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September 4, 2014

TO: InformationCollection@uspto.gov
Marcie Lovett,
Records Management Division Director,
USPTO, Office of the Chief Information Officer,
United States Patent and Trademark Office.

Re: Include "0651-0035 comment" in the subject line of
the message.

Dear Ms. Lovett:

I respond to the Notice published 9/4/2014 at 79 FR 52634, at pp. 52634 -52636, titled "Proposed Collection; Comment Request".

I am a registered patent attorney, the founder and managing partner of Neifeld IP Law, PC. I set policy and procedures for my firm. I oversee the activities of other attorneys and professional staff in preparing and filing PTO forms and other documents. Accordingly, I have personal knowledge of the time involved in the activities identified in the table in the Notice.

The table in the Notice identifies 9 (nine) activities as having an estimated times for response of 3 minutes. The Notice states that the times in the table are the "Estimated Time per Response: The USPTO estimates that it will take the public approximately ... [various amounts of time] to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO."

These activities are identified in the table as follows:

1. Power of Attorney to Prosecute Applications Before the USPTO (PTO/AIA/80 and PTO/SB/80)
2. Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/AIA/81/82A/82B and PTO/SB/81)
3. Patent—Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81A)
4. Reexamination—Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/AIA/81B and

PTO/SB/81B)

5. Reexamination—Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81C)

7. Authorization to Act in a Representative Capacity (PTO/SB/84)

10. Change of Correspondence Address for Application or Patent (PTO/AIA/122/123 and PTO/SB/122/123)

11. Patent Owner Change of Correspondence Address—Reexamination Proceeding (PTO/SB/123A)

12. Third Party Requester Change of Correspondence Address—Reexamination Proceeding (PTO/SB/123B)

The Notice provides not factual basis for the estimates of the "time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO."

The time estimates in the Notice for the "time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO" drastically under estimate the time. I list an example of what is required to "time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO" for item 1 in your table, to show factually how drastically you underestimate the time required.

Consider item 1, "Power of Attorney to Prosecute Applications Before the USPTO (PTO/AIA/80 and PTO/SB/80)". The "time to gather the necessary information" includes the time to find the correct form. I estimate that as requiring the following actions:

First, search for "USPTO forms."

Second, click link titled "Patent Forms" which displays "http://www.uspto.gov/forms/forms_alpha.jsp".

Third, read the text at the top of this page, which states:

Patent Forms (alphabetical listing)

The following is a alternative, alphabetized listing of USPTO patent and PCT forms for use in applications filed before 9/16/12. Please see Forms for important disclaimers, notices and information about using any of these forms. USPTO patent forms for use in applications filed on or after 9/16/12 may be accessed here: http://www.uspto.gov/forms/aia_forms.jsp

Most forms on this page are available in Adobe's PDF format for viewing and printing. To use them you must install Adobe's free Acrobat reader on your computer. (Read full explanation, particularly for fillable PDFs on the Forms page)

For MS Word files [DOC] found on this page, get the MS Word Viewer [here](#) .

Fourth, review the application information and determine whether the application was filed before 9/16/12. If so, navigate to "http://www.uspto.gov/forms/aia_forms.jsp".

Fifth, assuming the application was not filed after 9/16/12, skim that page for "Power of Attorney" forms. The form "Patent PTO/SB/80 Power of Attorney to Prosecute Applications Before the USPTO (for more information click here)" is the 75 row in a table of forms containing 156 rows. Alternatively, one could text search for "power of attorney" or the like, within the web page, using text search functionality of a web browser. However, there are several USPTO patent forms for power of attorney on this page. These are a PTO/SB/80; a PTO/SB/81; ten forms starting with PTO/SB/82; a PTO/SB/81B; and a PTO/SB/81C. Some time is required to skim the forms to determine which form is a "Power of Attorney to Prosecute Applications Before the USPTO"

Sixth, click the linked "for more information click here" on the row for the PTO/SB/80, which displays the page "<http://www.uspto.gov/forms/moreinfosb80.jsp>". This page contains the following text:

Power of Attorney to Prosecute Applications Before the USPTO

This form may be used by an assignee (e.g., a corporation) to give a Power of Attorney to registered practitioners (either by individual name(s) or to those registered practitioners who are associated with a customer number) for (all) applications assigned to the assignee, and individual patent application numbers are not indicated. After execution of a single PTO/SB/80 form by the assignee, a copy of the executed PTO/SB/80 form, together with a statement under 37 CFR 3.73(b) (using, for example, a PTO/SB/96 form) which identifies one specific patent application (which may be executed by a practitioner if the practitioner is authorized to act on behalf of the assignee), may be filed in the one specific application to establish a power of attorney for the registered practitioner(s) in that specific application. A power of attorney to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee. See the Manual of Patent Examining Procedure (MPEP) Section 324, V.

The advantage of the use of this PTO/SB/80 form is that an assignee only has to be asked to sign this one Power of Attorney to Prosecute Applications Before the USPTO form, as copies of it can then be used to establish the desired power of attorney in (all) the patent applications of the assignee. To establish a power of attorney in each of the individual applications of the assignee, the attorney(s) would file: 1) a copy of the one executed PTO/SB/80 form, and 2) an application specific statement under 37 CFR 3.73(b) (using, for example, a PTO/SB/96 form).

Seventh, skim the text to ensure that the form is appropriate for the specified work. Eighth, fill in information on the form, based upon the relevant application.

Ninth, review the information against internal records to confirm its accuracy.
Tenth, sign the form.
Eleventh, save the form to a pdf file on the local network or PC.
Twelfth, navigate in a web browser to the login url for the USPTO's EFS registered attorney filing login page. Enter digital certificate path, enter password, Click authenticate. Wait for authentication. There is normally a 10-20 second delay in authentication.
Thirteenth, Navigate to the EFS private filer web page for electronic submission of documents.
Fourteenth, click radio box, "existing application:"
Fifteenth, click "documents and fees in for an existing application"
Sixteenth, Find using local resource, application number and confirmation number, and Enter "Application Number" and "Confirmation Number"
Seventeenth, Click "Continue"
Eighteenth, click "Browse" in the "Files to be submitted" field. Navigate to the local drive resource where the form has been saved, and click "open".
Nineteenth, click the drop down indicator for the "Document Description" field. Search for and then select "Power of Attorney" out of the approximately 40 options.
Twentieth, click "upload and validate."
Twenty first, click "continue"
Twenty second, click "continue" (to bypass fee calculation web page)
Twenty third, click "Submit"
Twenty fourth, click "Save receipt"
Twenty fifth, save receipt to local resources.
Twenty sixth, report out the filing via email to the client.
Twenty seventh, update docket and logs to account for the filing (clearing docket reminder) and show the actions were taken.

I estimate the time for a trained paralegal assistant to accomplish these twenty seven steps, at not less than 15 minutes.

The Notice's estimate also fails to include any attorney time associated with item 1. Instead, it states that "Using the paraprofessional rate of \$125 per hour, the USPTO estimates that the respondent cost burden for submitting the other items in this collection" which refers to all items other than the "Requests for Withdrawal as Attorney or Agent and the two petitions in this collection". The Notice fails to recognize that a form submitted to take action in a matter in the PTO must be signed by a registered agent or attorney, see 37 CFR 1.4(d)(4)(ii), and signing of the form requires the registered attorney to have reviewed the form's information for accuracy, see 37 CFR 1.4(d)(I). I estimate the time for review and signature of such a form, at 3 minutes of professional time.

Accordingly, I conclude that the Notices's estimate for item 1, of 3 minutes of "paraprofessional" time is an under estimate by at least 12 minutes of paraprofessional time and

3 minutes of registered attorney professional time.

All of the Notices other estimates of 3 minutes (items 2-5, 7, and 10-12) are low, for similar reasons, and are too low by similar amounts (12 minutes for paraprofessional time and 3 minutes of registered attorney professional time).

For item 6 in the table in the Notice ("6. Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (PTO/SB/83)"), I estimate that the time for a registered practitioner "to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO" at 24 minutes. My estimate exceeds the notices 12 minute estimate because of the time to find and carefully review the relevant rules identified in the form (rules 11.116) and determine which of the 10 rule 11.116 check box is appropriate given the factual circumstances relating to the request to withdraw.

Very truly yours,
/RichardNeifeld/
Richard A. Neifeld
President, Neifeld IP Law, PC

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