

Dated: December 18, 2020.

Donna Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing 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 purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before February 22, 2021.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* InformationCollection@uspto.gov. Include "0651-0012 comment" in the subject line of the message.

- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office,

P.O. Box 1450, Alexandria, VA 22313-1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-4097; or by email to Dahlia.George@uspto.gov with "0651-0012 comment" in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR 1.21, 10.14, and 11.5-11.11, which set forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO, including the fee requirements. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the USPTO, which is accessible through the USPTO website. The information in this information collection is used by the USPTO to review applications for the examination for registration and to determine whether an applicant may be added to, or an existing practitioner may remain

on, the Register of Patent Attorneys and Agents.

II. Method of Collection

Items in this information collection may be submitted via online electronic submissions. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

OMB Control Number: 0651-0012.

Form Numbers:

- PTO-107A: (Data Sheet—Register of Patent Attorneys and Agents)
- PTO-107R: (Reinstatement to the Register)
- PTO-107S: (Registration Statement of Patent Attorneys and Agents)
- PTO-158: (Application for Registration to Practice Before the United States Patent and Trademark Office)
- PTO-158A: (Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident)
- PTO 158RA: (Reasonable Accommodation)
- PTO-158T: (Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent)
- PTO-1209: (Oath or Affirmation)

Type of Review: Revision of a currently approved information collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 21,251 per year.

Estimated Number of Responses: 30,727 per year.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 5 minutes (0.08 hours) to 7 hours to complete this information, depending upon the application. This includes the time to gather the necessary information, prepare and maintain the documents, and submit the items to the USPTO.

Estimated Total Annual Respondent Burden Hours: 18,188 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$7,275,200.

TABLE 1—TOTAL HOURLY REPORTING BURDEN FOR INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual respondents	Estimated annual responses (year) (a)	Estimated time for response (hours) (b)	Estimated annual burden (hour/year) (a) × (b) = (c)	Rate ¹ (\$/hour) (d)	Estimated annual respondent cost burden (c) × (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam). PTO-158	2,474	2,474	0.50	1,237	\$400	\$494,800
1	Application for Registration to Practice Before the United States Patent and Trademark Office (former examiners; examination waived). PTO-158	34	34	0.50	17	400	6,800
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived). PTO-158A	6	6	0.50	3	400	1,200
1	Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney or Agent (examination waived). PTO-158T	11	11	0.50	6	400	2,400
2	Registration Examination to Become a Registered Practitioner. 1	Same as line 1	1,616	7	11,312	400	4,524,800
3	Reasonable Accommodation PTO 158RA	Same as line 1	63	4	252	400	100,800
4	Data Sheet—Register of Patent Attorneys and Agents. 1	Same as line 1	840	0.5	420	400	168,000
5	Registration Statement of Patent Attorneys and Agents. PTO-107A	16,333	16,333	0.25	4,083	400	1,633,200
6	Oath or Affirmation PTO-1209	Same as line 1	840	0.08	67	400	26,800
7	Reinstatement to the Register PTO-107R	76	76	0.08	6	400	2,400
8	Change of Registration from Agent to Attorney. PTO-158	252	252	0.50	126	400	50,400
9	Written Requests (Certificate of Good Standing, Disciplinary History).	2,057	3,578	0.08	286	400	114,400
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c).	7	7	0.75	5	400	2,000
11	Petition to USPTO Director under 37 CFR 11.2(d).	1	1	0.75	1	400	400
Total	.....	21,251	26,131	.....	17,821	.....	7,128,400

The USPTO Office of Enrollment and Discipline General Requirements Bulletin ² recommends that “an applicant should make and keep a copy of every document submitted to the

Office in connection with an application for registration.” The USPTO estimates that it will take an applicant approximately 5 minutes (0.08 hours) to print and retain a copy of the

submissions and that approximately 4,596 responses requiring record keeping (based on the response numbers from Table 1) will be made per year, for a total of 367 hours.

¹ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>.

The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

² General Requirements Bulletin for Admission to the Examination for Registration to Practice in

Patent Cases before the United States Patent and Trademark Office; https://www.uspto.gov/sites/default/files/documents/OED_GRB.pdf

TABLE 2—TOTAL HOURLY RECORDKEEPING BURDEN FOR INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual responses (year)	Estimated time for response (hours)	Estimated annual burden (hour/year)	Rate ³ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1	Application for Registration to Practice Before the United States Patent and Trademark Office.	2,525	0.08	202	\$400	\$80,800
3	Reasonable Accommodation	63	0.08	5	400	2,000
4	Data Sheet—Register of Patent Attorneys and Agents.	840	0.08	67	400	26,800
6	Oath or Affirmation	840	0.08	67	400	26,800
7	Reinstatement to the Register	76	0.08	6	400	2,400
8	Change of Registration from Agent to Attorney.	252	0.08	20	400	8,000
Totals	.....	4,596	.....	367	.....	146,800

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$875,706. There are no capital start-up or maintenance costs associated with this information collection. There are, however, non-hour costs due to filing fees, postage costs, and notary fees.

There are filing fees associated with this information collection. The application fees for registration to practice before the USPTO vary depending on whether the applicant is a current applicant, a former examiner, a foreign resident, or seeking reinstatement to the Register. The fee for

administration of the computerized examination to become a registered patent practitioner also varies depending on how the examination is administered. The total annual non-hour cost burden associated with filing fees is \$865,958.

TABLE 3—FILING FEES

Item No.	Item	Responses (year)	Filing fee (\$)	Total non-hour respondent cost burden (\$/hour)
		(a)	(b)	(a) × (b) = (c)
1	Non-Refundable Application Fee for Registration to Practice Before the United States Patent and Trademark Office (includes both the computerized exam and the USPTO-administered exam).	2,474	\$110	\$272,140
1	Application Fee for Registration to Practice Before the United States Patent and Trademark Office, as applicable when used for registration fees only (former examiners; examination waived).	34	110	3,740
1	Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident (examination waived).	6	110	660
1	Application Fee for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Attorney/Agent (examination waived).	11	110	1,210
1	Non-Refundable Application Fee for Enrollment and/or Reinstatement to Practice Before the United States Patent and Trademark Office under 37 CFR 1.21(a)(10) (those who must prove fitness to practice).	7	1,680	11,760
2	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by a commercial entity (computer exam).	1,616	173	279,568
2	For administered review of Registration Examination by a commercial entity (computer exam).	300	205	61,500
2	Registration examination fee for administration of computerized examination to become a registered patent practitioner administered by the USPTO (USPTO-administered exam).	1	470	470
2	For USPTO-Administered Review of Registration Examination	1	470	470
4	On Registration to Practice Under 37 CFR 11.6. On Grant of Limited Recognition Under 37 CFR 11.9(b).	840	210	176,400
7	Reinstatement to the Register	76	210	15,960
8	On Change of Registration from Agent to Attorney	252	110	27,720
14	Certificate of Good Standing as an Attorney or Agent, Standard	275	40	11,000

³ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law

Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>.

The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

TABLE 3—FILING FEES—Continued

Item No.	Item	Responses (year)	Filing fee (\$)	Total non-hour respondent cost burden (\$/hour)
		(a)	(b)	(a) × (b) = (c)
10	Petition to the Director of the Office of Enrollment and Discipline under 37 CFR 11.2(c).	7	420	2,940
11	Review of Decision of the Director of Enrollment and Discipline Under 37 CFR 11.2(d).	1	420	420
Totals	.....	5,901	.....	865,958

Postage costs are also associated with this information collection. The USPTO estimates that the average postage cost for a mailed submission, depending upon the item sent, will be \$0.55. The USPTO estimates that with 2,450 mailed submissions, the postage costs in this information collection will be \$1,348.

Additional costs are incurred for new Patent Bar members who are required to obtain and submit an Oath or Affirmation. These items usually require the services of a public notary. The cost of a notarized document is dependent upon local rules, but is estimated by USPTO to average \$10. The cost of 840 Oaths is estimated to be \$8,400.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees, postage, and notary fees is \$875,706.

Respondent's Obligation: Required to obtain or retain benefits.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public

record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personal identifying information in a comment, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask in your comment to withhold personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,
Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2020-28412 Filed 12-22-20; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO-P-2020-0057]

Request for Comments on the National Strategy for Expanding American Innovation

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Request for comments.

SUMMARY: On September 14, 2020, the United States Patent and Trademark Office (USPTO) hosted the inaugural meeting of the National Council for Expanding American Innovation (NCEAI). The NCEAI consists of distinguished leaders from industry, academia, government, and nonprofit organizations. It was organized as an outgrowth of the Study of Underrepresented Classes Chasing Engineering and Science Success Act of 2018, which charged the USPTO with preparing a report concerning patenting and entrepreneurship activities among women, minorities, and veterans. The

goal of the NCEAI is to help the USPTO develop a national strategy to build a more demographically, geographically, and economically inclusive innovation ecosystem. To assist in the development of this strategy, the USPTO is seeking input from the public.

DATES: Comment Deadline: To be ensured of consideration, written comments must be received by February 8, 2021.

ADDRESSES: Comments must be submitted through the Federal eRulemaking Portal at www.regulations.gov. To submit comments via the portal, enter docket number PTO-P-2020-0057 on the homepage and click "search." The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click on the "Comment Now!" icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in ADOBE® portable document format or MICROSOFT WORD® format.

Because written comments and testimony will be made available for public inspection, information that a respondent does not desire to be made public, such as a phone number, should not be included in the testimony or written comments.

FOR FURTHER INFORMATION CONTACT: For questions or comments regarding this notice, please send your inquiries to innovationcomment@uspto.gov, or telephone Janine Scianna, Office of Governmental Affairs, at 571-272-0502.

SUPPLEMENTARY INFORMATION: To maintain the United States' economic competitiveness on the world stage, it is imperative for our nation to encourage individuals from all backgrounds and areas of the country to participate in the innovation ecosystem, particularly in obtaining intellectual property rights. However, research reveals patterns of disparity in innovation participation rates for women, people of color, veterans, economically disadvantaged