400	\$4,524,800

² https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf

³ 2019 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.

3	Reasonable Accommodation PTO 158RA	Same as line 1	63	4	252	\$400	\$100,800
4	Data Sheet – Register of Patent Attorneys and Agents PTO-107A	Same as line 1	840	0.5	420	\$400	\$168,000
5	Registration Statement of Patent Attorneys and Agents PTO-107S	16,333	16,333	0.25	4,083	\$400	\$1,633,200
6	Oath or Affirmation PTO-1209	Same as line 1	840	0.08	67	\$400	\$26,800
7	Reinstatement to the Register PTO-107R	76	76	0.08	6	\$400	\$2,400
8	Change of Registration from Agent to Attorney PTO-158	252	252	0.50	126	\$400	\$50,400
9	Written Requests (Certificate of Good Standing, Disciplinary History)	2,057	3,578	0.08	286	\$400	\$114,400
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	7	7	0.75	5	\$400	\$2,000
11	Petition to USPTO Director under 37 CFR 11.2(d)	1	1	0.75	1	\$400	\$400
	Total	21,251	26,131	- - -	17,821	- - -	\$7,128,400

The USPTO Office of Enrollment and Discipline General Requirements Bulletin⁴ recommends that “an applicant should make and keep a copy of every document submitted to the Office in connection with an application for registration.” The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the submissions and that approximately 4,596 responses requiring record keeping (based on the response numbers from Table 1) will be made per year, for a total of 367 hours.

Table 4: Total Hourly Recordkeeping Burden for Individuals or Households Respondents

⁴ General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases before the United States Patent and Trademark Office; https://www.uspto.gov/sites/default/files/documents/OED_GRB.pdf

Item No.	Item	Estimated Annual Responses (year)	Estimated Time for Response (hours)	Estimated Annual Burden (hour/year)	Rate⁵ (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office	2,525	0.08	202	\$400	\$80,800
3	Reasonable Accommodation	63	0.08	5	\$400	\$2,000
4	Data Sheet – Register of Patent Attorneys and Agents	840	0.08	67	\$400	\$26,800
6	Oath or Affirmation	840	0.08	67	\$400	\$26,800
7	Reinstatement to the Register	76	0.08	6	\$400	\$2,400
8	Change of Registration from Agent to Attorney	252	0.08	20	\$400	\$8,000
	Totals	4,596	---	367	---	\$146,800

⁵ 2019 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.

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.**

There are no capital start-up or maintenance costs associated with this information collection. However, this information collection does have non-hourly costs due to filing fees, notary fees, and postage. The USPTO estimates that the total annual (non-hour) cost burden for this information collection is \$875,706.

There are filing fees associated with this information collection. The application fees for registration to practice before the USPTO vary depending on whether the applicant is a current applicant, a former examiner, a foreign resident, or seeking reinstatement to the Register. The fee for administration of the computerized examination to become a registered patent practitioner also varies depending on how the examination is administered.

The annual non-hour cost burden associated with filing fees is outlined in Table 5 below:

Table 5: Filing Fees – Non-hour Cost Burden

Item No.	Item	Responses (yr)	Filing Fee (\$)	Total Non-Hour Respondent Cost Burden (\$/hr)
		(a)	(b)	(a) x (b)=(c)
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam)	2,474	\$110	\$272,140
1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived)	34	\$110	\$3,740
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived)	6	\$110	\$660
1	Application for Recognition to Practice Before the United States Patent and Trademark Office under 37 CFR § 11.14(c) by a Foreign Resident (examination waived)	11	\$110	\$1,210
1	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a) (10) (those who must prove fitness to practice)	7	\$1,680	\$11,760
2	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam)	1,616	\$173	\$279,568
2	For administered review of Registration Examination by a commercial entity. (computer exam)	300	\$205	\$61,500
2	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by the USPTO (USPTO-administered exam)	1	\$470	\$470
2	For USPTO-Administered Review of Registration Examination	1	\$470	\$470
4	On Registration to Practice Under 37 CFR §11.6	840	\$210	\$176,400
7	On Grant of Limited Recognition Under 37 CFR §11.9(b)			
7	Reinstatement to the Register	76	\$210	\$15,960
8	On Change of Registration from Agent to Attorney	252	\$110	\$27,720
9	Certificate of Good Standing as an Attorney or Agent, Standard	275	\$40	\$11,000
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c)	7	\$420	\$2,940
11	Review of Decision of the Director of Enrollment and Discipline Under 37 CFR §11.2(d)	1	\$420	\$420

	Totals	5,901	- - -	\$865,958
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Postage costs are also associated with this information collection. The USPTO estimates that the average postage cost for a mailed submission, depending upon the item sent, will be \$0.55. The USPTO estimates that with 2,450 mailed submissions, the postage costs in this information collection will be \$1,348.

Additional costs are incurred for new Patent Bar members who are required to obtain and submit an Oath or Affirmation. These items usually require the services of a public notary. The cost of a notarized document is dependent upon local rules, but is estimated by USPTO to average \$10. The cost of 840 Oaths is estimated to be \$8,400.

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 uses a range of resources and staff to handle and process files and related activities associated with this information collection. The USPTO estimates that it takes a [GS-9 step 5, a GS-11 step 5, and a GS-15 step 5](#) between 5 minutes (0.08 hours) and 40 hours to process a significant portion of the information in this collection.

The USPTO estimates that it will take a GS-15, step 5, 1,500 hours to develop and maintain a data bank of 2,000 questions and answers for the registration examination.

The hourly rates for this information collection include:

- The hourly rate for a [GS-15, step 5](#)⁶, is currently \$78.27. When 30% is added to account for a fully loaded hourly rate, inclusive of benefits and overhead, the cost per hour is \$78.27+ \$23.48, for a rate of \$101.75.
- The hourly rate for a [GS-11, step 5](#)⁷, is currently \$39.51. When 30% is added to account for a fully loaded hourly rate, inclusive of benefits and overhead, the cost per hour is \$39.51+ \$11.85, for a rate of \$51.36.
- The hourly rate for a [GS-9, step 5](#)⁸, is currently \$32.65. When 30% is added to account for a fully loaded hourly rate, inclusive of benefits and overhead, the cost per hour is \$32.65+ \$9.80, for a rate of \$42.45.

⁶ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf

⁷ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf

⁸ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf

Table 8 calculates the processing hours and costs of this information collection to the Federal Government:

Table 8: Processing Hours and Costs – Government Burden

Item No.	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)=(c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)= (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam) PTO-158	0.25	2,474	619	\$42.45	\$26,277
	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived) PTO-158	0.25	34	9	\$42.45	\$382
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived) PTO-158A	0.25	6	2	\$42.45	\$85
1	Application for Recognition to Practice Before the United States Patent and Trademark Office under 37 CFR § 11.14(c) by a Foreign Resident (examination waived) PTO-158T	0.25	11	3	\$42.45	\$127
2	Registration Examination to Become a Registered Practitioner	0.25	1,616	404	\$42.45	\$17,150
3	Reasonable Accommodation PTO 158RA	1.00	63	63	\$42.45	\$2,674
4	Data Sheet – Register of Patent Attorneys and Agents PTO-107A	0.25	840	210	\$42.45	\$8,915
5	Registration Statement of Patent Attorneys and Agents PTO-107S	0.25	16,333	4,083	\$42.45	\$173,323
6	Oath or Affirmation PTO-1209	0.08	840	67	\$42.45	\$2,844
7 8 9	Reinstatement to the Register PTO-107R	40.00	76	3,040	\$101.75	\$309,320
	GS-15, step 5	0.50		38	\$42.45	\$1,613
	Change of Registration from Agent to Attorney PTO-158	0.25	252	63	\$42.45	\$2,674
	Written Requests (Certificate of Good Standing, Disciplinary History)	0.25	3,578	895	\$42.45	\$37,993
10	Petition to the Director of the Office of Enrollment and Discipline under 11.2(c)	0.75	7	5	\$101.75	\$509
	GS-15, step 5 GS-11, step 5	0.50		4	\$51.36	\$205

11	Petition to USPTO under Director 11.2(d)					
	GS-15, step 5	0.75	1	1	\$101.75	\$102
	GS-11, step 5	0.50		1	\$51.36	\$51
			26,131	9,507		\$584,244

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

Changes in information collection since previous renewal

ICR Summary of Burden:

	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	30,727	0	0	10,783	0	19,944
Annual Time Burden (Hr)	18,188	0	0	-3,561	0	21,749
Annual Cost Burden (\$)	875,706	0	0	-664,622	0	1,540,328

Changes in Responses and Burden Hours

The total respondent cost burden for this information collection has decreased by \$3,561 (from \$21,749 to \$18,188) from the previous OMB approval of this information collection in December 2017. This change is due to:

- **Decrease in hourly burden due to changes in submissions.** This increase is the result of natural fluctuation in the items being submitted as well as certain changes regarding exam options.

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses will increase by 10,783 (from 19,944 to 30,727) from the currently approved burden for this information collection. This change is due to the following:

- **Increase in submission volumes.** This increase is the result of natural fluctuation in the items being submitted.
- **Increase in responses due to recordkeeping costs.** The recordkeeping costs were previously associated with non-hourly cost burden but are being associated as a response with hourly time burdens.

Changes in Annual (Non-Hour) Costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will decrease by \$664,622 (from \$1,540,328 to \$875,706) from the currently approved costs for this information collection. This change is due to:

- **Decrease in fee estimates.** The non-hourly cost decreased due to the decrease in the estimate of fees. This decrease outweighed the increases in recordkeeping costs and postage costs.

- **Decrease in costs due to recordkeeping.** The recordkeeping costs were previously associated with non-hourly cost burden but are now being associated as a response with hourly time burdens.

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.

There is no plan to publish this information for statistical use.

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 expiration date.

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.