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Comments Received :

Two new information collection requirements should be disapproved.
Although the public estimates the burden 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.
First, in 2019, the Trademark Office issued a guidance that requires disclosure of a trademark applicant's "domicile address." In many cases, this means putting a client's personal address information into the public record, which many clients do not want to do for various personal reasons. At the same time, collecting this information and updating existing records places a major burden on trademark attorneys, especially those, like me, who are solo practitioners.
Second, also in 2019, the Trademark Office promulgated a final rule that requires disclosure of attorney bar information. Supposedly this was done to deter foreign attorneys from filing frivolous applications. But the Office didn't update its forms and filing practices or information technology to make this simple. Compliance requires attorneys and their paralegals to go through ridiculously burdensome steps in order to comply, while the foreign attorneys have simply continued to file through U.S. surrogates.
In both cases, the Trademark Office evaded the public comment requirements of the Administrative Procedure Act and under the Paperwork Reduction Act. Instead, both requirements for the collection of information were promulgated either as guidances with no regulatory support, or dropped into a final rule with no notice and comment. The PTO never asked the four 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 and/or to correct the Trademark Office's misestimate of the consequent burden. A petition for rulemaking that estimates burden at $50 million was filed over a year ago, but the Trademark Office has taken no action.
The Office's certifications in this ICR that this information is "necessary" and that it has "practical utility" are false. First, collection of this information is in no way "necessary." For over 100 years, the trademark registration system has worked just fine without these two bits of information. There also is no plausible argument that the information has any "practical utility": the Office uses it in only a tiny minority of cases. On the other hand, both of these new information collection requirements impose new and unreasonable burdens on individuals and small entity applicants and law firms. Moreover, the Office gave no apparent consideration to the "nature and extent of confidentiality." Every day, we see new scams that seem to be driven by the Office's mishandling of this information, including bald-faced efforts to steal clients from their existing attorneys by warning of non-existent impending deadlines.
Implementation is inconsistent with current reporting and recordkeeping—this information was not required in the past, and the PTO's forms and IT infrastructure were not restructured to make this easy. There is no question that the Trademark Office has not "ma[d]e appropriate use of information technology" to reduce the burden.
Please disapprove these two information collection requirements.