SUPPORTING STATEMENT United States Patent and Trademark Office Practitioner Conduct and Discipline OMB CONTROL NUMBER 0651-0017 2025

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.

The Director of the USPTO has the authority to establish regulations governing the conduct and discipline of agents, attorneys, or other persons representing applicants and other parties before the USPTO (35 U.S.C. §§ 2, 32-33). The USPTO Rules of Professional Conduct, set forth in 37 CFR Part 11, subpart D, prescribe the manner in which agents, attorneys, and other persons (collectively, "practitioners") representing applicants and other parties before the USPTO should conduct themselves professionally. Part 11 outlines practitioners' responsibilities for recordkeeping and reporting violations or complaints of misconduct to the USPTO. Part 11, subpart C, sets forth the manner by which the USPTO investigates misconduct and imposes discipline.

The USPTO Rules of Professional Conduct require all practitioners to maintain complete records of all funds, securities, and other properties of clients coming into their possession, and to render appropriate accounts to the client regarding the funds, securities, and other properties of clients coming into the practitioner's possession, collectively known as "client property." These recordkeeping requirements are necessary to maintain the integrity of client property. State bars require attorneys to perform similar recordkeeping.

Part 11 also requires a practitioner to report knowledge of certain violations of the USPTO Rules of Professional Conduct to the USPTO. The Director of the Office of Enrollment and Discipline (OED) may, after notice and an opportunity for a hearing, suspend, exclude, or disqualify any practitioner from further practice before the USPTO based on non-compliance with the USPTO Rules of Professional Conduct. Practitioners who have been excluded or suspended from practice before the USPTO, and practitioners transferred to disability inactive status, must maintain records of their compliance with the suspension or exclusion order, or the transfer to disability inactive status. These records are necessary to demonstrate eligibility for reinstatement. Reports of alleged violations of the USPTO Rules of Professional Conduct are used by the Director of OED to conduct investigations and disciplinary hearings, as appropriate.

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

Table 1: Information Requirements

Item No.	Requirement	Statute	Regulation	
1	Complaint/Violation Reporting	35 U.S.C. §§ 2(b)(2)(D) and 32	37 CFR 11.803(a)	
2	Petition for Reinstatement under the provisions section 11.60(c)	35 U.S.C. §§ 2(b)(2)(D) and 32	37 CFR § 11.60	
3	Recordkeeping Maintenance and Disclosure (includes financial books and records such as trust accounts, fiduciary accounts, and operating accounts)	35 U.S.C. §§ 2(b)(2)(D) and 32	37 CFR 11.115	
4	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion	35 U.S.C. §§ 2(b)(2)(D) and 32	37 CFR 11.58	

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

The public may use Form PTO-107R to file for Reinstatement to the Register of Practicing Attorneys and Agents. PTO-107R is currently also approved for use under USPTO information collection 0651-0012 (Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office).

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 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

Item No.	Form/ Function	Form No.	Needs and Uses			
1	Complaint/Violation Reporting	No Form Associated	 Used by the public to report knowledge of certain violations of the USPTO Rules of Professional Conduct. Used by the public to maintain proper documentation in order to fully cooperate with the USPTO in an investigation. Used by the USPTO to investigate violations of the USPTO Rules of Professional Conduct. 			

Item No.	Form/ Function	Form No.	Needs and Uses
2	Petition for Reinstatement under the provisions section 11.60(c)	PTO-107R	 Used by suspended or excluded practitioners to petition the USPTO for reinstatement. Used by the USPTO to review the petition for reinstatement.
3	Recordkeeping Maintenance and Disclosure	No Form Associated	 Used by the public to maintain client integrity in the day-to-day operation of their practice. Used by the USPTO to comply with federal regulations. Used by the USPTO to impose regulations governing the conduct of attorneys, agents, and other persons representing applicants and other parties before the USPTO.
4	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion	No Form Associated	 Used by practitioners seeking reinstatement to show compliance with the terms required for reinstatement. Used by the public to provide evidence that a practitioner has or has not complied with the rules during suspension or exclusion. Used by the USPTO to determine whether a practitioner qualifies for reinstatement. Used by the USPTO to ensure that compliance with the terms required for reinstatement are being met.

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

For the most part, the USPTO will accept electronic submissions via email for Items 1 and 2, but will also accept mailed submissions. For Items 3 and 4, respondents may maintain their records as they see fit, which may include electronic means.

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

The data in this information collection is not routinely collected or maintained elsewhere. Inasmuch as a report by an attorney or agent of an alleged violation of the USPTO Rules of Professional Conduct is reported to the OED Director, there is no duplication of effort.

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

The reporting and recordkeeping requirements are essentially the same for all attorneys and agents. The collection of this information does not pose 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 on an event-by-event basis. It is not time-driven. Therefore, this information could not be collected less frequently. An attorney, agent, or other person representing applicants and other parties before the USPTO is obligated to make a report when a violation is discovered. If this information is not collected, the Director of OED would have no knowledge of alleged violations and would be unable to enforce the provisions of the Rules.

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

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

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The 60-Day Notice was published in the *Federal Register* on March 11, 2025 (90 FR 11726).¹ The comment period ended on May 12, 2025. The USPTO received no public comments in response to the notice.

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

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

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

Administrative controls are used to safeguard this information as appropriate. Reports of alleged violations of the Rules of Professional Conduct are maintained in confidence until such time as an attorney, agent, or other person representing an applicant or other party before the USPTO is publicly disciplined. Violation of reporting activities may result in notices being published in the *Official Gazette of the United States Patent and Trademark Office* and/or the Agency's Freedom of Information Act reading room. These may include notices of public reprimand, censure, suspension, exclusion, or exclusion on consent. The USPTO has been successful in declining to make available investigatory material in response to a request under the Freedom of Information Act based on 5 U.S.C. § 552(b)(6) (unwarranted invasion of personal privacy) and § 552(b) (7)(C) (investigatory records).

2

¹ https://www.govinfo.gov/content/pkg/FR-2025-03-11/pdf/2025-03831.pdf.

This information collection contains information that is subject to the Privacy Act and may be covered by the following three systems of records notices:

- COMMERCE/PAT-TM-2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents, published March 19, 2013 (78 FR 16833);²
- COMMERCE/PAT-TM-5 Non-Registered Persons Rendering Assistance to Patent Applicants, published March 19, 2013 (78 FR 16836);³ and
- COMMERCE/PAT-TM-7 Patent Application Files, published March 29, 2013 (78 FR 19243).⁴

Privacy Impact Assessment

The applicable Privacy Impact Assessment (PIA) for this system is Enrollment and Discipline Information Technology System (EDITS) (April 13, 2023)⁵.

EDITS is a repository of imaging documents serving the USPTO Office of Enrollment and Discipline (OED) where documents are stored, made searchable, and retrievable via USPTO Office of Enrollment and Discipline Information System (OEDIS). The documents stored are related to individuals applying for registration to practice in patent matters before the USPTO and registered patent practitioners.

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

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

- 12. Provide estimates of the hour burden of the collection of information. The statement should:
 - Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences

² https://www.govinfo.gov/content/pkg/FR-2013-03-19/pdf/2013-06255.pdf.

³ https://www.govinfo.gov/content/pkg/FR-2013-03-19/pdf/2013-06256.pdf.

⁴ https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf.

⁵ EDITS-PIA-FY23 SAOP Approved.pdf

in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.
- Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

Tables 3 and 4 calculate the burden hours and costs of this information collection to the public, based on the following factors:

Respondent Calculation Factors

The USPTO estimates that it will receive approximately 52,411 responses per year from 52,411 respondents for this information collection.

The USPTO estimates that approximately 99% of the responses in this collection will be submitted electronically via email.

Burden Hour Calculation Factors

The USPTO estimates that the responses in this information collection will take the public approximately 1 to 20 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO.

Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 58,187 hours per year.

Cost Burden Calculation Factors

The USPTO uses a professional rate of \$447 per hour for respondent cost burden calculations, which is the median rate for intellectual property attorneys in private firms as shown in the 2023 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA).

Using these hourly rates, the USPTO estimates that the total respondent cost burden for this information collection is \$26,009,589 per year.

Table 3: Total Burden Hours and Hourly Costs to Individual and Household Respondents

Item No.	ltem	Estimated Annual Respondent S	Responses per Respondent	Estimated Annual Responses	Estimated Time for Response (hours)	Estimated Burden (hour/year)	Rate ⁶ (\$/hour) (f)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	.,	(e) x (f) = (g)
1	Complaint/Violation Reporting	171	1	171	3	513	\$447	\$229,311
2	Petition for Reinstatement under the provisions of section 11.60(c)	3	1	3	1	3	\$447	\$1,341
	Totals	174		174		516		\$230,652

The USPTO Rules of Professional Conduct require practitioner agents to maintain various records to maintain the integrity of client property and meet other requirements. Additional recordkeeping requirements are also given for practitioners who are under suspension or exclusion. The USPTO estimates that it will take a practitioner 1 to 20 hours to perform these recordkeeping actions.

Table 4: Total Recordkeeping Hours and Hourly Costs to Individual and Household Respondents

Item No.	ltem	Estimated Annual Respondents (a)	Responses per Respondent (b)	Estimated Annual Responses (a) X (b) = (c)	Estimated Time For Response (hours)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate ⁷ (\$/hour) (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
3	Recordkeeping Maintenance and Disclosure	51,951	1	51,951	1	51,951	\$447	\$23,222,097
4	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion	286	1	286	20	5,720	\$447	\$2,556,840
	Totals	52,237		52,237		57,671		\$25,778,937

- 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

8

⁶ 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–41. The USPTO uses the average billing rate for intellectual property work in all firms which is \$447 per hour (https://www.aipla.org/home/news-publications/economic-survey).

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.

This collection has non-hourly cost burdens for fees paid by the public and associated postage costs for mailing items to USPTO. There are no capital start-up costs, maintenance costs, or non-hour recordkeeping costs associated with this information collection.

The total non-hour respondent cost burden for this collection is estimated to be \$5,439 per year, which includes \$5,418 in fees and \$21 in postage.

Filing Fees

There is one filing fee associated with this information collection for a total of \$5,418 per year as outlined in Table 5 below.

Table 5: Filing Fees

Item No.	Fee Code	Item	Estimated Annual Responses	Filing fee (\$)	Total non-hour cost burden (yr)
			(a)	(b)	(a) x (b) = (c)
2	9014	Petition for Reinstatement under 37 CFR 11.60(c)	3	\$1,806	\$5,418
		Totals	3		\$5,418

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 174 items will be submitted in

the mail resulting in 2 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail legal flat rate envelope, will be \$10.40. Therefore, the USPTO estimates the total mailing costs for this information collection at \$21.

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.

There are no government costs associated with registered practitioners maintaining their records (recordkeeping).

Various levels of pay grades reflect the different actions involved in reaching the assumptions behind the time and burden to the government for collecting and processing the information in this information collection. The Director of the OED and a combination of staff attorneys provide the professional effort to review the complaints/violations, generate inquiries as needed, review responses, and perform other follow-up activities. The clerical staff establish and maintain the files and associated updates. Paralegals primarily track all case status and docket information. Administrator and analyst efforts generally represent coordination with other functional areas; this type of coordination would primarily track against the unit of work from which all other disciplinary efforts spring, i.e., the complaint/violation reports.

The USPTO employs GS-11, GS-12, GS-14, and GS-15 employees to process complaint and violation reporting and petitions for reinstatement for this information collection.

The USPTO estimates that the cost of a GS-11, step 4 employee is \$60.75 per hour (GS hourly rate of \$44.59 with 36.25% (\$16.16) added for benefits and overhead).

The USPTO estimates that the cost of a GS-12, step 4 employee is \$72.83 per hour (GS hourly rate of \$53.45 with 36.25% (\$19.38) added for benefits and overhead).

The USPTO estimates that the cost of a GS-14, step 4 employee is \$102.32 per hour (GS hourly rate of \$75.10 with 36.25% (\$27.22) added for benefits and overhead).

The USPTO estimates that the cost of a GS-15, step 4 employee is \$120.36 per hour (GS hourly rate of \$88.34 with 36.25% (\$32.02) added for benefits and overhead).

The combined average hourly rate of these employees is \$89.07.

The USPTO estimates that it takes an employee 2 to 6 hours to process information in this collection.

Table 5 calculates the burden hours and costs to the federal government for processing this information collection:

Table 5: Burden Hour/Cost to the Federal Government

Item No.	ltem	Estimated Annual Responses (a)	Estimated Burden Hours (b)	Estimated Hourly Burden (a) x (b) = (c)	Rate ⁸ (\$/hr) (d)	Total Federal Government Cost (c) x (d) = (e)
	Complaint/Violation Reporting					
1	Director	171	6	1,026	\$89.07	\$91,386
	Staff Attorneys		16	2,736		\$243,696
2	Petition for Reinstatement under 37 CFR 11.60(c)	3	2	6	\$89.07	\$534
3	Recordkeeping Maintenance and Disclosure	N/A	N/A	N/A	N/A	N/A
4	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion from the USPTO	N/A	N/A	N/A	N/A	N/A
	Totals	174		3,768		\$335,616

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

Table 6: 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	52,411	0	0	39,221	0	13,190
Annual Time Burden (Hr)	58,187	0	0	43,995	0	14,192
Annual Cost Burden (\$)	5,439	0	0	-3,610	0	9,049

Changes Since the Publication of the 60-Day Federal Register Notice:

Since the 60-day *Federal Register* notice was published, the USPTO has adjusted the estimated total annual respondent non-hourly cost burden. The estimated postage costs

⁸ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2025/DCB h.pdf.

in this information collection has been reduced from \$10.75 to \$10.40 per mailed item, resulting in a decrease in a non-hourly cost from \$5,440 to \$5,439.

Changes in Collection Since the Last Renewal

Two non-substantive change requests (change worksheets) were filed since the last renewal.

The first change worksheet was submitted to OMB in November 2024. In this worksheet, the USPTO changed the amount of fee code 9014 to comply with rulemaking RIN 0651-AD64 (Setting and Adjusting Patent Fees During Fiscal Year 2024). This change worksheet changed one fee associated with this information collection, resulting in an increase in the collection's annual non-hourly cost burden.

The second change worksheet was submitted to OMB on January 2025. In this worksheet, the USPTO added an existing form to this collection. This form, PTO-107R (Reinstatement of the Register), is used by previously registered practitioners to request inclusion on the Register of Patent Attorneys and Agents. This form is currently used as a part of 0651-0012 for those practitioners seeking regular reinstatement to the Register. As currently approved, 0651-0017 covers the reinstatement for those practitioners who have been excluded or suspended from practice. Excluded practitioners pay a different fee and provide additional information required by the petition for reinstatement covered in 0651-0012, but otherwise the process is similar. In either case, these individuals may use PTO-107R. This change worksheet added this form into 0651-0017 to reflect respondents' ability to use this for all reinstatement situations. As a result of this addition, PTO-107R displays both control numbers (0651-0012 and 0651-0017).

Change in Responses and Hourly Burden due to Adjustment in Agency Estimate

The total number of responses has increased by 39,221 due to estimated fluctuations in the number of respondents/submissions in this information collection. This change in the number of respondents and responses results in a corresponding increase of 43,995 hours in the annual time burden estimates.

Changes 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 decrease by \$3,610 from the previous approval. This decrease is due to a decline in the number of submissions that require a fee.

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

beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

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

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

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

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

This collection of information does not include any exceptions to the certificate statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.