

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Trademark Petitions
OMB Control Number 0651-0061

Background

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. § 1051 *et seq.*, which provides for the registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO. Individuals and businesses may also submit various communications to the USPTO, including letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore a filing date, and requests for reinstatement. The regulations implementing the Trademark Act are set forth in 37 CFR Part 2.

The USPTO is consolidating and streamlining several of its petitions and request forms. The USPTO is updating the Request for Reinstatement process and will now collect that information as part of the Petition to Revive Abandoned Applications process. Therefore, the USPTO will reclassify Requests for Reinstatement concerning applications as Petitions to Revive Abandoned Applications. The USPTO is also moving the Petition to Director (PTO-2301) and the Petition to Revive with Request to Delete Section 1(b) Basis or to Delete IT Goods/Services/Collective Membership Organization After NOA (PTO-1557) from 0651-0054 into this information collection to consolidate Trademark Petitions in one location.

Changes to the information systems allow the Petition to the Director to collect requests to make special, petitions to make special, requests to restore filing dates, and petitions to change filing basis, which were previously stand-alone forms, into a single petition form. However, each petition must be submitted separately, even if they use the same basic format and form request instrument (PTO-2301). An outline of the changes is shown in the table below:

Table 1: Consolidated IC Item Names

Current Item No.	Item	Action Taking Place	New Item No.
From 0651-0054 3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action PTO-2194	Consolidated into new “Petition to Revive Abandoned Application” IC line.	4
From 0651-0054 4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request PTO-2195	Consolidated into new “Petition to Revive Abandoned Application” IC line.	4
From 0651-0054 10	Petition to the Director PTO-2301	Consolidating into new “Petition to the Director” IC line.	2
From 0651-	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU	Creating new “Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU	8

0054 11	Goods/Services/Collective Membership Organization After NOA	Goods/Services/Collective Membership Organization After NOA" IC line.	
2	Request to Make Special PTO-2304	Consolidating into new "Petition to the Director" IC line.	2
4	Petition to Make Special PTO-2306	Consolidating into new "Petition to the Director" IC line.	2
5	Request to Restore Filing Date PTO-2308	Consolidating into new "Petition to the Director" IC line.	2
6	Request for Reinstatement PTO-2309	Consolidated into new "Petition to Revive Abandoned Application" IC line.	4

The updated IC Items will appear as follows:

Table 2: Updated List of IC Items in 0651-0061

Item No.	Item
1	Letter of Protest PTO-2303
2	Petition to the Director, including: • Petition to Make Special • Petition to Change Filing Basis • Petition to Restore Filing Date • Petition to Add or Substitute a Filing Basis After Publication PTO-2301
3	Response to Petition to Director Inquiry Letter PTO-2305
4	Petition to Revive Abandoned Application, including: • Failure to Respond Timely to Office Action • Failure to File Timely Statement of Use or Extension Request PTO-2194 PTO-2195
5	Petition for <i>Ex Parte</i> Expungement PTO-2312
6	Petition for <i>Ex Parte</i> Reexamination PTO-2302
7	Response to Petition for Expungement or Reexamination Inquiry Letter
8	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA PTO-1557

Summary of Changes

The addition of the petitions from information collection 0651-0054 and consolidation of three IC lines results in an increase in the associated annual responses, hourly burden estimates, and filing fees.

Table 3: Current Total Burden Hours and Hourly Costs

Item No.	Item	Estimated Annual	Responses per	Estimated Annual	Estimated Time for	Estimated Burden	Rate ¹ (\$/hour)	Estimated Annual
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		Respondents	Respondent	Responses	Response (hours)	(hour/year)		Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Letter of Protest	3,243	1	3,243	1.50	4,865	\$447	\$2,174,655
2	Request to Make Special	800	1	800	0.83 (50 minutes)	664	\$447	\$296,808
3	Response to Petition to Director Inquiry Letter	800	1	800	1 (60 minutes)	800	\$447	\$357,600
4	Petition to Make Special	300	1	300	0.83 (50 minutes)	249	\$447	\$111,303
5	Request to Restore Filing Date	40	1	40	0.83 (50 minutes)	33	\$447	\$14,751
6	Request for Reinstatement	400	1	400	1	400	\$447	\$178,800
7	Petition for <i>Ex Parte</i> Expungement	90	1	90	4.5	405	\$447	\$181,035
8	Petition for <i>Ex Parte</i> Reexamination	100	1	100	4.5	450	\$447	\$201,150
9	Response to Petition for Expungement or Reexamination Inquiry Letter	40	1	40	0.67 (40 minutes)	27	\$447	\$12,069
	Totals	5,813	---	5,813	---	7,893	---	\$3,528,171

Table 4: New Total Burden Hours and Hourly Costs

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time for Response (hours)	Estimated Burden (hour/year)	Rate ² (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Letter of Protest PTO-2303	3,243	1	3,243	1.50	4,865	\$447	\$2,174,655
2	Petition to the Director, including: - Request to Make Special - Petition to Make Special - Request to Restore Filing Date - Petition to Change Filing Basis PTO-2301	3,525	1	3,525	1	3,525	\$447	\$1,575,675

¹ 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>).

² Ibid footnote 1.

3	Response to Petition to Director Inquiry Letter PTO-2305	800	1	800	1	800	\$447	\$357,600
4	Petition to Revive Abandoned Application, including: • Failure to Respond Timely to Office Action • Failure to File Timely Statement of Use or Extension Request PTO-2194 PTO-2195	22,132	1	22,132	1	22,132	\$447	\$9,893,004
5	Petition for <i>Ex Parte</i> Expungement PTO-2312	90	1	90	4.5	405	\$447	\$181,035
6	Petition for <i>Ex Parte</i> Reexamination PTO-2302	100	1	100	4.5	450	\$447	\$201,150
7	Response to Petition for Expungement or Reexamination Inquiry Letter	40	1	40	0.67 (40 minutes)	27	\$447	\$12,069
8	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA	54	1	54	1.17 (70 minutes)	63	\$447	\$28,161
Totals		29,984	---	29,984	---	32,267	---	\$14,423,359

Table 5: Current List Filing Fees

Item No.	Fee Code(s)	Item	Estimated Annual Responses (a)	Estimated Fee Amount (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
1	7011	Letter of Protest	3,243	\$50	\$162,150
4	7005	Petition to Make Special (TEAS)	299	\$400	\$119,600
4	6005	Petition to Make Special (Paper)	1	\$500	\$500
7	7014	Petition for <i>Ex Parte</i> Expungement	90	\$400	\$36,000
8	7014	Petition for <i>Ex Parte</i> Reexamination	100	\$400	\$40,000
Totals			3,733	- - -	\$358,250

Table 6: New List of Filing Fees

Item No.	Fee Code(s)	Item	Estimated Annual Responses (a)	Estimated Fee Amount (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
1	7011	Letter of Protest	3,243	\$150	\$486,450
2	7005	Petition to Make Special (TEAS)	299	\$400	\$119,600
2	6005	Petition to Make Special (Paper)	1	\$500	\$500
2	6005	Petition to the Director (Paper)	1	\$500	\$500
2	7005	Petition to the Director (Electronic)	2,385	\$400	\$954,000
4	6010	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	1	\$350	\$350

Item No.	Fee Code(s)	Item	Estimated Annual Responses (a)	Estimated Fee Amount (b)	Estimated Non-Hour Cost Burden (a) x (b) = (c)
4	7010	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Electronic)	20,665	\$250	\$5,166,250
4	6010	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	1	\$350	\$350
4	7010	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Electronic)	1,067	\$250	\$266,750
5	7014	Petition for <i>Ex Parte</i> Expungement	90	\$400	\$36,000
6	7014	Petition for <i>Ex Parte</i> Reexamination	100	\$400	\$40,000
8	6010	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA (Paper)	1	\$350	\$350
8	7010	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services/Collective Membership Organization After NOA (Electronic)	54	\$250	\$13,500
		Totals	27,908	- - -	\$7,084,600

Changes in Burden

The addition of four petitions and the consolidation of multiple IC lines results in the following burden changes for this information collection:

Table 7: Changes in Burden

Burden Type	Currently Approved	Proposed Changes	New Estimates
Responses	5,813	24,171	29,984
Hours	7,893	24,374	32,267
Non-hourly costs (\$)	682,560	6,402,050	7,084,610

Therefore, the revised burden for 0651-0061 is as follows:

- 29,984 annual responses
- 32,267 annual burden hours
- \$7,084,610 in annual non-hourly cost burdens