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Comments Received :

Two collections of information discussed below should be disapproved. The public estimates the burden of this change at $50 million. The Trademark Office's filing at OMB does not disclose this new burden, does not book it in the estimates, and does not offer any disagreement with the public's burden estimate. The Office offers no objective support for its estimate of zero (which is on its face suspicious as any change would likely impose at least some burden).

First, in 2019, the Trademark Office issued guidance that requires disclosure of a trademark applicant's "domicile address." For many trademark owners, this means putting personal address information into the public record. In addition, gathering information and updating files are substantial burdens. Furthermore, for trademark owners that are individuals, disclosure of personal information places them at personal risk.

Second, in 2019, the Trademark Office promulgated a final rule that requires disclosure of attorney bar information. However, the Office did not update forms, filing practices, or information technology infrastructure to make this easy to comply with. Rather, attorneys are forced to go through contortions to comply.

In both cases, the Trademark Office failed to observe the law by evading the public comment requirements of the Administrative Procedure Act and the Paperwork Reduction Act. Instead, both collections of information were promulgated either as guidance (with no regulatory support) or as a final rule with no notice and comment opportunity provided. The PTO never asked the questions required by 44 U.S.C.§ 3506(c)(2)(A) and 5 C.F.R. § 1320.8(d)(1) to allow the public to offer alternative means to the Trademark Office's end, nor to correct the Trademark Office's misestimate of burden. A petition for rulemaking that estimates a public burden at $50 million was filed over a year ago. However, the Trademark Office has yet taken no action.

Several of the Trademark Office's certifications in this ICR are false. Specifically, this information being collected is not "necessary;" as the trademark system has worked without this additional information for a century. In addition, the information lacks "practical utility" as the Trademark Office uses it in only a tiny minority of cases. Both collections increase burden on small entity applicants and small entity law firms. The Trademark Office gave no apparent consideration to the "nature and extent of confidentiality" of this information. In fact, email lists among trademark attorneys have noted scams that seem to be driven by the Trademark Office's mishandling of this information. The implementation of these changes are inconsistent with current reporting and record-keeping. This information was not required in the past, and the PTO's forms and IT infrastructure were not restructured to make providing this information easy. The Trademark Office does not "make appropriate use of information technology" to reduce the public burden.

At least for the foregoing reasons, please disapprove these two collections of information.