

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
(Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the
United States Patent and Trademark Office)
OMB Control Number 0651-0012

Background

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 or Office) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and possess the necessary qualifications to assist applicants with the patent application process and to represent them before the USPTO. This information collection addresses submissions required by the regulations at 37 CFR 1.4, 1.32, 11.1, 11.5, 11.6, 11.8, 11.10, 11.16, 11.704, and 41.106, which, in part, set forth the requirements to become recognized to represent others before the USPTO. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO.

This request is related to a final rule (RIN 0651-AD67) entitled “Representation of Others in Design Patent Matters Before the United States Patent and Trademark Office” published by the United States Patent and Trademark Office on November 16, 2023 in the Federal Register (88 FRN 78644). Through this rule, the USPTO is amending the rules of practice in patent matters and the rules regarding the representation of others before the USPTO by creating a separate design patent practitioner bar whereby admitted design patent practitioners would practice in design patent proceedings only. Prior to this rulemaking, there was only one patent bar, which applied to those who practice in all patent matters before the Office, including in utility, plant, and design patents. The creation of a design patent practitioner bar does not impact the ability of those already registered to practice in all patent matters before the USPTO to continue to practice in all patent matters, including design patent matters, before the Office. Furthermore, it does not impact the ability of applicants for registration who meet the criteria to practice in all patent matters from qualifying for and upon passing the current exam, practicing in all patent matters before the Office, including design patent matters.

This information collection request is to update forms PTO 158, PTO 107A, PTO107R, and PTO107S, which are used by the public to apply for registration to practice in patent matters before the USPTO. While the USPTO does expect some individuals to apply for the design patent practitioner bar, the existing clearance estimate is sufficient to account for the small number of design patent applicants and practitioners.

The update to form PTO 158 adds in a field for applicants seeking registration to appear before the USPTO. This field allows applicants to designate the area in which they seek to practice by selecting either (a) All Patent Matters or (b) Design Patent Matters Only. The update to forms PTO107A, PTO107R and PTO107S adds “Design Attorney” and “Design Agent” as an option under “Registration Status.”

Summary of Changes

There is no change to the burdens associated with this information collection.