

Echols, Mabel E.

From: Echols, Mabel E.
Sent: Friday, October 03, 2014 4:02 PM
To: Echols, Mabel E.
Subject: FW: Comments and Recommendations for Proposed Information Collection 0651-0012 (USPTO)

From: Sergey Vernyuk [<mailto:SV@etblaw.com>]
Sent: Wednesday, September 10, 2014 1:06 PM
To: Fraser, Nicholas A.
Subject: Comments and Recommendations for Proposed Information Collection 0651-0012 (USPTO)

Dear Mr. Fraser,

On September 8, 2014, the U.S. Patent and Trademark Office (USPTO) published a Notice of Submission for OMB Review and Comment Request under Agency Approval Number 0651-0012. 79 FR 53174. The Notice indicated that, among other reasons, the USPTO uses the information in this collection to determine whether an existing practitioner may remain on the Register of Patent Attorneys and Agents. The Notice requested written comments and recommendations for the proposed information collection.

I am a registered patent attorney with the USPTO (no. 71283).

Four of the forms in this collection (forms PTO-107A, PTO-107R, PTO-107RR, and PTO-107S) ask if the applicant has been convicted of a felony or misdemeanor (*other than a traffic violation*) in the past five years. Another form in this collection, form PTO-158, asks if the applicant has ever been arrested, charged, or held for any violation of any law, regulation, or ordinance (*other than any traffic violation for which the fine was \$100 or less*). These forms show that the USPTO believes that it does not need information about a registered practitioner's traffic violations.

37 C.F.R. § 11.25(a) requires a registered practitioner to notify the USPTO upon being convicted of a crime (state, federal, or foreign). A "crime" is defined by 37 C.F.R. § 11.1 as any offense declared to be a felony or misdemeanor in the jurisdiction where the act occurs. The regulation implementing rule 11.25(a) discussed comments received regarding the rule. 73 FR 47650 (Aug. 14, 2008). Comment 41 suggested that the reporting requirement of rule 11.25(a) is too broad and suggested excluding traffic violations from the reporting requirement. 73 FR 47677. The USPTO declined to narrow the reporting requirement, explaining that the USPTO must have available the information necessary to determine a practitioner's moral character and fitness. *Id.*

However, as explained with regard to the PTO forms, the USPTO itself excludes traffic violations from its request about convictions of crimes in the forms. By excluding traffic violations from the forms, the USPTO indicates its belief that information regarding traffic violations is not necessary for the USPTO to determine a practitioner's moral character and fitness to practice, which is contrary to the USPTO's position as expressed in its response to Comment 41 in the regulation discussed above.

I recommend that the USPTO revise rule 11.25(a) to exclude traffic violation convictions from crimes that are required to be reported, as was suggested in Comment 41. This Information Collection seems to be the appropriate place to make this recommendation because the Collection deals with information used to determine whether a practitioner may remain on the Register of Patent Attorneys and Agents.

Thank you for your consideration,



Sergey Vernyuk

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