

SUPPORTING STATEMENT
United States Patent and Trademark Office
Trademark Submissions Regarding Correspondence and Regarding Attorney
Representation
OMB Control Number 0651-0056
2020

A. JUSTIFICATION

- 1. Explain the circumstances that make the information 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.**

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. § 1051 *et seq.*, which provides for the Federal 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.

Such individuals and businesses may also submit various communications to the USPTO regarding their pending applications or registered trademarks, including providing additional information needed to process a pending application, filing amendments to the applications, or filing the papers necessary to keep a trademark in force. In the majority of circumstances, individuals and businesses retain attorneys to handle these matters and to submit communications to the USPTO regarding the various activities related to the appointment and retention of attorneys and domestic representatives.

The rules implementing the Trademark Act¹ are set forth in 37 CFR Part 2. Rules regarding representation of others before the USPTO are also set forth in 37 CFR Part 11. In addition to governing the registration of trademarks, the Act and rules also govern the appointments and revocations of attorneys and domestic representatives. The trademark rules provide the specifics for filing requests for permission to withdraw as the attorney of record.

The information in this collection can be collected in two different ways: through one of two dedicated Trademark Electronic Application System (TEAS) forms (PTO Forms 2300 and 2201) or through a permitted paper submission. There are no official paper forms for these items. When permitted, 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 statutes and regulations that permit the USPTO to collect the information needed to process these submissions.

¹ [The Trademark Act of 1946 as amended:](https://www.uspto.gov/sites/default/files/trademarks/law/Trademark_Statutes.pdf)
https://www.uspto.gov/sites/default/files/trademarks/law/Trademark_Statutes.pdf

Table 1: Information Requirements

| Item No. | Requirement | Statute | Regulation |
|-----------------|--|---|---|
| 1 | Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative | 15 U.S.C. §§ 1051(e), 1058(f), 1123, and 1141h(d) | 37 CFR Part 2, 2.17-2.19, 2.23, 2.24, and 2.193 |
| 2 | Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends | 15 U.S.C. § 1123 | 37 CFR Part 2, 2.19; 37 CFR Part 11, 11.116 |
| 3 | Replacement of Attorney of Record with Another Already Appointed Attorney | 15 U.S.C. § 1123 | 37 CFR Part 2, 2.17 |
| 4 | Request to Withdraw as Domestic Representative | 15 U.S.C. §§ 1051(e), 1058(f), 1123, and 1141h(d) | 37 CFR Part 2, 2.17 and 2.24 |

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 USPTO uses the information described in this information collection in various actions concerning the appointment and retention of attorneys and domestic representatives. The information in this collection is also a matter of public record and is utilized by the public for a variety of private business purposes related to establishing and enforcing trademark rights. The information is accessible online, through the USPTO website, as well as through various USPTO facilities. 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. For more specific needs and uses of the collected information, see Table 2.

The information in this collection can be submitted electronically through TEAS.

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

Table 2: Needs and Uses

| Item No. | Item | Form | Needs and Uses |
|----------|---|---------------|---|
| 1,3-4 | TEAS Change Address or Representation Form | PTO Form 2300 | <ul style="list-style-type: none"> • Used by applicants and registrants to submit requests to: change owner's address(es); change attorney's address(es); change attorney bar information; change domestic representative's address(es); withdraw domestic representative; revoke/appoint attorney/domestic representative; and replace attorney of record with another already appointed attorney.. • Used by the USPTO to process requests to: change owner's address(es); change attorney's address(es); change attorney bar information; change domestic representative's address(es); withdraw domestic representative; revoke/appoint attorney/domestic representative; and replace attorney of record with another already appointed attorney. |
| 2 | TEAS Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends | PTO Form 2201 | <ul style="list-style-type: none"> • Used by attorneys to submit a request for permission to withdraw as the attorney of record and to request removal of information from the current attorney and correspondence fields when the power of attorney has ended. • Used by the USPTO to process requests for permission to withdraw as the attorney of record and to request removal of information from the current attorney and correspondence fields when the power of attorney has ended. |

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological information 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 USPTO offers the public a variety of IT systems useful both for making submissions to the USPTO and for tracking the status of these submissions. This information collection involves three information technology (IT) systems that are publicly accessible through the USPTO website: TEAS; Trademark Status and Document Retrieval (TSDR); and Trademark Electronic Search System (TESS).

The USPTO provides online electronic forms through TEAS, which is accessible on the USPTO website. Electronic forms can only be submitted via TEAS; filers may not e-mail their own forms to the USPTO. Once completed, TEAS forms are transmitted to the USPTO 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 or registration in question, based on responses provided by the user to questions posed by the “Wizard.” The forms filed are received within seconds after transmission and a confirmation of filing is immediately issued via e-mail to the user.

The TEAS Change Address or Representation (CAR) form (PTO Form 2300) was recently created to provide the ability to submit several related actions using a single form. The CAR form allows a respondent the ability to appoint or revoke attorneys, replace attorneys, withdraw as a domestic representative, and change addresses. The form also provides the ability to conduct additional related sub-actions.

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

The USPTO maintains TSDR, an online image database, 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 also provides TESS, a web-based record of registered marks, and marks for which applications for registration have been submitted. TESS can be used by potential applicants for trademark registration to assist in the determination of whether or not 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 there is, or may be, a likelihood of confusion between marks for which registration is sought and marks in existing registrations or pending applications for registration. TESS allows the user to choose from four different search tools, is updated daily, and is easy to use.

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 appointments of attorneys/domestic representatives, revocations of attorneys/domestic representatives, requests for permission to withdraw as the attorney of record, replacements of attorney of record with another already appointed attorney, and requests to withdraw as a domestic representative are submitted to the USPTO. This information collection is unique to USPTO and does not solicit any data that is already available at the agency, nor does it create a duplication of effort.

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

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. 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 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, applicants and registrants could not appoint attorneys/domestic representatives to represent them at the USPTO or revoke those appointments. Likewise, attorneys and domestic representatives could not request permission to withdraw as the attorney of record or the domestic representative, nor could applicants and registrants request replacement of the attorney of record with another already appointed attorney. If this information was not collected, the USPTO could not comply with the requirements of the Trademark Act, 15 U.S.C. § 1051 and 37 CFR Parts 2 and 11.

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 2 copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 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.

The 60-Day Federal Register Notice was published on September 29, 2020 (85 Federal Register 60973). No public comments were received in response to the notice.

In addition, several large and well-organized bar associations frequently communicate their views to the USPTO. 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 9 voting members who are appointed by and serve at the pleasure of the Secretary of Commerce. 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's stakeholders and embrace the USPTO's e-government initiative. This diversity of interests is an effective tool in helping the USPTO nurture and protects the intellectual property that is the underpinning of America's strong economy.

Views expressed by these groups are considered in developing proposals for information collection requirements. No views have been expressed regarding the present renewal.

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.

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

This information collection contains information which is subject to the Privacy Act. This information is collected on applications and registrations 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. Trademark application information collection activities are covered under the Statement of Records Notice (COMMERCE/USPTO-26 Trademark Application and Registration Records) at Federal Register /Vol. 85, No. 32 /Tuesday, February 18, 2020 /Notices. This SORN identifies the categories of records in the system that include the name, citizenship, domicile, email address, postal address, and telephone number of the trademark applicant or registrant, and applicant's or registrant's legal or other authorized representative(s), an attorney's law firm or company affiliation and professional licensing information, and other information pertaining to an applicant's or registrant's activities in connection with the applied-for or registered mark. Records in this system include trademark applications, applicant and registrant declarations, office actions, registration certificates, and correspondence generated in the course of the prosecution of a trademark application or maintenance of a trademark registration.

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 of a sensitive nature.

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 1 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.**

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 estimates 204,323 respondents from the public sector and individuals and households will submit approximately 204,323 responses per year for this information collection, with approximately 99% of them being filed through TEAS.

- **Burden Hour Calculation Factors**

The USPTO estimates that it takes the public approximately 12 minutes (0.20 hours) to 1 hour to complete this information collection, depending upon the amount and type of information requested in a particular case. This includes the time to gather the necessary information, prepare the requests, and submit them to the USPTO. The time estimates shown for the electronic forms in this information collection are based on the average amount of time needed to complete and electronically file the associated form. Using these burden factors, USPTO estimates that the total respondent hourly burden for this information collection is 50,437 hours per year.

- **Cost Burden Calculation Factors**

The USPTO believes that attorneys will complete these applications. The USPTO uses a professional rate of \$400 per hour for respondent cost burden calculations, published in the 2019 Report of the Economic Survey of the American Intellectual Property Law Association (AIPLA). Using this hourly rates, the USPTO estimates that the total respondent cost burden for this information collection is \$20,174,800 per year.

Table 3: Burden Hour/Burden Costs to Respondents (Private Sector)

| Item No. | Item | Estimated Annual Respondents | Estimated Annual Responses (a) | Estimated Time for Response (Hours) (b) | Estimated Annual Burden Hours (a) x (b) = (c) | Rate ² (\$/hr) (d) | Estimated Annual Burden (c) x (d) = (e) |
|----------|--|------------------------------|--------------------------------|---|---|-------------------------------|---|
| 1 | Revocation, Appointment, and/or Change of Address of | 162,368 | 162,368 | 0.25 | 40,592 | \$400 | \$16,236,800 |

² 2019 Report of the Economic Survey from the Law Practice Management Committee of the American Intellectual Property Law Association (AIPLA). <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey> The hourly rate of \$400.

| | | | | | | | |
|---|--|----------------|----------------|------|---------------|-------------|---------------------|
| | Attorney/Domestic Representative | | | | | | |
| 2 | Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends | 12,389 | 12,389 | 0.20 | 2,478 | \$400 | \$991,200 |
| 3 | Replacement of Attorney of Record with Another Already-Appointed Attorney | 88 | 88 | 1 | 88 | \$400 | \$35,200 |
| 4 | Request to Withdraw as Domestic Representative | 873 | 873 | 0.25 | 218 | \$400 | \$87,200 |
| | Total | 175,718 | 175,718 | | 43,376 | ---- | \$17,350,400 |

Table 4: Burden Hour/Burden Cost to Respondents (Individuals and Households)

| Item No. | Item | Estimated Annual Respondents | Estimated Annual Responses (a) | Estimated Time for Response (Hours) (b) | Estimated Annual Burden Hours (a) x (b) = (c) | Rate ³ (\$/hr) (d) | Estimated Annual Burden (c) x (d) = (e) |
|----------|--|------------------------------|--------------------------------|---|---|-------------------------------|---|
| 1 | Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative | 26,432 | 26,432 | 0.25 | 6,608 | \$400 | \$2,643,200 |
| 2 | Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends | 2,017 | 2,017 | 0.20 | 403 | \$400 | \$161,200 |
| 3 | Replacement of Attorney of Record with Another Already-Appointed Attorney | 14 | 14 | 1 | 14 | \$400 | \$5,600 |
| 4 | Request to Withdraw as Domestic | 142 | 142 | 0.25 | 36 | \$400 | \$14,400 |

³ 2019 Report of the Economic Survey from the Law Practice Management Committee of the American Intellectual Property Law Association (AIPLA). <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey> The hourly rate of \$400.

| | | | | | | | |
|--|----------------|--------|--------|--|-------|------|-------------|
| | Representative | | | | | | |
| | Total | 28,605 | 28,605 | | 7,061 | ---- | \$2,824,400 |

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 2 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.

Estimated Total Annual (Non-Hour) Respondent Cost Burden: There are no filing fees or capital start-up, maintenance, operation, or recordkeeping costs associated with this information collection. However, this information collection does have postage costs associated with applicants submitting permitted items by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be \$8.05. The USPTO estimates that 170 permitted paper submissions will be mailed for a total non-hour respondent cost burden of \$1,369.

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 GS-7 employees to process submissions for this information collection.

The USPTO estimates that it will take the GS-7, step 10 employee between 5 and 7 minutes (0.08 and 0.12 hours) to process the revocations and appointments, the replacements of attorney of record with another already appointed attorney, requests to withdraw as domestic representative, and requests for permission to withdraw as the attorney of record. The USPTO estimates that the cost of a GS-7, step 10 employee is \$39.40 (GS hourly rate of \$30.31 with 30% (\$9.09) added for benefits and overhead).

Table 6 illustrates the processing hours and costs of this information collection to the Federal Government:

Table 6: Burden Hours and Cost to the Federal Government

| Item No. | Item | Hours (a) | Responses (yr) (b) | Burden (hrs/yr) (a) x (b) (c) | Rate (\$/hr) (d) | Total Cost (\$/hr) (c) x (d) (e) |
|----------|--|--------------|--------------------------|--|------------------------|---|
| 1 | Revocation, Appointment, and/or Change of Address of Attorney/Domestic Representative | 0.08 | 188,800 | 15,104.00 | \$39.40 | \$595,097 |
| 2 | Request for Withdrawal as Attorney of Record/Update of USPTO's Database After Power of Attorney Ends | 0.12 | 14,406 | 1,728.72 | \$39.40 | \$68,111 |
| 3 | Replacement of Attorney of Record with Another Already-Appointed Attorney | 0.12 | 102 | 12.24 | \$39.40 | \$482 |
| 4 | Request to Withdraw as Domestic Representative | 0.08 | 1,015 | 81.20 | \$39.40 | \$3,199 |
| | Totals | - - - - | 204,323 | | - - - - - | \$666,889 |

https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf

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

A. OMB previously approved this information collection.

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 | 204,323 | 0 | 0 | 120,032 | 0 | 84,291 |
| Annual Time Burden (Hr) | 50,437 | 0 | 0 | 42,601 | 0 | 7,836 |
| Annual Cost Burden (\$) | 1,369 | 0 | 0 | 1,328 | 0 | 41 |

Changes in Responses and Burden Hours

The estimated total responses for this collection has increased by 120,032 (from 84,291 to 204,323) and the estimated total burden hours have increased by 42,601 (from 7,836 to 50,437) from the currently approved burden for this information collection. These changes are due to the following adjustments:

- Increase in response estimates is based on recent agency estimates of respondents using these processes. An increase (doubling the 2017 estimates) in usage of the change address and representation process processes are the primary drivers of change to this information collection.
- Increase in the cost estimates is due to a change in the postal rates (\$0.49 increasing to \$8.05) being associated with mailings within this information collection.

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 his 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 date on which OMB's approval of this information collection expires.

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. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.