

#### Request 4: Clarifying Instructions in the GRB for Limited Recognition Applicants

The USPTO requests input on whether the following instructions should be added to the GRB to aid limited recognition applicants in applying for recognition. These instructions would not change the process by which applicants for limited recognition apply for recognition. Rather, the Office seeks to clarify the process for applicants. These instructions would be inserted on page 7 of the GRB, under Section E.

E. ELIGIBILITY OF ALIENS: No grant of registration except under 37 CFR 11.6(c). An applicant who is not a United States citizen and does not reside in the U.S. is not eligible for registration except as permitted by 37 CFR 11.6(c). Presently, the Canadian Intellectual Property Office is the only patent office recognized as allowing substantially reciprocal privileges to those admitted to practice before the USPTO. The registration examination is not administered to aliens who do not reside in the United States.

Limited recognition to practice before the Office in patent matters. An alien residing in the United States may apply for limited recognition to practice before the Office in patent matters pursuant to 37 CFR 11.9(b). To be admitted to take the examination, an applicant must fulfill the requirements as stated above in Section III and 37 CFR 11.9(b), which includes that establishing that such recognition is consistent with the capacity of employment authorized by United States immigration authorities, for example the United States Citizenship and Immigration Services (USCIS), United States Department of State, U.S. Customs and Border Patrol, and the U.S. Department of Labor. The evidence establishing such consistency must demonstrate: (1) the applicant's authorization to reside in the United States, and (2) the applicant's authorization to work or be trained in the United States. It must include a copy of both sides of any work or training authorization and copies of *all* documents submitted to and received from the immigration authorities regarding admission to the United States, and a copy of any documentation submitted to the U.S. Department of Labor. This may include a complete copy of the application for a particular immigration status, the application for a work or training permit, and/or any approved notices related thereto.

Qualifying documentation should specifically show that the immigration authorities have authorized the

applicant to be employed or trained in the capacity of representing patent applicants before the USPTO by preparing and prosecuting their patent applications. Any approval that is pending at the time the application is submitted will result in the applicant being denied admission to the examination.

A qualifying alien within the scope of 8 CFR 274a.12(b) or (c) is not registered upon passing the examination. Therefore, such qualifying aliens will not be patent attorneys or patent agents. Rather, such an applicant will be given limited recognition under 37 CFR 11.9(b) if recognition is consistent with the capacity of employment or training authorized by immigration authorities. Documentation establishing an applicant's qualification to receive limited recognition must be submitted with the applicant's application.

#### Request 5: General Request for Additional Suggestions on Updating the Scientific and Technical Requirements for Admission To Practice in Patent Matters

Lastly, the USPTO invites any additional comments on updating the scientific and technical requirements for admission to practice in patent matters. For example, the Office is interested in any additional suggestions not described above, as well as how such suggestions could potentially be implemented, the reasoning for such suggestions, and any data or research the commenter relied on in postulating the suggestions. When offering suggestions, please reference the applicable rules and/or section in the GRB that may be impacted.

#### Questions Regarding Admission Requirements To Practice in Patent Matters Before the USPTO

As noted above, the USPTO welcomes comments from the public on proposed updates to the scientific and technical requirements for admission to practice in patent matters. The Office is particularly interested in the public's input on the questions below; commenters can address any or all of the questions or provide additional comments:

1. Should the Office review applicant degrees and add commonly accepted Category B degrees to Category A on a predetermined timeframe, *e.g.*, every three years?

2. Should the Office accept Bachelor of Science degrees in computer science under Category A from an accredited United States college or university regardless of whether the degree program is ABET accredited?

3. Should the Office create a separate design patent practitioner bar, and if so, which option(s) and what criteria should be implemented for its creation?

4. Should the Office add clarifying instructions to the GRB for limited recognition applicants?

5. Should the Office implement any additional updates to the scientific and technical requirements for admission to practice in patent matters, and if so, what should those include?

**Katherine K. Vidal,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

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**BILLING CODE 3510-16-P**

## 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; Patent Cooperation Treaty

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on June 7, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

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

*Title:* Patent Cooperation Treaty.

*OMB Control Number:* 0651-0021.

*Needs and Uses:* This collection of information is required by the provisions of the Patent Cooperation Treaty (PCT), which became operational in June 1978 and is administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva, Switzerland. The provisions of the PCT have been implemented by the United States in Part IV of Title 35 of the U.S. Code (Chapters 35-37) and Subpart C of Title 37 of the Code of Federal Regulations (37 CFR 1.401-1.499). The purpose of the PCT is to provide a standardized

filing format and procedure that allows an applicant to seek protection for an invention in several countries by filing one international application in one location, in one language, and paying one initial set of fees.

The information in this collection is used by the public to submit a patent application under the PCT and by the United States Patent and Trademark Office (USPTO) to fulfill its obligation to process, search, and examine the application as directed by the treaty. The filing, search, written opinion, and publication procedures are provided for in Chapter I of the PCT. Additional procedures for a preliminary examination of PCT international applications are provided for in optional PCT Chapter II. Under Chapter I, an applicant can file an international application in the national or home office (Receiving Office (RO)) or the IB. The USPTO acts as the United States Receiving Office (RO/US) for international applications filed by residents and nationals of the United States. These applicants send most of their correspondence directly to the USPTO, but they may also file certain documents directly with the IB. The USPTO serves as an International Searching Authority (ISA) to perform searches and issues an international search report (ISR) and a written opinion (WOISA) on international applications. The USPTO also issues an international preliminary report on patentability (IPRP Chapter II) when acting as an International Preliminary Examining Authority (IPEA).

The RO reviews the application and, if it contains all of the necessary information, assigns a filing date to the application. The RO maintains the home copy of the international application and forwards the record copy of the application to the IB and the search copy to the ISA. The IB maintains the record copy of all international applications and publishes them 18 months after the earliest priority date, which is the earliest date for which a benefit is claimed. The ISA performs a search to determine whether there is any prior art relevant to the claims of the international application and will issue an international search report and written opinion as to whether each claim is novel, involves an inventive step, and is industrially applicable. The ISA then forwards the international search report and written opinion to the applicant and the IB. The IB will normally publish the application and search report 18 months after the priority date, unless early publication is requested by the applicant. Until international publication, no third

person or national or regional office is allowed access to the international patent application unless so requested or authorized by the applicant. If the applicant wishes to withdraw the application (and does so before international publication), international publication does not take place.

Under optional Chapter II of the Treaty, an applicant who has filed an international application in a RO must file a demand for an international preliminary examination of the application by an IPEA, such as the USPTO. The filing of a Demand must be filed within a prescribed time period. It involves filing a form and paying certain fees. A Demand is usually filed with amendments and/or arguments under PCT Article 34 addressing objections raised in the WOISA. The International preliminary examination is a second evaluation of the potential patentability of the claimed invention (usually the claims have been amended), using the same standards on which the written opinion of the ISA was based. A copy of the examination report is sent to the applicant and to the IB. The IB then forwards a copy of the examination report to each Office elected by the applicant.

*Form Number(s):* (IB = International Bureau; IPEA = International Preliminary Examination; RO = Receiving Office; SB = Specimen Book).

- PCT/IB/372 (Notice of Withdrawal)
- PCT/IPEA/401 (Demand and Fee Calculation Sheet)
- PCT/RO/101 (Request and Fee Calculation Sheet)
- PCT/RO/134 (Indications Relating to Deposited Microorganism or Other Biological Material)
- PTO-1382 (Transmittal Letter to the United States Receiving Office (RO/US))
- PTO-1390 (Transmittal Letter to the United States Designated/Elected Office (DO/E.O./US) Concerning a Filing Under 35 U.S.C. 371)
- PTO/SB/64/PCT (Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b))

*Type of Review:* Extension and revision of a currently approved information collection.

*Affected Public:* Private sector; individuals or households.

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

*Frequency:* On occasion.

*Estimated Number of Annual Respondents:* 420,816 respondents.

*Estimated Number of Annual Responses:* 420,816 responses.

*Estimated Time per Response:* The USPTO estimates that the responses in

this information collection will take the public between approximately 0.25 hours (15 minutes) and 4 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 358,269 hours.

*Estimated Total Annual Respondent Non-Hourly Cost Burden:* \$367,468,923.

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the information collection or the OMB Control Number 0651-0021.

Further information can be obtained by:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0021 information request" in the subject line of the message.

- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**Justin Isaac,**

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

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**BILLING CODE 3510-16-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No. PTO-P-2022-0032]

#### Expanding Opportunities To Appear Before the Patent Trial and Appeal Board

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

**ACTION:** Request for comments.

**SUMMARY:** In this request for comments, the United States Patent and Trademark Office (USPTO or Office) seeks public input on the requirements to practice before the Patent Trial and Appeal Board (PTAB or Board). The Office