DEPARTMENT OF COMMERCE
Patent and Trademark Office

Legal Processes

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 26, 2010.

ADDRESSES: You may submit comments by any of the following methods:
- E-mail: Susan.Fawcett@uspto.gov. Include “0651–0046 comment” in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan K. Fawcett.
- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information 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 Shirley Hassan, Office of General Law, United States Patent and Trademark Office, P.O. Box 15667, Arlington, VA 22215; by telephone at 571–272–3000; or by e-mail to Shirley.Hassan@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this collection is to cover information requirements related to civil actions and claims involving current and former employees of the United States Patent and Trademark Office (USPTO). The rules for these legal processes may be found under 37 CFR Part 104, which outlines procedures for service of process, demands for employee testimony and production of documents in legal proceedings, reports of unauthorized testimony, employee indemnification, and filing claims against the USPTO under the Federal Tort Claims Act (28 U.S.C. 2672) and the corresponding Department of Justice regulations (28 CFR Part 14). The public may also petition the USPTO Office of General Counsel under 37 CFR 104.3 to waive or suspend these rules in extraordinary cases.

The procedures under 37 CFR Part 104 ensure that service of process intended for current and former employees of the USPTO is handled properly. The USPTO will only accept service of process for an employee acting in an official capacity. This collection is necessary so that respondents or their representatives can serve a summons or complaint on the USPTO, demand employee testimony and documents related to a legal proceeding, or file a claim under the Federal Tort Claims Act. Respondents
may also petition the USPTO to waive or suspend these rules for legal processes. This collection is also necessary so that current and former USPTO employees may properly forward service and demands to the Office of General Counsel, report unauthorized testimony, and request indemnification. The USPTO covers current employees as respondents under this information collection even though their responses do not require approval under the Paperwork Reduction Act. In those instances where both current and former employees may respond to the USPTO, the agency estimates that the number of respondents will be small.

There are no forms provided by the USPTO for this collection. For filing claims under the Federal Tort Claims Act, the public may use Standard Form 95 “Claim for Damage, Injury, or Death,” which is provided by the Department of Justice and approved by the Office of Management and Budget (OMB) under OMB Control Number 1105–0008.

II. Method of Collection

By mail or hand delivery to the USPTO.

III. Data

OMB Number: 0651–0046.

Form Number(s): None.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; and the Federal Government.

Estimated Number of Respondents: 291 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public from 5 minutes (0.08 hours) to 1 hour to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 52 hours per year.

Estimated Total Annual Respondent Cost Burden: $16,652 per year. The USPTO expects that the information in this collection will be prepared by attorneys and former employees, except for the requests for employee indemnification, which generally come from professional and supervisory staff. Since many of the former employees affected by this collection are attorneys, the attorney rate will be used for former employees as well. Using the professional rate of $325 per hour for attorneys in private firms, the USPTO estimates that the respondent cost burden for attorneys and former employees submitting the information in this collection will be $16,575 per year. Using the estimate of $77 per hour for professional and supervisory staff, the USPTO expects that the respondent cost burden for submitting requests for employee indemnification will be $77 per year. Therefore, the respondent cost burden for this collection will be $16,652 per year.

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated time for response</th>
<th>Estimated annual responses</th>
<th>Estimated annual burden hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petition to Waive Rules</td>
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<td>5</td>
<td>3</td>
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<tr>
<td>Service of Process</td>
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<td>243</td>
<td>19</td>
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<tr>
<td>Forwarding Service</td>
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<td>7</td>
<td>1</td>
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<tr>
<td>Employee Testimony and Production of Documents in Legal Proceedings.</td>
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<tr>
<td>Forwarding Demands</td>
<td>10 minutes</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Report of Unauthorized Testimony</td>
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<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Report of Possible Indemnification Cases</td>
<td>30 minutes</td>
<td>3</td>
<td>2</td>
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<tr>
<td>Tort Claims</td>
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<tr>
<td>Totals</td>
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</tr>
</tbody>
</table>

Estimated Total Annual Non-hour Respondent Cost Burden: $3,122 per year. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with the petition to waive or suspend the legal process rules under 37 CFR 104.3. The filing fee for this petition is $130, and the USPTO estimates that approximately 5 petitions will be filed per year for a total filing cost of $650. There are no other filing fees associated with this information collection.

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage for a mailed submission, other than a Service of Process, will be 88 cents and that up to 48 of these submissions will be mailed to the USPTO per year, for a postage cost of $42. The USPTO estimates that the average postage for a Service of Process will be $10.00 and that up to 243 of these submissions will be mailed to the USPTO per year, for a postage cost of $2,430. The total estimated postage cost for this collection is approximately $2,472 per year.

The total non-hour respondent cost burden for this collection in the form of filing fees and postage costs is approximately $3,122 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.


Susan K. Fawcett,
Records Officer, USPTO, Office of the Chief Information Officer

[FR Doc. 2010–1276 Filed 1–22–10; 8:45 am]

BILLING CODE 3510–16–P