

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Substantive Submissions Made During the Prosecution**  
**of the Trademark Application**  
**OMB CONTROL NUMBER 0651-0054**  
**(August 2017)**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

This collection of information is required by the Trademark Act, 15 U.S.C. § 1051 *et seq.*, which provides for the registration of trademarks, service marks, collective trademarks and collective 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 United States Patent and Trademark Office (USPTO).

Such individuals and businesses may also submit various communications to the USPTO, including providing additional information needed to process a request to delete a particular filing basis from an application or to divide an application identifying multiple goods and/or services into two or more separate applications. Applicants may seek a six-month extension of time to file a statement that the mark is in use in commerce or submit a petition to revive an application that was abandoned for failure to submit a timely response to an office action or a timely statement of use or extension request. In some circumstances, an applicant may expressly abandon an application by filing a written request for withdrawal of the application.

The rules implementing the Trademark Act are set forth in 37 CFR Part 2. These rules mandate that each register entry include the mark, the goods and/or services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. As a result, the Federal trademark registration process is intended to reduce unnecessary litigation, and its accompanying costs and burdens.

The forms in this collection are available in electronic format through the Trademark Electronic Application System (TEAS), which may be accessed through the USPTO Web site. The TEAS forms allow users to pay any fees by credit card, by an authorization to charge a USPTO deposit account, or by electronic funds transfer (EFT). Applicants may also submit the information in paper format by mail, fax, or hand delivery, as appropriate. There are two official paper forms for the items in this

collection. For the other items, individuals and businesses can submit their own paper forms, following the USPTO's rules and guidelines to ensure that all of the necessary information is provided.

Table 1 identifies the statutory and regulatory provisions pursuant to which the USPTO collects the information:

**Table 1: Information Requirements for Substantive Submissions Made During Prosecution of the Trademark Application**

IC No.	Requirement	Statute	Rule
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use)	15 U.S.C. § 1051(c) and (d) (1)	37 CFR Part 2, 2.76, 2.86 and 2.88
2	Request for Extension of Time to File a Statement of Use	15 U.S.C. § 1051(d)(2)	37 CFR Part 2, 2.89
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action	15 U.S.C. §§ 1062(b) and 1123	37 CFR Part 2, 2.61-2.66
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request	15 U.S.C. § 1051(d)(4)	37 CFR Part 2, 2.66, 2.88, and 2.89
5	Request to Delete Section 1(b) Basis, Intent to Use	15 U.S.C. § 1123	37 CFR Part 2, 2.35
6	Request for Express Abandonment (Withdrawal) of Application	15 U.S.C. § 1123	37 CFR Part 2, 2.68
7	Request to Divide Application	15 U.S.C. § 1123	37 CFR Part 2, 2.87
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action	15 U.S.C. § 1123	37 CFR Part 2, 2.87
9	Response to Petition to Revive Deficiency Letter	15 U.S.C. §§ 1051(d)(4), 1062(b), and 1123	37 CFR Part 2, 2.61, 2.63-2.66, 2.88, and 2.89
10	Petition to the Director Under Trademark Rule 2.146	15 U.S.C. § 1123	37 CFR Part 2, 2.35, 2.63, 2.84, 2.101, 2.102, 2.146, 2.165, 2.176 and 2.186
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA	15 U.S.C. §§ 1062(b) and 1123	37 CFR Part 2, 2.35, 2.66, and 2.77

## 2. Needs and Uses

The USPTO uses the information described in this collection to process the substantive submissions made during prosecution of the trademark application. The information in this collection is a matter of public record and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is available at USPTO facilities and can also be accessed at the USPTO's Web site. Additionally, the USPTO provides the information to other entities, including

Patent and Trademark Resource Centers (PTRCs). The PTRCs maintain the information for use by the public.

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 lists the information identified in this collection and explains how this information is used by the public and by the USPTO:

**Table 2: Needs and Uses of Substantive Submissions Made During Prosecution of the Trademark Application**

IC No	Form and Function	Form #	Needs and Uses
1	Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (TEAS) (Ref. B)	PTO Form 1553	<ul style="list-style-type: none"> <li>Used by the public to electronically file a notification to the USPTO that a mark for which registration is sought is in use in commerce.</li> <li>Used by the USPTO to review electronically filed applications for registration.</li> </ul>
1	Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Paper)	PTO Form 1553	<ul style="list-style-type: none"> <li>Used by the public to notify the USPTO that a mark for which registration is sought is in use in commerce.</li> <li>Used by the USPTO to review applications for registration.</li> </ul>
2	Request for Extension of Time to File a Statement of Use (TEAS) (Ref. C)	PTO Form 1581	<ul style="list-style-type: none"> <li>Used by the public to electronically file a request for a six-month extension of time to file a statement that the mark for which registration is sought is in use in commerce.</li> <li>Used by the USPTO to grant an extension of time to file a statement that the mark for which registration is sought is in use in commerce.</li> </ul>
2	Request for Extension of Time to File a Statement of Use (Paper)	PTO Form 1581	<ul style="list-style-type: none"> <li>Used by the public to request a six-month extension of time to file a statement that the mark for which registration is sought is in use in commerce.</li> <li>Used by the USPTO to grant an extension of time to file a statement that the mark for which registration is sought is in use in commerce.</li> </ul>
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (TEAS) (Ref. D)	Form 2194	<ul style="list-style-type: none"> <li>Used by the public to electronically file a petition to the USPTO to revive an application that was abandoned because of a failure to submit a timely response to an Office action.</li> <li>Used by the USPTO to review and process electronically filed petitions to revive an application that was abandoned because of a failure to submit a timely response to an Office action.</li> </ul>

IC No	Form and Function	Form #	Needs and Uses
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to petition the USPTO to revive an application that was abandoned because of a failure to submit a timely response to an Office action.</li> <li>Used by the USPTO to review and process a request to revive an application that was abandoned because of a failure to submit a timely response to an Office action.</li> </ul>
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (TEAS) (Ref. E)	Form 2195	<ul style="list-style-type: none"> <li>Used by the public to electronically file a petition to revive an application that was abandoned because of a failure to file a timely statement of use or extension request.</li> <li>Used by the USPTO to review and process electronically filed petitions to revive an application that was abandoned because of a failure to file a timely statement of use or extension request.</li> </ul>
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to petition the USPTO to revive an application that was abandoned because of a failure to file a timely statement of use or extension request.</li> <li>Used by the USPTO to review and process a petition to revive an application that was abandoned because of a failure to file a timely statement of use or extension request.</li> </ul>
5	Request to Delete Section 1(b) Basis, Intent to Use (TEAS) (Ref. F)	Form 2200	<ul style="list-style-type: none"> <li>Used by the public to electronically file a request to delete a section 1(b) basis as to an entire class of goods and/or services in an application.</li> <li>Used by the USPTO to review and process electronically filed requests to delete a section 1(b) basis from an application.</li> </ul>
5	Request to Delete Section 1(b) Basis, Intent to Use (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to submit a request to delete a section 1(b) basis as to an entire class of goods and/or services in an application.</li> <li>Used by the USPTO to review and process requests to delete a section 1(b) basis from an application.</li> </ul>
6	Request for Express Abandonment (Withdrawal) of Application (TEAS) (Ref. G)	Form 2202	<ul style="list-style-type: none"> <li>Used by the public to electronically file a request to withdraw an application.</li> <li>Used by the USPTO to review and process electronically filed requests to withdraw an application.</li> </ul>
6	Request for Express Abandonment (Withdrawal) of Application (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to submit a request to withdraw an application.</li> <li>Used by the USPTO to review and process requests to withdraw an application.</li> </ul>
7	Request to Divide Application (TEAS Global) (Ref. H)	TEAS Global Form	<ul style="list-style-type: none"> <li>Used by the public to electronically request that an application for registration that identifies multiple goods and/or services be divided into two or more separate applications.</li> <li>Used by the USPTO to review and process electronic requests to divide applications for registration that identify multiple goods and/or services into two or more separate applications.</li> </ul>

IC No	Form and Function	Form #	Needs and Uses
7	Request to Divide Application (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to request that an application for registration that identifies multiple goods and/or services be divided into two or more separate applications.</li> <li>Used by the USPTO to review and process requests to divide applications for registration that identify multiple goods and/or services into two or more separate applications.</li> </ul>
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)  (Ref. I)	TEAS Global Form	<ul style="list-style-type: none"> <li>Used by the public to electronically submit information in response to an Office action received from the USPTO after it is determined from the initial review that the request to divide is incomplete.</li> <li>Used by the public to electronically pay additional fees.</li> <li>Used by the USPTO to collect information that the applicant did not supply in the original request to divide and which the USPTO needs to complete the review of the request.</li> </ul>
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to submit information in response to an Office action received from the USPTO after it is determined from the initial review that the request to divide is incomplete.</li> <li>Used by the USPTO to collect information that the applicant did not supply in the original request to divide and which the USPTO needs to complete the review of the request.</li> </ul>
9	Response to Petition to Revive Deficiency Letter (TEAS Global)  (Ref. J)	TEAS Global Form	<ul style="list-style-type: none"> <li>Used by the public to electronically submit information in response to an Office action received from the USPTO after it is determined from the initial review that the petition to revive is incomplete.</li> <li>Used by the public to electronically pay additional fees.</li> <li>Used by the USPTO to collect information that the applicant did not supply in the original petition and which the USPTO needs to complete the review of the petition.</li> </ul>
9	Response to Petition to Revive Deficiency Letter (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to submit information in response to an Office action received from the USPTO after it is determined from the initial review that the petition to revive is incomplete.</li> <li>Used by the USPTO to collect information that the applicant did not supply in the original petition and which the USPTO needs to complete the review of the petition.</li> </ul>
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)  (Ref. K)	TEAS Global Form	<ul style="list-style-type: none"> <li>Used by the public to electronically file a petition to the Director pursuant to Trademark Rule 2.146.</li> <li>Used by the USPTO to review and process electronic petitions to the Director filed pursuant to Trademark Rule 2.146.</li> </ul>

IC No	Form and Function	Form #	Needs and Uses
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the public to file a petition to the Director pursuant to Trademark Rule 2.146.</li> <li>• Used by the USPTO to review and process petitions to the Director filed pursuant to Trademark Rule 2.146.</li> </ul>
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)  (Ref. M)	TEAS Global Form	<ul style="list-style-type: none"> <li>• Used by the public to electronically file a petition to the USPTO to revive an application that was abandoned because of a failure to submit a timely response to a Notice of Allowance and to request deletion of a basis or of specified goods and/or services.</li> <li>• Used by the USPTO to review and process electronic petitions to revive an application that was abandoned because of a failure to submit a timely response to a Notice of Allowance and to review a request to delete a basis or specified goods and/or services.</li> </ul>
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the public to file a petition to the USPTO to revive an application that was abandoned because of a failure to submit a timely response to a Notice of Allowance and to request deletion of a basis or of specified goods and/or services.</li> <li>• Used by the USPTO to review and process a petition to revive an application that was abandoned because of a failure to submit a timely response to a Notice of Allowance and to review a request to delete a basis or specified goods and/or services.</li> </ul>

### 3. Use of Information Technology

The USPTO provides online electronic forms through the Web-accessible Trademark Electronic Application System (TEAS). TEAS provides a useful service for all trademark filers. TEAS forms are completed online and transmitted to the USPTO electronically via the Internet. The TEAS forms include “Help” instructions, as well as a “Form Wizard” that tailors the form to the particular characteristics of the application and the mark in question, based on responses provided by the user to questions posed by the Wizard. The forms are received and filed upon transmission, and a confirmation of filing is issued via e-mail to the user. TEAS Global forms provide an option for electronic submission of information when a TEAS form having dedicated fields for particular information is not available.

Please note that electronic forms can only be submitted via TEAS; filers may not e-mail their own forms to the USPTO.

In addition to providing a system that allows the electronic transmission of trademark submissions, the USPTO also provides the public with online access to various trademark records.

The USPTO maintains an online image database, called the Trademark Status and Document Retrieval (TSDR) system, which includes images of each of the documents

that make up the “electronic file wrapper” of a trademark application or registration and also provides users with information regarding the status of trademark applications and registrations. The data in the TSDR system is updated daily.

The USPTO provides a web-based record of registered marks, and marks for which applications for registration have been submitted, called the Trademark Electronic Search System (TESS). TESS can be used by potential applicants for trademark registration to assist in the determination of whether a particular mark may be available. The data in TESS is identical to the data reviewed by examining attorneys at the USPTO in their determination of whether marks for which registration is sought are confusingly similar to marks in existing registrations or to marks in pending applications for registration. TESS allows the user to choose from four different search tools, is updated daily, and is easy to use.

These systems are all accessible through the Trademark Electronic Business Center (TEBC) on the USPTO Web site. The TEBC provides descriptions of these systems, and the systems feature online “Help” programs. Thus, the USPTO offers a single source for a variety of systems useful both for making submissions to the USPTO and for tracking the status of these submissions.

The Trademark Reporting and Monitoring (TRAM) system is also maintained by the USPTO. This system is an internal USPTO database only and provides support to all facets of Trademark operations, from the receipt of a new application in the USPTO, through processing and examination of the application, and into the post-registration activities required to maintain registered trademarks. Bibliographic data in TRAM for pending applications and active registrations is generally updated in real time. The TRAM system maintains current location and status information on applications and registrations, enabling the USPTO to promptly determine the status of any file and to locate files. Data is received in an electronic format that permits expedited transfer to TRAM, thereby reducing processing steps and improving the reliability and quality of the data that is transferred.

#### **4. Efforts to Identify Duplication**

This information is collected only when allegations of use, requests for extension of time to file a statement of use, petitions to revive abandoned applications, requests to delete section 1(b) basis, requests for express abandonment, requests to divide, responses to intent-to-use (ITU) divisional unit Office actions, responses to petition to revive deficiency letters, petitions to the director under trademark rule 2.146, and petitions to revive with request to delete section 1(b) basis or to delete ITU goods/services after notice of allowance are submitted to the USPTO. This collection does not solicit any data already available at the USPTO. This collection does not create a duplication of effort.

#### **5. Minimizing the Burden to Small Entities**

The USPTO expects that the submission of the information provided places no undue burden on small businesses or other small entities. The same information is required from every customer and is not available from any other source.

## **6. Consequences of Less Frequent Collection**

This information collection could not be conducted less frequently, since the information is collected only when voluntarily submitted by the public. If the information were not collected, the public would not be able to allege use of a trademark/service mark, request an extension of time to file a statement of use, petition to revive abandoned applications, request that a section 1(b) basis be deleted from their applications, request express abandonment, file a request to divide an application, or file the other responses and petitions in this collection. If this information were not collected, the USPTO could not comply with the requirements of the Trademark Act, 15 U.S.C. § 1051 and 37 CFR Part 2.

## **7. Special Circumstances in the Conduct of Information Collection**

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

## **8. Consultation Outside the Agency**

The 60-Day Notice was published in the *Federal Register* on July 25, 2017 (82 Fed Reg. 34509). The public comment period ended on September 25, 2017. No public comments were received.

The USPTO has long-standing relationships with several large and well-organized groups who frequently communicate their views, such as the American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), and International Trademark Association (INTA), as well as business groups and users of our public facilities.

Also, the Trademark Public Advisory Committee (TPAC) was created by the American Inventors Protection Act of 1999 to advise the Director of the USPTO on the agency's operations, including its goals, performance, budget, and user fees. The TPAC includes nine voting members who are appointed by and serve at the pleasure of the Secretary of Commerce. The statute also provides non-voting membership on the Committee for the agency's three recognized unions. Members include inventors, lawyers, corporate executives, entrepreneurs, and academicians with significant experience in management, finance, science, technology, labor relations, and intellectual-property issues. The members of the TPAC reflect the broad array of USPTO stakeholders and embrace the USPTO's e-government initiative.

Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an information collection. No comments or viewpoints were expressed regarding the present renewal.

## **9. Payment or Gifts to Respondents**

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

## **10. Assurance of Confidentiality**

Trademark applications and registrations are open to public inspection. Confidentiality is not required in the processing of trademark applications.

The TEAS forms also include links to the USPTO's Web Privacy Policy and to the form's burden statement at the bottom of each page.

## **11. Justification for Sensitive Questions**

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

## **12. Estimate of Hour and Cost Burden to Respondents**

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

- **Respondent Calculation Factors**

The USPTO expects that it will receive 374,972 responses per year for this collection.

- **Burden Hour Calculation Factors**

The USPTO estimates that it will take the public an average of 10 to 35 minutes (0.17 to 0.58 hours) to complete the collections of information described in this submission, depending on the nature of the information. This includes time to gather the necessary information, create the documents, and either complete and electronically file the associated form or mail the completed request.

- **Cost Burden Calculation Factors**

The Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA) published a report that summarized the results of a survey with data on hourly billing rates. The professional rate of \$438.00 per hour used in this submission is the median rate for attorneys in private firms as published in that report. The USPTO expects that the information in this collection will be prepared by attorneys, although some submissions may be prepared by *pro se* applicants and registrants. This is a fully loaded hourly rate.

**Table 3: Burden Hour/Burden Cost to Respondents for Substantive Submissions Made During Prosecution of the Trademark Application**

IC No .	Item	Minutes (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Paper) <b>(PTO Form 1553)</b>	30	27	13.50	\$438.00	\$5,913.00
1	Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (TEAS) <b>(PTO Form 1553)</b>	25	109,086	45,452.50	\$438.00	\$19,908,195.00
2	Request for Extension of Time to File a Statement of Use (Paper)	15	59	14.75	\$438.00	\$6,460.50
2	Request for Extension of Time to File a Statement of Use (TEAS) <b>(PTO Form 1581)</b>	12	234,906	46,981.20	\$438.00	\$20,853,570.00
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper) <b>(PTO Form 1581)</b>	25	5	2.08	\$438.00	\$912.50
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (TEAS) <b>(PTO Form 2194)</b>	20	19,545	6,515.00	\$438.00	\$2,853,570.00
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	20	1	0.33	\$438.00	\$146.00
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (TEAS) <b>(PTO Form 2195)</b>	15	284	71.00	\$438.00	\$31,098.00
5	Request to Delete Section 1(b) Basis, Intent to Use (Paper)	15	1	0.25	\$438.00	\$109.50
5	Request to Delete Section 1(b) Basis, Intent to Use (TEAS) <b>(PTO Form 2200)</b>	10	1,400	233.33	\$438.00	\$102,200.00
6	Request for Express Abandonment (Withdrawal) of Application (Paper)	15	1	0.25	\$438.00	\$109.50
6	Request for Express Abandonment (Withdrawal) of Application (TEAS) <b>(PTO Form 2202)</b>	10	5,500	916.67	\$438.00	\$401,500.00
7	Request to Divide Application (Paper)	20	1	0.33	\$438.00	\$146.00
7	Request to Divide Application (TEAS Global)	15	3,057	764.25	\$438.00	\$334,741.50
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	35	1	0.58	\$438.00	\$255.50
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	30	2	1.00	\$438.00	\$438.00

IC No.	Item	Minutes (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
9	Response to Petition to Revive Deficiency Letter (Paper)	25	1	0.42	\$438.00	\$182.50
9	Response to Petition to Revive Deficiency Letter (TEAS Global)	20	313	104.33	\$438.00	\$45,698.00
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	30	1	0.50	\$438.00	\$219.00
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	25	750	312.50	\$438.00	\$136,875.00
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	35	1	0.58	\$438.00	\$255.50
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	30	30	15.00	\$438.00	\$6,570.00
	<b>Total</b>	- - -	<b>374,972</b>	<b>101,400.37</b>	- - -	<b>\$44,413,360.60</b>

### 13. Total Annualized (Non-hour) Cost Burden

There are no capital start-up, maintenance, or record-keeping costs. There is, however, non-hour cost burden in the way of filing fees and postage costs.

Filing fees of \$42,650,825.00 are associated with this collection. Filing fees are based on per class filing of goods and services; therefore, the total filing fees can vary depending on the number of classes. The filing fees shown here are the minimum fees associated with this information collection.

Table 4 calculates the filing fees associated with this collection of information:

**Table 4: Filing Fees – Non-hour Cost Burden for Substantive Submissions Made During Prosecution of the Trademark Application**

IC No.	Item	Responses (yr) (a)	Filing fee* (\$) (b)	Total Non-Hour Cost Burden (yr) (a) x (b) (c)
1	Trademark/Service Mark Allegation of Use (Amendment to Alleged Use/Statement of Use) (Paper)	27	\$200.00	\$5,400.00
1	Trademark/Service Mark Allegation of Use (Amendment to Alleged Use/Statement of Use) (TEAS)	109,086	\$100.00	\$10,908,600.00
2	Request for Extension of Time to File a Statement of Use (Paper)	59	\$225.00	\$13,275.00

IC No.	Item	Responses (yr) (a)	Filing fee* (\$) (b)	Total Non-Hour Cost Burden (yr) (a) x (b) (c)
2	Request for Extension of Time to File a Statement of Use (TEAS)	234,906	\$125.00	\$29,363,250.00
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	5	\$200.00	\$1,000.00
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (TEAS)	19,545	\$100.00	\$1,954,500.00
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	1	\$200.00	\$200.00
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (TEAS)	203	\$100.00	\$20,300.00
7	Request to Divide Application (Paper)	1	\$200.00	\$200.00
7	Request to Divide Application (TEAS Global)	3,057	\$100.00	\$305,700.00
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	1	\$200.00	\$200.00
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	750	\$100.00	\$75,000.00
11	Petition to Revive With Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	1	\$200.00	\$200.00
11	Petition to Revive With Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	30	\$100.00	\$3,000.00
	<b>Total</b>	<b>367,672</b>	<b>- - -</b>	<b>0</b>

Applicants and registrants incur postage costs when submitting information to the USPTO by mail through the United States Postal Service. The USPTO expects that the majority of submissions for these paper forms are made via first-class mail. First-class postage is 49 cents. Therefore, a total estimated mailing of 99 paper submissions with a cost of \$48.51 is incurred for this collection.

In sum, the total annual non-hour cost burden for this collection in the form of filing fees (\$42,650,825.00) and postage costs (\$48.51) amounts to \$42,650,873.51.

#### 14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-11, step 7 employee between between 11 and 14 minutes to process an allegation of use, between 6 and 11 minutes to process an extension request, between 6 and 11 minutes to process a request to delete a section 1(b) filing basis, between 24 and 30 minutes to process a request to divide an application, and between 24 and 30 minutes to process a response to an ITU Office action. The current hourly rate for a GS-11, step 7 is \$38.24. When 30% is added to

account for a fully loaded hourly rate (benefits and overhead), the cost per hour for a GS-11, step 7 is \$38.24 + \$11.47, for a rate of \$49.71.

The USPTO estimates that it takes a GS-11, step 9 employee between 2 and 6 minutes to process a request for express abandonment. The current hourly rate for a GS-11, step 9 is \$40.37. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for a GS-11, step 9 is \$40.37 + \$12.11, for a rate of \$52.48.

The USPTO estimates that it takes a GS-12, step 8 employee between 3 and 9 minutes to process a petition to revive for failure to timely respond to an Office action, between 3 and 9 minutes to process a petition to revive for failure to file timely statement of use or extension request, between 15 and 18 minutes to process a response to a petition to revive deficiency letter, and between 15 and 18 minutes to process a petition to revive with request to delete a section 1(b) filing basis or to delete ITU goods/services after NOA. The current hourly rate for a GS-12, step 8 is \$47.11. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for a GS-12, step 8 is \$47.11 + \$14.13, for a rate of \$61.24.

The USPTO estimates that it takes a GS-15, step 5 employee between 30 and 45 minutes to process a petition under Trademark Rule 2.146. The current hourly rate for a GS-15, step 5 is \$71.56. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for a GS-15, step 5 is \$71.56 + \$21.47, for a rate of \$93.03.

Table 5 calculates the processing hours and costs of this information collection to the Federal Government:

**Table 5: Burden Hour/Burden Cost to the Federal Government for Substantive Submissions Made During Prosecution of the Trademark Application**

IC No.	Item	Minutes (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Paper)	14	27	6.30	\$49.71	\$313.17
1	Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (TEAS)	11	109,086	19,999.10	\$49.71	\$994,155.26
2	Request for Extension of Time to File a Statement of Use (Paper)	11	59	10.82	\$49.71	\$537.70
2	Request for Extension of Time to File a Statement of Use (TEAS)	6	234,906	23,490.60	\$49.71	\$1,167,717.73
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Paper)	9	5	0.75	\$61.24	\$45.93
3	Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (TEAS)	3	19,545	977.25	\$61.24	\$59,846.79

IC No.	Item	Minutes (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Paper)	9	1	0.15	\$61.24	\$9.19
4	Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (TEAS)	3	284	14.20	\$61.24	\$869.61
5	Request to Delete Section 1(b) Basis, Intent to Use (Paper)	11	1	0.17	\$49.71	\$8.29
5	Request to Delete Section 1(b) Basis, Intent to Use (TEAS)	6	1,400	116.67	\$49.71	\$5,799.50
6	Request for Express Abandonment (Withdrawal) of Application (Paper)	6	1	0.10	\$52.48	\$5.25
6	Request for Express Abandonment (Withdrawal) of Application (TEAS)	2	5,500	183.33	\$52.48	\$9,621.33
7	Request to Divide Application (Paper)	30	1	0.50	\$49.71	\$24.86
7	Request to Divide Application (TEAS Global)	24	3,057	1,222.80	\$49.71	\$60,785.39
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	30	1	0.50	\$49.71	\$24.86
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	24	2	0.80	\$49.71	\$39.77
9	Response to Petition to Revive Deficiency Letter (Paper)	18	1	0.30	\$61.24	\$18.37
9	Response to Petition to Revive Deficiency Letter (TEAS Global)	15	313	78.25	\$61.24	\$4,792.03
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	45	1	0.75	\$93.03	\$69.77
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	30	750	375.00	\$93.03	\$34,886.25
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper)	18	1	0.30	\$61.24	\$18.37
11	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)	15	30	7.50	\$61.24	\$459.30
	<b>Total</b>	- - -	<b>374,972</b>	<b>46,486.13</b>	- - -	<b>\$2,340,048.70</b>

## 15. Reason for Change in Burden

### A. Changes in collection since OMB approval in 2014

OMB Previously approved the renewal of this information collection in October 2014. The current collection contains:

- 292,706 responses
- 63,984 burden hours
- \$24,888,609.00 in respondent hourly cost burden
- \$37,737,606.00 in annual (non-hour) costs

#### Changes due to rulemaking activity

In October 2016 a change worksheet updated several fees in accordance with rulemaking activity NPRM 0651-AD08.

#### Changes since 60-day notice

Since the publication of the 60-day notice in the *Federal Register* on July 25, 2017, the attorney rate has been updated to \$438, based upon the new AIPLA 2017 Report of the Economic Survey. This has increased the respondent hourly cost burden from \$41,574,150.33 to \$44,413,360.60. Additionally, the number of respondents paying a fee has been changed to 367,672, in order to reflect more accurate reporting.

#### B. Changes proposed in this request to OMB

The proposed collection, as outlined in the tables above, seeks to modify the existing collection. The proposed collection contains an estimated:

- 374,972 responses
- 101,400.37 burden hours
- \$44,413,360.60 in respondent hourly cost burden
- \$42,650,873.51 in annual (non-hour) costs

#### Change in respondent cost burden

The total respondent cost burden for this collection has increased by \$19,524,751.60 (from \$24,888,609.00 to \$44,413,360.60) from the previous renewal of this collection in October 2014:

- Increases in estimated hourly rates. The 2014 renewal used an estimated rate of \$389 per hour for attorneys. For the current renewal, the USPTO is using updated hourly rates of \$438.
- Increases in estimated burden hours. The total estimated burden hours have increased from 63,894 in the 2014 renewal to 101,400.37 for the current renewal due to overall increases in estimated annual responses.

#### Changes in responses and burden hours

For this renewal, the USPTO estimates that the annual responses will increase by 82,266 (from 292,706 to 374,972) and the total burden hours will increase by 37,419.37 (from 63,981 to 101,400.37) from the currently approved burden for this collection. These changes are due to agency estimates.

#### Changes in annual (non-hour) costs

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$4,943,267.51 (from \$37,737,606.00 to \$42,650,873.51), due to agency estimates.

### **16. Project Schedule**

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

### **17. Display of Expiration Date of OMB Approval**

The forms in this information collection will display the OMB Control Number and the date on which OMB's approval of this information collection expires.

### **18. Exception to the Certificate Statement**

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.

### **References**

- A. USPTO Information Quality Guidelines
- B. TEAS Trademark/Service Mark Allegation of Use (Amendment to Allege Use/Statement of Use) (Form 1553)
- C. TEAS Request for Request for Extension of Time to File a Statement of Use (Form 1581)
- D. TEAS Petition to Revive Abandoned Application – Failure to Respond Timely to Office Action (Form 2194)
- E. Petition to Revive Abandoned Application – Failure to File Timely Statement of Use or Extension Request (Form 2195)
- F. TEAS Request to Delete Section 1(b) Basis, Intent to Use (Form 2200)
- G. TEAS Request for Express Abandonment (Withdrawal) of Application (Form 2202)
- H. Request to Divide Application (TEAS Global)
- I. Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)
- J. Response to Petition to Revive Deficiency Letter (TEAS Global)
- K. Petition to the Director Under Trademark Rule 2.146 (TEAS Global)

- L. Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global)