

in the brief responding to the motion, would be burdensome. Therefore, the Board will retain its discretion to consider reply briefs with respect to motions. There is no reason stated for the recommendation to shorten the time for filing a reply brief; and, at this time, the Board considers the existing fifteen-day period for filing a reply brief to be reasonable.

*Comment:* Four comments opposed the proposal to shorten the due diligence standard from one year to six months in § 2.146(i).

*Response:* The Office's electronic systems for records are readily available over the Internet 24 hours a day, seven days a week. Applicants and registrants have immediate and free access to information concerning their applications and registrations. An applicant or registrant can check the status of a pending application or registration using the TARR (Trademark Application Registration Retrieval) database. If the application is newly filed, applicant can search TESS (Trademark Electronic Search System) to see if the mark was loaded into the Office's automated database. Moreover, allegations of use under section 1 of the Act, responses to Office actions, changes to correspondence address and affidavits of use under section 8 of the Act and renewal applications under section 9 of the Act can be filed through TEAS.

In most cases, the Office will take action on filings related to a trademark application or registration within six months of receipt of the correspondence for which action is expected. Therefore, it is reasonable to require applicants and registrants to check the status of their application or registration at least twice a year until a final outcome (that is, registration for a pending application or notice of acceptance of an affidavit under section 8 of the Act or grant of renewal under section 9 of the Act) is reached. By monitoring the application or registration every six months, an applicant or registrant can take corrective action more quickly if the Office did not receive applicant's or registrant's correspondence or if correspondence sent by the Office was not received.

#### Rule Making Requirements

*Executive Order 13132:* This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*Executive Order 12866:* This rule making has been determined not to be

significant for purposes of Executive Order 12866.

*Regulatory Flexibility Act:* The Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The main purpose of the rule change is to implement legislation that provides an additional means for filing trademark applications. Additionally, the rules provide for some technical and other changes that will simplify the trademark application process. Hence, the rules merely provide all applicants for trademark registration, including small businesses, with additional benefits.

*Paperwork Reduction Act:* The final rules are in conformity with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of law, no person is required to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This final rule contains collections of information requirements subject to the PRA. This rule adds provisions allowing parties to (1) file applications for international trademark registration with the IB through the Office; (2) file subsequent designations with the IB through the Office; (3) file responses to notices of irregularities in international applications issued by the IB through the Office; (4) request the Office to note in its records that a registered extension of protection of an international registration to the United States replaces a previously issued U.S. registration; (5) file requests to record assignments or restrictions of a holder's right to dispose of an international registration, or the release of such a restriction, with the IB through the Office; and (6) file a request that the Office transform an extension of protection that was cancelled by the IB into an application for registration in the United States under section 1 or section 44 of the Act. Additionally, the rule sets forth requirements for submitting an affidavit of continued use or excusable nonuse under section 71 of the Act and discusses changes in the information required from the public to file notices of opposition, petitions to cancel, and requests for extensions of time to oppose.

An information collection package supporting the changes to the above information requirements, as set forth in this rule, has been approved by the Office of Management and Budget under 0651-0051. Previously, a separate information package, 0651-0040, was submitted in support of oppositions, requests for extensions of time to file oppositions, and petitions to cancel. The public reporting burden is estimated to average as follows: Fifteen minutes for international trademark applications; three minutes for subsequent designations; ten minutes to respond to notices of irregularities issued by the IB in connection with international applications; two minutes to request that the Office replace a United States registration with a subsequently registered extension of protection to the United States; five minutes for a request to record an assignment or restriction of a holder's right to dispose of an international registration, or the release of such a restriction; five minutes for a request that the Office transform a cancelled extension of protection into an application for registration under section 1 or 44 of the Act; fourteen minutes for an affidavit of continued use or excusable nonuse under section 71 of the Act; ten minutes to forty-five minutes for notices of opposition and petitions to cancel, depending on the particular circumstances; and ten minutes for requests for extensions of time to oppose. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency, (2) the accuracy of the agency's estimate of the burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information to respondents.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: USPTO Desk Officer).

*Comment:* One comment asked for an explanation for the time estimates and stated that the time periods for filing electronically should be increased to