

SUPPORTING STATEMENT
United States Patent and Trademark Office
Representative and Address Provisions
OMB CONTROL NUMBER 0651-0035
2022

A. JUSTIFICATION

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

This information collection includes the information necessary to submit a request to grant or revoke power of attorney for an application, patent, or reexamination proceeding, and for a registered practitioner to withdraw as attorney or agent of record. This also includes the information necessary to change the correspondence address for an application, patent, or reexamination proceeding, to request a Customer Number and manage the correspondence address and list of practitioners associated with a Customer Number, and to designate or change the correspondence address or fee address for one or more patents or applications by using a Customer Number.

Under 35 U.S.C. 2 and 37 CFR 1.31-1.32, power of attorney may be granted to one or more joint inventors or a person who is registered to practice before the USPTO to act in an application or a patent. In particular, for an application filed before September 16, 2012, or for a patent which issued from an application filed before September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.41(b) (pre-AIA)) or the assignee of the entire interest of the applicant. For an application filed on or after September 16, 2012, or for a patent which issued from an application filed on or after September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.42) or the patent owner. The USPTO provides two different versions of the forms for establishing power of attorney based upon whether the application filing date is before or after September 16, 2012, to thereby reduce applicants' burden in having to determine the appropriate power of attorney requirements for a given application.

37 CFR 1.36 provides for the revocation of a power of attorney at any stage in the proceedings of a case. 37 CFR 1.36 also provides a path by which a registered patent attorney or patent agent who has been given a power of attorney may withdraw as attorney or agent of record.

The USPTO's Customer Number practice permits applicants, patent owners, assignees, and practitioners of record, or the representatives of record for a number of applications or patents, to change the correspondence address of a patent application or patent with one change request instead of filing separate requests for each patent or application. Any changes to the address or practitioner information associated with a Customer

Number will be applied to all patents and applications associated with said Customer Number.

The Customer Number practice is optional, in that changes of correspondence address or power of attorney may be filed separately for each patent or application without using a Customer Number. However, a Customer Number associated with the correspondence address for a patent application is required in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO Web site. The use of a Customer Number is also required in order to grant power of attorney to more than ten practitioners, or to establish a separate “fee address” for maintenance fee purposes that is different from the correspondence address for a patent or application.

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

Table 1: Information Requirements for Representative and Address Provisions

Item No.	Requirement	Statute	Regulations
1	Power of Attorney	35 U.S.C. § 2	37 CFR 1.31, 1.32, 1.510, and 1.915
2-3	Revocation of Power of Attorney	35 U.S.C. § 2	37 CFR 1.36(a)
4-5	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney	35 U.S.C. § 2	37 CFR 1.31, 1.32, 1.36(a), 1.510, and 1.915
6	Withdrawal as Attorney or Agent	35 U.S.C. § 2	37 CFR 1.36(b)
7-8	Petition to Grant or Revoke Power of Attorney by Fewer than All the Applicants	35 U.S.C. § 2	37 CFR 1.17(h), 1.32(b)(4), 1.36(a)
9-10	Request for Customer Number or Customer Number Data Change	35 U.S.C. § 2	37 CFR 1.32 and 1.33
11	Customer Number Upload Spreadsheet	35 U.S.C. § 2	37 CFR 1.33 and 1.363
12	Request to Update a PCT Application with a Customer Number	35 U.S.C. § 2	37 CFR 1.33

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

The public uses this information collection to grant or revoke power of attorney, to withdraw as attorney or agent of record, to authorize a practitioner to act in a representative capacity, to change a correspondence address, to request a Customer

Number, and to change the data associated with a Customer Number. This information collection is necessary so that the USPTO knows who is authorized to take action in an application, patent, or reexamination proceeding and where to send correspondence regarding an application, patent, or reexamination proceeding.

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.

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

Table 2: Needs and Uses of Information Collected for Representative and Address Provisions

Item No.	Form and Function	Form #	Needs and Uses
1	Power of Attorney to Prosecute Applications Before the USPTO	PTO/SB/80 PTO/AIA/80	<ul style="list-style-type: none"> • SB/80: used by an assignee to appoint an attorney or agent in all applications filed before September 16, 2012, in which the assignee is the assignee of record of the entire interest and to change the correspondence address for the application(s). • AIA/80: used by an assignee to appoint an attorney or agent in all applications filed on or after September 16, 2012, in which the assignee is or is becoming the named applicant and to change the correspondence address for the application(s). • The advantage of both the SB/80 and AIA/80 is that an assignee only has to sign one SB/80 or AIA/80; copies can then be used to establish the desired power of attorney in (all) compliant patent applications of the assignee. • Both forms are used by the USPTO to determine who is authorized to act on behalf of the assignee and to change the correspondence address for the applications.

<p style="text-align: center;">2</p>	<p>Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address</p>	<p>PTO/SB/81 PTO/AIA/81 PTO/AIA/82A PTO/AIA/82B PTO/AIA/82C Translations thereof</p>	<ul style="list-style-type: none"> • SB/81: Used by the applicant or assignee of record of the entire interest in an application filed before September 16, 2012, to revoke all previous powers of attorney, appoint a practitioner, and change the correspondence address. • AIA/81: Used by pro se inventors who are the applicant in an application filed on or after September 16, 2012, to revoke all previous powers of attorney in the application, appoint one or more of the joint inventors as having power of attorney, and change the correspondence address. • AIA/82A: Used by the applicant in an application filed on or after September 16, 2012, to identify the application to which the Power of Attorney is directed. • AIA/82B: Used by the applicant in an application filed on or after September 16, 2012, to revoke all previous powers of attorney in the application, appoint a practitioner, and change the correspondence address. • AIA/82C: Used by the applicant in an application filed on or after September 16, 2012, to appoint up to 10 practitioners by name and registration number. • Each of these forms is used by the USPTO to determine who is authorized to act on behalf of the applicant or assignee, to process a request to revoke a power of attorney and to grant a new power of attorney, and to change the correspondence address for the identified application.
<p style="text-align: center;">3</p>	<p>Patent – Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address</p>	<p>PTO/SB/81A PTO/AIA/81A</p>	<ul style="list-style-type: none"> • SB/81A: Used by an inventor or patent owner in a patent that issued from an application filed before September 16, 2012, to revoke all previous powers of attorney in the patent, appoint a practitioner, and change the correspondence address. • AIA/81A: Used by the applicant or patent owner in a patent that issued from an application filed on or after September 16, 2012, to revoke all previous powers of attorney in the patent, appoint a practitioner, and change the correspondence address. • Both forms are used by the USPTO to determine who is authorized to act on behalf of the inventor, applicant, or patent owner, to process a request to revoke a power of attorney and to grant a new power of attorney, and to change the correspondence address for the identified patent.

4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	PTO/SB/81B PTO/AIA/81B	<ul style="list-style-type: none"> • SB/81B: Used by an inventor or patent owner in a reexamination proceeding in which the patent being reexamined issued from an application filed before September 16, 2012, to revoke all previous powers of attorney in the patent, appoint a practitioner, and change the correspondence address for the reexamination proceeding. • AIA/81B: Used by the applicant or patent owner in a reexamination proceeding in which the patent being reexamined issued from an application filed on or after September 16, 2012, to revoke all previous powers of attorney in the patent, appoint a practitioner, and change the correspondence address for the reexamination proceeding. • Both forms are used by the USPTO to determine who is authorized to act on behalf of the inventor, applicant, or patent owner, to process a request to revoke a power of attorney and to grant a new power of attorney, and to change the correspondence address in a reexamination proceeding.
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	PTO/SB/81C	<ul style="list-style-type: none"> • Used by a third party requester to revoke all previous powers of attorney in a reexamination proceeding, appoint a practitioner, and change the correspondence address for the reexamination proceeding. • Used by the USPTO to determine who is authorized to act on behalf of a third party requester, to process a request to revoke a power of attorney and to grant a new power of attorney, and to change the correspondence address in a reexamination proceeding.
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address	PTO/SB/83 PTO/AIA/83	<ul style="list-style-type: none"> • SB/83: Used by a practitioner to withdraw as the attorney or agent of record for an application filed before September 16, 2012, and to change the correspondence address for the application. • AIA/83: Used by a practitioner to withdraw as the attorney or agent of record for an application filed on or after September 16, 2012, and to change the correspondence address for the application. • Both forms are used by the USPTO to process the withdrawal request and to change the correspondence address for the identified application.
7	Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	No Form	<ul style="list-style-type: none"> • Used by an applicant or assignee to request that power of attorney in an application be allowed to be revoked by fewer than all the applicants or assignees of the entire interest. • Used by the USPTO to determine whether the request to revoke power of attorney should be granted.
8	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	No Form	<ul style="list-style-type: none"> • Used by an applicant or assignee to request that power of attorney in an application be allowed to be granted by fewer than all the applicants or assignees of the entire interest. • Used by the USPTO to determine whether the request to grant power of attorney should be granted.
9	Request for Customer Number or Customer Number Data Change	PTO/SB/124	<ul style="list-style-type: none"> • Used by the applicant, assignee, practitioner of record, or third party requester to change the correspondence address or list of registered practitioners associated with an existing Customer Number. • Used by the USPTO to process a request for a Customer Number data change.

10	Request for Customer Number	PTO/SB/125	<ul style="list-style-type: none"> Used by the public to request a Customer Number and associate a correspondence address or list of registered practitioners with that Customer Number. Used by the USPTO to assign new Customer Numbers and associate a specified address and a list of registered practitioners with a new Customer Number.
11	Customer Number Upload Spreadsheet	None	<ul style="list-style-type: none"> Used by an applicant, assignee, practitioner of record, or third party requester to change the correspondence address or fee address for a list of applications, patents, and/or reexamination proceedings by using a Customer Number. Used by the USPTO to process a request to change the correspondence address or fee address for a list of applications, patents, and/or reexamination proceedings.
12	Request to Update a PCT Application with a Customer Number	PTO-2248	<ul style="list-style-type: none"> Used by an applicant to associate an already established PCT paper application with an existing Customer Number. Used by the USPTO to process a request to associate an existing PCT application with a Customer Number.

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 may be downloaded from the USPTO website in Portable Document Format (PDF), filled out electronically, and then either printed for mailing or submitted online to the USPTO.

Customers may submit a batch request in spreadsheet format to designate or change the correspondence address and/or fee address for a list of patents, applications, or reexamination proceedings by associating them with a Customer Number. The Customer Number Upload Spreadsheet file may be submitted to the USPTO on a computer-readable diskette or compact disc (CD) with a signed cover letter requesting entry of the address changes. The spreadsheet and cover letter must be mailed to the USPTO and cannot be filed electronically. Customers may download a Microsoft Excel template with instructions from the USPTO web site to assist them in preparing the spreadsheet in the proper format. The USPTO permits electronic submission of the Customer Number Upload Spreadsheets via the Private Patent Application Retrieval (PAIR) system for spreadsheets having 20 or fewer customer number associations. Use of the Customer Number Upload Spreadsheet reduces the chance of errors and ensures that the USPTO avoids changing the address data for the wrong patent, application, or reexamination proceeding.

The other items in this information collection may be submitted to the USPTO online through the Patent Electronic System (EFS-Web or Patent Center). The Patent Electronic System is the USPTO's web-based patent application and document submission system that allows customers to file patent applications and associated documents electronically through their standard web browser without downloading special software, changing their document preparation tools, or altering their workflow processes. Typically, the customer will prepare the forms or documents and then upload them as standard PDF files to the USPTO servers using the secure EFS-Web or Patent Center interface. For one item in this information collection, the Request for Withdrawal as Attorney or Agent, the customer may choose to enter the information directly into the EFS-Web interface screens instead of using the PDF form. The Patent Electronic System offers many benefits to filers, including immediate notification that a submission has been received by the USPTO, automated processing of requests, and avoidance of postage or other paper delivery costs.

To protect the confidentiality, authenticity, and integrity of electronic submissions, the USPTO employs Public Key Infrastructure (PKI) technology for secure electronic communications with its customers. All electronic submissions are automatically encrypted prior to transmission to ensure confidentiality of the submission contents. After the electronic package has been received by the USPTO, the Patent Electronic System server uses digital signature technology to verify that the package contents have not been altered and generates an electronic acknowledgement receipt that is immediately returned to the customer.

Customers must have a Customer Number that is associated with the correspondence address for a patent application in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO Web site. PAIR allows authorized individuals secure and immediate online access to up-to-date patent application status and history information, but only for patent applications that are linked to a Customer Number. PAIR also offers public access to non-private information about issued patents and published applications.

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 respondent grants or revokes power of attorney in an application, withdraws as attorney of record, changes a correspondence address and/or fee address via a Customer Number Upload Spreadsheet, requests a Customer Number, or changes data associated with a Customer Number. This information is not collected elsewhere. However, if a customer submits Customer Number forms containing a large amount of data, such as associating Customer Number data with a large number of patents or applications, the USPTO may in some case contact the customer and request that the data be resubmitted using the Customer

Number Upload Spreadsheet format in order to facilitate accurate uploading of the data into USPTO databases.

Additionally, the Customer Number Upload Spreadsheet instructs the user to provide both the Customer Number and the correspondence address associated with the Customer Number. This correspondence address is already on file with the Customer Number, but the USPTO requests this information in order to verify that the Customer Number submitted is correct for associating the patents and applications listed on the spreadsheet.

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

No significant impact is placed on small entities.

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, assignee, or practitioner of record submits an application, or when an applicant, assignee, practitioner of record, or third party requester designates or changes their representative or correspondence address, or requests a Customer Number. This information collection could not be conducted less frequently. If the collection of information were not conducted, the USPTO would not know who is authorized to take action in an application, patent, or reexamination proceeding and could not communicate with the applicant, assignee, practitioner of record, third party requester or authorized representative concerning the application, patent, or reexamination proceeding.

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.

60-Day Notice of September 7, 2021

In this renewal action, the USPTO published a 60-day notice in the *Federal Register* on September 7, 2021 (86 FR 50086) soliciting public comments on this information collection. The public comment period closed on November 8, 2021. One public comment was received. This public comment raised similar points to those raised in three public comments submitted previously, in 2021, in response to an earlier extension of this information collection.

Prior to publishing the 60-day notice for this renewal, the USPTO adjusted six items in this information collection by raising their respective time burdens. This increase from 3-12 minutes to 30 minutes resulted in an 800% increase in the overall estimated time burdens associated with the Power of Attorney items within this information collection. The public comment suggests that the time estimates used for the Power of Attorney (now 30 minutes/0.5 hours) are still too low. The commenter claims that some submissions would take much longer to file and urges USPTO to account for the time

spent by clients, attorneys, and paraprofessionals in the process of making those submissions, which would further increase the burden estimates. The commenter also asserts that USPTO “has a number of procedures that vary unpredictably” and questioned whether USPTO was requiring submissions to meet various unpublished memoranda and other guidance not found in the promulgated regulations. The commenter claims that it is common for USPTO to reject Power of Attorney submissions based on unpublished guidance and memoranda, requiring applicants to repeatedly refile these submissions, but no concrete evidence or data is provided to support these assertions. The commenter states that USPTO should raise its assessment to account for the “10-30% of cases, [where] complications arise that drive the burden to several-fold of the ‘typical cases’”.

The USPTO appreciates the commenter’s input, and reiterates that the current estimates (now 30-minutes/0.5-hours) reasonably account for the average user experience with submission of these items. The current increase of burden by 800% is in line with what the commenter previously recommended as an appropriate estimate for the ordinary experience of users. Before making any further increases, more information regarding user experience may be needed. The USPTO’s estimates are intended to reflect an average experience for conducting this action. The USPTO acknowledges that some respondents will take longer than average to complete this action, and some will take less time than the average.

Regarding the commenter’s concerns about repeated dismissals of Power of Attorney submissions, public input gathered via the USPTO’s customer support hotlines and public interactions does not indicate any such problems with improper dismissals of Powers of Attorney. The USPTO is unaware of any user experiences that would otherwise corroborate the commenter’s allegations of repeated dismissals. The USPTO notes that what appears to be the commenter’s primary complaint with respect to the USPTO’s processing of powers of attorney—alleged uncertainty as to whether the USPTO will accept that the signatory is an authorized representative—is completely obviated by using either the USPTO’s power of attorney forms or self-made power of attorney forms containing a statement such as “The undersigned is authorized to act on behalf of the applicant.” The vast majority of power of attorney forms submitted to the USPTO are either USPTO forms or self-made forms containing the proper statement. The USPTO also notes that all application processing is conducted according to well-established, public guidance and statute. There are no unpublished memoranda or guidance being used to control processing of Power of Attorney submissions. For example, the commenter asserts that:

there seems to be an unwritten rule at the PTO that a Power of Attorney can only be valid from the applicant. But the relevant regulation provides that a Power can be signed by either the applicant or by a patent owner with § 3.71 chain of authority. The conflict between the regulation and the PTO’s unpredictable practice creates immense burden.

The “relevant regulation” appears to be 37 CFR 1.32(b)(4) and the assertion appears to

be based on a misunderstanding of the rule. 37 CFR 1.32(b)(4) provides that a power of attorney must be “signed by the applicant for patent (§ 1.42) or the patent owner.” There can be no “patent owner” unless a patent has issued. Therefore, outside of the relatively less common context of reissue applications, which are filed for issued patents, a power of attorney filed in an application for patent must be filed by the patent applicant.

The commenter also asserts that the USPTO errs in reporting only the paraprofessional time when calculating burden for Power of Attorney submissions. The USPTO already adjusted the burden time estimates in the 60-day notice of September 7, 2021 for the current information collection renewal, in response to a public comment from the same commenter submitted in response to the previous information collection renewal. In accordance with OMB guidance, the USPTO’s burden estimates are based on the “time, effort, and cost [it will] take for the respondents to locate, gather, and compile necessary documentation.” The USPTO welcomes any further guidance OMB wishes to provide in defining time burden for PRA calculation and reporting purposes. Lastly, the commenter raises concerns related to Freedom of Information Act (FOIA) requests regarding the unpublished memoranda and guidance. These comments are not relevant to the Paperwork Reduction Act or this request regarding 0651-0035.

30-Day Notice of November 29, 2021

The USPTO published on November 29, 2021, a 30-day notice soliciting public comments concurrently with the submission of this information collection to OMB. The public comment period on the 30-day notice closed on December 29, 2021. The USPTO received one public comment on December 29, 2021 from the same author group that submitted the public comment in response to the 60-day notice of September 7, 2021.

The vast majority of the comments made in the December 29, 2021 comment are repeated from previous comments and USPTO’s responses to those, as stated above, are maintained.

However, the USPTO provides a supplemental response to the commenter’s rejection of the new estimate as “implausible” because it does not account for attorney and client burden for the form. The activities that are allegedly unaccounted for by the USPTO are not appropriate in calculating the burden estimate for a Power of Attorney, as those activities fall outside the scope of Paperwork Reduction Act’s definition of burden. It is often the practice that a paraprofessional prepares the form. The information requested in the form itself can be easily determined and requires only administrative skills on the individual responsible for preparing and filing the document. The form contains roughly 16 fields, the majority of which pertain to contact information. Furthermore, most practitioners follow customer number practice, which eliminates the need to fill out at least eight of those fields. The remaining fields relate to the application number and inventor information, which are easily determined. Submission of the Power of Attorney form does not require any attorney action. Law offices may establish their own internal processes for Power of Attorney submissions, which may include attorney involvement,

but there is no USPTO requirement to include attorneys in the drafting or filing process. Thus, attorney time and costs are not included in the estimated burden for this form. In addition, client time and costs would be inappropriate to include in the estimated burden. For these reasons, the USPTO's estimates account for only paraprofessional burden for this form.

Finally, to the extent that the commenter makes broad statements that the USPTO has falsified various certifications, these statements are incorrect. The USPTO has not made any false certifications in its information collection renewal.

In addition to the required 60- and 30-day public comment periods and longstanding relationships with groups such as the American Intellectual Property Law Association (AIPLA), as well as patent bar associations, independent inventor groups, and users of our public facilities, the USPTO is planning further consultation with a range of respondents as part of a long term, multi-year effort to understand user experiences and the public burdens.

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.

Confidentiality of patent applications is governed by statute (35 U.S.C. § 122) and regulation (37 CFR 1.11 and 1.14). The USPTO has a legal obligation to maintain the confidentiality of the contents of unpublished patent applications and related documents. For secure electronic access to PAIR, the USPTO employs digital certificates and PKI technology to permit only authorized individuals to access private patent application information and to maintain the confidentiality and integrity of the information as it is transmitted over the Internet. Upon publication of an application or issuance of a patent, the patent application file is made available to the public, subject to the provisions for providing only a redacted copy of the file contents. The entire file of a reexamination proceeding is available to the public.

The United States Patent and Trademark Office (USPTO) is required by Title 35 of the United States Code, including 35 U.S.C. § 131, to maintain the patenting process. Information is collected on petitions and applications for patent products including information regarding representation. These information collection activities are covered under the Statement of Records Notice (SORN COMMERCE/PAT-TM-7 Patent Application Files, available at Federal Register /Vol. 78, No. 61 / Friday, March 29, 2013

/Notices 19243. <https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>).

Categories of individuals covered by the system include applicants for patent, including inventors, legal representatives, and other persons authorized by law to make applications for patent. The information in this system of records is used to manage all applicant records including name, citizenship, residence, post office address, and other information pertaining to the applicant's activities in connection with the invention for which a patent is sought.

The information 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 inspection of records; and to OMB for legislative coordination and clearance. Failure to provide any part of the requested information may result in an inability to process submissions.

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'.
- Table 3 calculates 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 226,573 responses per year from 184,743 respondents for this information collection, with approximately 3% of these responses submitted by small entities.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public approximately between 0.2 hours (12 minutes) to 1.5 hours (90 minutes) to complete this information collection. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 111,104 hours per year.

- **Cost Burden Calculation Factors**

The USPTO uses a professional rate of \$435 per hour for respondent cost burden calculations, which is the mean rate of intellectual property attorneys in private firms as shown in the 2021 Report of the Economic Survey published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA). The USPTO also uses a paraprofessional rate of \$149 per hour for respondent cost burden calculations, which is the average rate of paralegals as shown in the 2020 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA). Using these hourly rates, the USPTO estimates that the total respondent cost burden for this information collection is \$17,060,042 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 (hour/year)	Rate ¹ (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Power of Attorney to Prosecute Applications	2,425	2,910	0.5 (30 minutes)	1,455	\$149	\$216,795

¹ 2021 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/news/2021/09/22/the-2021-report-of-the-economic-survey-is-here>, pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour. 2020 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA); <https://nala.org/paralegal-info/>, pg 10. The USPTO uses the average billing rate per hour which is \$149.

	Before the USPTO PTO/AIA/80 PTO/SB/80						
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence PTO/AIA/82A PTO/AIA/82B PTO/AIA/82C	165,870	204,670	0.5 (30 minutes)	102,335	\$149	\$15,247,915
3	Patent – Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address PTO/AIA/81 PTO/SB/81 PTO/AIA/81A PTO/SB/81A	165	194	0.5 (30 minutes)	97	\$149	\$14,065
4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address PTO/AIA/81B PTO/SB/81B	29	29	0.5 (30 minutes)	15	\$149	\$2,235
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address PTO/SB/81C	24	24	0.5 (30 minutes)	12	\$149	\$1,788
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address PTO/AIA/83 PTO/SB/83	2,134	3,395	0.5 (30 minutes)	1,698	\$435	\$738,630
7	Petition Under 37	9	9	1.00	9	\$435	\$3,915

	CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants			(60 minutes)			
8	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	9	9	1.00 (60 minutes)	9	\$435	\$3,915
9	Request for Customer Number Data Change PTO/SB/124	1,067	1,067	0.20 (12 minutes)	213	\$149	\$31,737
10	Request for Customer Number PTO/SB/125	6,111	6,111	0.20 (12 minutes)	1,222	\$149	\$182,078
11	Customer Number Upload Spreadsheet	291	291	1.50 (90 minutes)	437	\$149	\$65,113
12	Request to Update a PCT Application with a Customer Number PTO-2248	1,067	1,067	0.25 (15 minutes)	267	\$149	\$39,783
	Totals	179,201	219,776		106,750		\$16,547,969

Table 4: Total Hourly Burden for Individuals or Households Respondents

Item No.	Item	Estimated Annual Responses	Estimated Annual Responses (year)	Estimated Time for Response (hour)	Estimated Annual Burden (hour/year)	Rate ² (\$/hour)	Estimated Annual Burden (c) x (d) = (e)
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Power of Attorney to Prosecute Applications Before the USPTO PTO/AIA/80 PTO/SB/80	75	90	0.5 (30 minutes)	45	\$149	\$6,705
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence PTO/AIA/82A PTO/AIA/82B PTO/AIA/82C	5,130	6,330	0.5 (30 minutes)	3,165	\$149	\$471,585
3	Patent – Power of	5	6	0.5	3	\$149	\$447

² 2021 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/news/2021/09/22/the-2021-report-of-the-economic-survey-is-here>, pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour. 2020 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA); <https://nala.org/paralegal-info/>, pg 10. The USPTO uses the average billing rate per hour which is \$149.

	Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address PTO/AIA/81 PTO/SB/81 PTO/AIA/81A PTO/SB/81A			(30 minutes)			
4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address PTO/AIA/81B PTO/SB/81B	1	1	0.5 (30 minutes)	1	\$149	\$149
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address PTO/SB/81C	1	1	0.5 (30 minutes)	1	\$149	\$149
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address PTO/AIA/83 PTO/SB/83	66	105	0.5 (30 minutes)	53	\$149	\$23,055
9	Request for Customer Number Data Change PTO/SB/124	33	33	0.20 (12 minutes)	7	\$149	\$5,662
10	Request for Customer Number PTO/SB/125	189	189	0.20 (12 minutes)	38	\$149	\$2,086
11	Customer Number Upload Spreadsheet	9	9	1.50 (90 minutes)	14	\$149	\$1,192

12	Request to Update a PCT Application with a Customer Number PTO-2248	33	33	0.25 (15 minutes)	8	\$149	\$1,043
	Totals	5,542	6,797		3,303		\$512,073

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.**

This information collection contains non-hour cost burdens in both fees paid by the public and associated postage costs for mailing items to the USPTO. The USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees and postage is \$26,695 per year.

Fees

There are two fees associated with submitting petitions to the USPTO for a total of \$8,000 per year as outlined in Table 5 below.

Table 5: Filing Fee/Non-hour Cost Burden to Respondents

Item No.	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Total Non-hour Cost Burden (yr) (a) x (b) = (c)
8	Petitions Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	10	\$400.00	\$4,000.00
9	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	10	\$400.00	\$4,000.00
	Totals	20	\$8,000.00

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 226,573 items will be submitted in the mail resulting in 2,266 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$8.25. Therefore, the USPTO estimates \$18,695 in postage costs associated with 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 a GS-5 employee to process submissions for this information collection, except for the Customer Number Upload Spreadsheet, which is processed by a contractor.

The USPTO estimates that the cost of a [GS-5, step 1](#) employee is \$24.80 per hour (GS hourly rate of \$19.08 with 30% (\$5.72) added for benefits and overhead).

The USPTO estimates that it takes an employee between 0.20 hours (12 minutes) and 1 hour to process the information in this information collection.

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

Table 6: Burden Hour/Cost to the Federal Government for Representative and Address Provisions

Item No.	Item	Responses (a)	Hours (b)	Burden (hrs/yr) (a) x (b)=(c)	Rate ³ (\$/hr) (d)	Total Cost (\$/hr) (c) x (d)=(e)
1	Power of Attorney to Prosecute Applications Before the USPTO	3,000	0.25 (15 minutes)	750	\$24.80	\$18,600
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence	211,000	0.25 (15 minutes)	52,750	\$24.80	\$1,308,200
3	Patent – Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	200	0.25 (15 minutes)	50	\$24.80	\$1,240
4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	30	0.25 (15 minutes)	8	\$24.80	\$198
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address	25	0.25 (15 minutes)	6	\$24.80	\$149
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address	3,500	0.25 (15 minutes)	875	\$24.80	\$21,700
8	Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	10	1	10	\$24.80	\$248
9	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	10	1	10.00	\$24.80	\$248
13	Request for Customer Number Data Change	1,100	0.20 (12 minutes)	220	\$24.80	\$5,456
14	Request for Customer Number	6,300	0.20 (12 minutes)	1260	\$24.80	\$31,248
15	Customer Number Upload Spreadsheet	300	0.42 (25 minutes)	126	\$24.80	\$3,125
16	Request to Update a PCT Application with a Customer Number	1,100	0.25 (15 minutes)	275	\$24.80	\$6,820

³ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB_h.pdf

	Total	226,575	- - - -	56,340	- - - -	\$1,397,232
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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	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	226,573	0	0	0	0	226,573
Annual Time Burden (Hr)	111,104	0	97,463	0	0	13,641
Annual Cost Burden (\$)	26,695	0	0	454	0	26,241

Change in Hourly Burden due to Program Change Due to Agency Discretion

The burden estimates have increased by 97,463 due to changing the estimated time for six items in the information collection. The switch from 3 minutes to 30 minutes for these items, suggested by public comments, results in an eightfold increase for a total of 111,104 annual burden hours.

Change in Annual (Non-hour) Costs due to Adjustment in Agency Estimate

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$454 from the previous approval. This increase is due to increase in the postage rate estimated for mailed in submissions. This results in an estimated annual cost burden of \$26,695.

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.

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.