

and 2/3 of the paraprofessional rate of \$122 per hour, the estimated rate for respondents to this collection is

approximately \$194 per hour. Using this estimated rate of \$194 per hour, the USPTO estimates that the respondent

cost burden for submitting the information in this collection will be approximately \$191,866 per year.

Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
Application for Public User ID (Online Access Card) (PTO-2030)	5	2,330	186
Issue Online Access Card	10	2,095	356
Renew Online Access Card	5	1,059	85
Replace Online Access Card	5	145	12
User Training Registration Forms	5	74	6
Security Identification Badges for Public Users (PTO-2224)	5	1,000	80
Renew Security Identification Badges for Public Users	5	3,200	256
Replace Security Identification Badge	5	100	8
Totals		10,003	989

Estimated Total Annual Non-hour Respondent Cost Burden: \$1,502. This collection has annual (non-hour) costs in the form of fees and postage costs.

There are no application or renewal fees for online access cards or security identification badges. However, there is a \$15 fee for issuing a replacement security identification badge. The USPTO estimates that it will reissue approximately 100 security badges annually that have been lost, stolen, or need to be replaced, for a total of \$1,500 per year in fees.

Users may incur postage costs when submitting a user training registration form to the USPTO by mail. The USPTO expects that approximately 4 of the estimated 74 training forms received per year will be submitted by mail. The USPTO estimates that the average first-class postage cost for a mailed training form will be 44 cents, for a total postage cost of approximately \$2 per year for this collection.

The total annual (non-hour) respondent cost burden for this collection in the form of fees and postage costs is estimated to be \$1,502 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 4, 2011.

Susan K. Fawcett,
Records Officer, USPTO, Office of the Chief Information Officer.

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO-P-2011-0060]

Notice of Public Hearing and Request for Comments on the Study of Prior User Rights

The United States Patent and Trademark Office (USPTO) is interested in gathering information on patent prior user rights for purposes of preparing a report on the subject as required by the America Invents Act. In particular, the USPTO seeks information about the following as specified in the America Invents Act: (1) Comparison(s) between the patent laws of the United States and the laws of other industrialized countries; (2) the effect of prior user rights on innovation rates; (3) the correlation, if any, between prior user rights and start-up enterprises as well as the ability to attract venture capital to start new companies; (4) the effect of prior user rights, if any, on small businesses, universities, and individual inventors; (5) legal and constitutional issues with placing trade secret law in patent law; and (6) whether or not the change to a first-to-file patent system creates any particular need for prior user rights. To assist in gathering this

information, the USPTO is holding a public hearing at which interested members of the public are invited to testify on the issues outlined above and in the supplementary information section of this notice. In addition, members of the public may submit written comments.

Public Hearing: A public hearing will be held on Tuesday, October 25, 2011, beginning at 8:30 a.m. Eastern Daylight Time (EDT) and ending at 11:30 a.m. EDT. The public hearing will be held at the USPTO, Madison Auditorium, Concourse Level, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314.

Those wishing to present oral testimony at the hearing must request an opportunity to do so in writing by e-mail to *IP.Policy@uspto.gov* no later than October 18, 2011. Requests to testify at the hearing must indicate the following information: (1) The name of the person desiring to testify; (2) the person's contact information (telephone number and electronic mail address); and (3) the organization(s) the person represents, if any; and (4) a preliminary written copy of their testimony. Based on the requests received, an agenda of scheduled testimony will be sent to testifying respondents, and posted on the USPTO Internet Web site (address: <http://www.uspto.gov/americaninventsact>).

Speakers selected to provide testimony at the hearing should provide a final written copy of their testimony for inclusion in the record of the proceedings no later than October 21, 2011.

The USPTO plans to make the public hearing available via webcast. Webcast information will be available on the USPTO's Internet Web site (address: <http://www.uspto.gov/americaninventsact>) before the public hearing.

Written Comments: Written comments should be sent by e-mail to IP.Policy@uspto.gov. Comments may also be submitted by postal mail addressed to: Mail Stop OPEA, P.O. Box 1450, Alexandria, VA 22313-1450, ATTN: Elizabeth Shaw. Although comments may be submitted by postal mail, the USPTO prefers to receive comments via e-mail. The deadline for receipt of written comments for consideration by the USPTO is November 8, 2011. Written comments should be identified in the subject line of the e-mail or postal mailing as "Prior User Rights."

Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

Availability of Hearing Transcript and Written Comments: A transcript of the hearing and the written comments will be available for public inspection at the Office of Policy and External Affairs in the Executive Library located in the Madison West Building, Tenth Floor, 600 Dulany Street, Alexandria, Virginia 22314. Contact: Elizabeth Shaw at elizabeth.shaw2@uspto.gov or 571-272-8494. In addition, the hearing transcript and the comments from the public will also be available via the USPTO Internet Web site (address: <http://www.uspto.gov/americaninventsact/>).

Contact: Mary Critharis, Office of Policy and External Affairs, by phone 571-272-9300; by e-mail at mary.critharis@uspto.gov; or by postal mail addressed to: Mail Stop OPEA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, ATTN: Mary Critharis; or Charles Eloshway, Office of Policy and External Affairs, by phone at 571-272-9300; by e-mail at charles.eloshway@uspto.gov; or by postal mail addressed to: Mail Stop OPEA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, ATTN: Charles Eloshway.

The America Invents Act, Section 3, calls for the Director of the USPTO to report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding findings and recommendations on the operations of prior user rights in selected countries in the industrialized world no later than the end of the four-month period beginning on the date of enactment of the Act (*i.e.*, by January 16, 2012). In preparing the report, the USPTO is required to consult with the United States Trade Representative, the

Secretary of State, and the Attorney General. The Act also specifically identifies items for USPTO consideration as part of the report.

Issues for Testimony and/or Written Comment: Interested members of the public are invited to submit testimony and/or written comments on issues that they believe relevant to operation of prior user rights. The topics and questions listed below reflect the information that the USPTO is required to study per the prior user rights study provision of the America Invents Act. The tenor of the following questions should not be taken as an indication that the USPTO has taken a position or is predisposed to any particular views.

1a. Please share your experiences relating to the use of prior user rights in foreign jurisdictions including, but not limited to, members of the European Union and Japan, Canada, and Australia.

In doing so, please include the following:

- (a) An identification of the foreign jurisdiction(s);
- (b) The frequency or regularity with which prior user rights were utilized or asserted in the particular jurisdiction(s);
- (c) Whether prior user rights were asserted as a defense by you or your organization;
- (d) Whether another entity alleged prior user rights as a defense to a patent infringement claim asserted by you or your organization;
- (e) The technology or industry involved;
- (f) The operation of the prior user rights regime in the particular jurisdiction(s); and
- (g) The advantages/disadvantages of the prior user rights regime in the particular jurisdiction(s).

1b. If you do not have any experiences relating to the use of prior user rights in foreign jurisdictions, please identify the following:

- (a) The frequency or regularity with which you engage in business abroad including, but limited to, the following foreign economies: members of the European Union and Japan, Canada, and Australia;
- (b) Your opinion as to why you believe prior user rights are or are not needed in the particular jurisdiction(s).

2. Please share your experiences in analyzing the effect, if any, of prior user rights on innovation rates in selected countries including, but not limited to, members of the European Union and Japan, Canada, and Australia. Please include empirical and anecdotal data, as well as opinions as to how this analysis may be conducted.

3. Please share your experiences in analyzing the correlation, if any, between prior user rights and start-up enterprises and the ability to attract venture capital to start new companies. Please include empirical and anecdotal data, as well as opinions as to how this analysis may be conducted.

4. Please share your experiences in analyzing the effect, if any, of prior user rights on small businesses, universities, and individual inventors. Please include empirical and anecdotal data, as well as opinions as to how this analysis may be conducted.

5. Please share your views, along with any corresponding analysis, as to whether there are any legal or constitutional issues with placing trade secret law in United States patent law.

6. Please share your views, along with any corresponding analysis, as to whether the change to a first-to-file patent system creates any particular need for prior user rights in the United States.

Dated: October 4, 2011.

David J. Kappos,

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

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO-P-2011-0062]

Request for Comments and Notice of Public Hearings on the Study of International Patent Protection for Small Businesses

The United States Patent and Trademark Office (USPTO) is interested in gathering information on international patent protection for small businesses for purposes of preparing a report on the subject as required by the America Invents Act. To assist in gathering this information, the USPTO is holding a public hearing at which interested members of the public are invited to testify on this topic. In addition, members of the public may submit written comments.

Public Hearing: The USPTO will hold two hearings in support of the study of international patent protection for small businesses. The first public hearing will be held on October 27, 2011, beginning at 1 p.m. Eastern Daylight Time (EDT) and ending at 4 p.m. EDT. The first public hearing will be held at the USPTO in the Madison Auditorium on the concourse level of the Madison