

SUPPORTING STATEMENT
United States Patent and Trademark Office
Trademark Trial and Appeal Board (TTAB) Actions
OMB Control No. 0651-0040

A. JUSTIFICATION

1. Necessity of Information Collection

Under the Trademark Act of 1946, as amended, any individual or entity that adopts a trademark or service mark to identify its goods or services may apply to federally register its mark. The mark will remain on the register for ten years and is renewable in ten-year increments.

Individuals or entities who believe that they would be damaged by the registration of a mark may file an opposition to the registration of that mark, or an extension of time to file an opposition, under Section 13 of the Trademark Act, 15 U.S.C. § 1063. If a mark is successfully opposed, registration will not take place.

Section 14 of the Trademark Act, 15 U.S.C. § 1064, allows individuals and entities, who believe that they are or will be damaged by the registration of a mark, to file a petition to cancel the registration of that mark.

Individuals or entities may file an appeal from any final decision of the Trademark Examining Attorney assigned to review an application for registration of a mark under Section 20 of the Trademark Act, 15 U.S.C. § 1070.

The United States Patent and Trademark Office (USPTO) administers the Trademark Act according to 37 CFR Part 2, which contains the various rules that implement the Trademark Act and govern the filing of petitions to cancel the registrations of marks, notices of opposition to the registration of a mark, extensions of time to file an opposition, appeals, and other papers filed in connection with inter partes and ex parte proceedings.

These petitions, notices, extensions, and additional papers are filed with the Trademark Trial and Appeal Board (TTAB). The TTAB decides inter partes cases and ex parte appeals. The TTAB is an administrative tribunal empowered to determine the right to register and subsequently determine the validity of a trademark. The TTAB adjudicates the rights of parties in specific types of proceedings, such as oppositions, cancellations, extensions of time to file a proceeding, appeals, and the like. The Chief Administrative Trademark Judge and 18 administrative trademark judges decide proceedings filed with the TTAB. A panel of three judges decides cases when they are ready for decisions. The TTAB follows the Federal Rules of Civil Procedure.

The USPTO is also part of the Madrid Protocol, an international agreement governing trademark protection, and accepts these international filings. Under the Madrid Protocol, parties can file oppositions to extensions of protection under the Madrid Protocol, as well as file requests for extensions of time to oppose these extensions of protection. Oppositions and extensions filed under the Madrid Protocol must be filed electronically through the Electronic System for Trademark Trials and Appeals (ESTTA).

The additional papers that are filed in inter partes and ex parte proceedings can be filed in paper format or electronically through ESTTA. The electronic submissions of the additional papers are covered in this collection. The USPTO believed that the ability to submit these papers through ESTTA would eliminate the need for paper filings. Although the number of paper filings is decreasing in favor of electronic filings, there are still a substantial number of these documents being submitted in paper. Since the TTAB is still receiving paper submissions of these documents, the USPTO is taking this opportunity to add the paper submissions of the additional papers filed in inter partes and ex parte proceedings into the collection as part of the renewal effort.

Table 1 provides the specific statutes and regulations requiring the USPTO to collect the information for the petitions to cancel, notices of opposition, extensions of time to file an opposition, notices of appeal, and the additional papers filed in inter partes and ex parte proceedings.

Table 1: Information Requirements to Determine Rights to Registration

Requirement	Statute	Rule
Petition to Cancel	15 U.S.C. § 1064	37 CFR Part 2,2.111 and 2.112
Notice of Opposition	15 U.S.C. § 1063	37 CFR Part 2,2.101 and 2.104
Extension of Time to File an Opposition	15 U.S.C. § 1063	37 CFR Part 2, 2.102
Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB Decision 	Not Applicable	37 CFR Part 2, 2.106 and 2.114 37 CFR Part 2, 2.107 and 2.115 37 CFR Part 2, 2.133 37 CFR Part 2, 2.120, 2.125, 2.127, and 2.129 37 CFR Part 2, 2.122 through 2.125 37 CFR Part 2, 2.128 37 CFR Part 2, 2.134 37 CFR Part 2, 2.135 37 CFR Part 2, 2.99 37 CFR Part 2, 2.145
Notice of Appeal	15 U.S.C. § 1070	37 CFR Part 2, 2.141 and 2.142
Miscellaneous Ex Parte Papers	Not Applicable	37 CFR Part 2, 2.144

2. Needs and Uses

The information in this collection is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing

trademark rights. This information is important to the public, as both common law trademark owners and Federal trademark registrants must actively protect their own rights.

The information in this collection can be submitted in paper format or electronically through ESTTA. The paper submissions can either be mailed to the USPTO through the United States Postal Service or hand delivered. There are some exceptions. Individuals and entities who are filing notices of opposition and extensions of time to file notices of opposition against the extensions of protection under the Madrid Protocol must file these documents electronically through ESTTA. None of these documents can be submitted by facsimile, with the exception of notices of appeal for ex parte cases which can be faxed to the TTAB in accordance with 37 CFR 2.195(d)(3).

There are no paper forms associated with this collection. However, the TTAB does have suggested formats for the petitions to cancel and the notices of opposition that individuals and entities can use when submitting these petitions and notices to the TTAB. These suggested formats are not meant to be used as a form that is filled in and then returned to the TTAB. Rather, they are suggested formats that illustrate how the petition or notice should be set up. Individuals and entities may follow these formats in preparing their petitions and notices, but they do not need to copy those portions of the suggested formats that are not relevant to their particular situation. These suggested formats are not official USPTO forms and as such, they do not have USPTO form numbers assigned to them. Individuals and entities can download the suggested formats for the petition to cancel and the notice of opposition from the USPTO forms page on the USPTO's official website. The second edition of the Trademark Trial and Appeal Board Manual of Procedure, which can only be accessed online through the USPTO's website at www.uspto.gov, contains the requirements for filing these items.

The only official forms in this collection are the electronic forms that are accessed through ESTTA. These forms do have USPTO form numbers assigned to them, unlike the paper suggested formats. If applicants or entities wish to submit the petitions, notices, extensions, and additional papers in inter partes and ex parte cases electronically, they must use the forms provided through ESTTA. These forms cannot be e-mailed to the TTAB.

This collection contains two suggested formats and six electronic forms.

The Information Quality Guidelines from Section 515 of Public Law 106-554, Treasury and General Government Appropriations Act for Fiscal Year 2001, apply to this information collection and comply with all applicable information quality guidelines, *i.e.*, the OMB and specific operating unit guidelines.

This proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with all applicable OMB and USPTO Information Quality Guidelines. (Ref A)

Table 2 outlines how these collections of information are used by the public and by the USPTO:

Table 2: Needs and Uses of Information Collected for Trademark Trial and Appeal Board (TTAB) Actions

Form and Function	Form #	Needs and Uses
Petition to Cancel (Ref B)	No Form Associated Suggested Format	<ul style="list-style-type: none"> • Used by the public to request the cancellation of a trademark registration in whole or in part. • Used by the public to submit the required fee for the petition to cancel. • Used by the USPTO to institute a cancellation proceeding and to notify the registrant of the grounds for cancellation
Electronic Petition to Cancel (Ref C)	PTO 2188	<ul style="list-style-type: none"> • Used by the public to request the cancellation of a trademark registration in whole or in part electronically. • Used by the public to submit the required fee for the petition to cancel electronically. • Used by the USPTO to institute a cancellation proceeding and to notify the registrant of the grounds for cancellation.
Notice of Opposition (Ref D)	No Form Associated Suggested Format	<ul style="list-style-type: none"> • Used by the public to oppose registration of a pending trademark application within 30 days after the publication of the application being opposed or within the extension of time for filing an opposition. • Used by the USPTO to process an opposition to the registration of a mark.
Electronic Notice of Opposition (Ref E)	PTO 2120	<ul style="list-style-type: none"> • Used by the public to submit an opposition to the registration of a pending trademark application within 30 days after the publication of the application being opposed or within the extension of time for filing an opposition electronically. • Used by the USPTO to process an opposition to the registration of a mark electronically.
Extension of Time to File an Opposition	No Form Associated	<ul style="list-style-type: none"> • Used by the public to request additional time to file an opposition to a trademark registration prior to the expiration of the 30-day period. • Used by the USPTO to extend the time for filing an opposition an additional 30 days, and grant further extensions in accordance with TTAB rules. • Used by the USPTO to notify the applicant of each extension of time for filing an opposition.
Electronic Request for Extension of Time to File an Opposition (Ref F)	PTO 2153	<ul style="list-style-type: none"> • Used by the public to electronically request additional time to file an opposition to a trademark registration prior to the expiration of the 30-day period. • Used by the USPTO to extend the time for filing an opposition an additional 30 days, and grant further extensions in accordance with TTAB rules. • Used by the USPTO to notify the applicant of each extension of time for filing an opposition.

<p>Papers in Inter Partes Cases</p> <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision. 	No Form Associated	<ul style="list-style-type: none"> • Used by the public to file papers, such as motions and briefs, needed to prosecute inter partes cases. • Used by the USPTO to process inter partes cases. • Used by the USPTO as a suspense copy for appeals of TTAB decisions filed with a federal court.
<p>Electronic Papers in Inter Partes Cases</p> <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration during Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision. <p>(Ref G)</p>	PTO 2151	<ul style="list-style-type: none"> • Used by the public to electronically file papers, such as motions and briefs, needed to prosecute inter partes cases. • Used by the USPTO to process inter partes cases. • Used by the USPTO as a suspense copy for appeals of TTAB decisions filed with a federal court.
Notice of Appeal	No Form Associated	<ul style="list-style-type: none"> • Used by the public to appeal a final decision of the Trademark Examining Attorney refusing registration of a trademark within six months of the mailing date of the final refusal to register the mark. • Used by the public to submit the required fees. • Used by the USPTO to institute and process an appeal.
Electronic Notice of Appeal (Ref H)	PTO 2190	<ul style="list-style-type: none"> • Used by the public to electronically file an appeal of the Trademark Examining Attorney's final decision refusing registration of a trademark within six months of the mailing date of the final refusal to register the mark. • Used by the public to submit the required fees. • Used by the USPTO to institute and process an appeal.
Miscellaneous Ex Parte Papers	No Form Associated	<ul style="list-style-type: none"> • Used by the public to file papers in ex parte appeal cases. • Used by the USPTO to process ex parte cases.
Electronic Miscellaneous Ex Parte Papers (Ref I)	PTO 2189	<ul style="list-style-type: none"> • Used by the public to file papers in ex parte appeal cases electronically. • Used by the USPTO to process ex parte cases.

3. Use of Information Technology

With the exception of the notice of appeal for ex parte appeals, none of the TTAB filings can be filed by facsimile in accordance with the USPTO's rules. However, the USPTO does collect all of the information requirements in this collection electronically through ESTTA. Notices of opposition and extensions of time to file notices of opposition

against the extensions of protection under the Madrid Protocol must be filed electronically through ESTTA.

ESTTA can be accessed through the USPTO's website and allows filers to timely complete and submit forms with the TTAB electronically. They can also print out the completed form and mail it to the USPTO. ESTTA provides step-by-step instructions and help screens for completing the forms. The system prompts the filer to validate the required fields and sign the submission before it is electronically submitted to the TTAB.

Upon transmission, the form will be assigned an ESTTA tracking number. The forms that are filed through ESTTA are time-stamped with the official filing date when received on the USPTO server. In cases where a fee is required, the time-stamp is applied when the payment process is completed and the receipt screen is displayed. The filing date is also controlled by Eastern Standard Time. The official filing date and time can be found on the confirmation web screen and in the e-mail confirmation. Once the form has been submitted electronically, the USPTO will immediately provide the sender with an e-mail acknowledgment of receipt via e-mail.

The information submitted through ESTTA moves directly into the Trademark Trial and Appeal Board Information System (TTABIS), the TTAB's electronic workflow system. Electronically submitted forms need not be processed or scanned by hand, thereby eliminating the delays caused by the processing and scanning of paper filings. The TTAB's electronic workflow system processes all incoming and outgoing documents electronically and permits staff to prepare correspondence, track cases, generate reports for management, and monitor proceedings in an effective, secure, and timely manner. Information regarding TTAB proceedings is available over the Intranet and Internet via TTABVue. TTABIS users will have the ability to add electronic notes and highlights directly to TTABIS electronic documents.

The TTAB disseminates the information collected through the notices of opposition, extensions of time to oppose, petitions to cancel, and miscellaneous papers in inter partes and ex parte proceedings electronically through TTABVue. This system can be accessed through the TTAB's homepage on the USPTO's website. TTABVue provides online images of the TTAB filings indexed by prosecution history entry. It allows users to view proceedings with scanned incoming filings from either paper or Internet filings. Other features include the capability to print and enlarge the incoming document to a readable size.

TTABIS allows the public and the TTAB staff to retrieve information concerning TTAB proceedings from the TTAB's internal databases electronically using the Internet. Staff and customers can search, view, and print specific information using their browser. This provides a single point of access for querying information through a user-friendly interface. Information can be retrieved from TTABVue using a proceeding number, a plaintiff or defendant name, the mark, any words within an index, the trademark serial number, or registration number.

The revised edition of the Trademark Trial and Appeal Board's Manual of Procedure (TBMP) is only available online through the USPTO's website. The TBMP provides guidance to practitioners litigating cases before the TTAB and describes current TTAB practice, statutory changes and new rules that have been promulgated since 1995, video conferencing for final hearings, and telephone conferences. The TBMP also addresses electronic filing, access to the TTAB's electronic database via the Internet, and contains suggested formats for some of the TTAB's filings. The TTAB also disseminates its decisions from 1997 to the present to the public through its home page on the USPTO website.

4. Efforts to Identify Duplication

Every effort has been made to identify and eliminate duplication of information. This collection provides the initial information required to give notice of opposition to the registration of a mark, to request additional time to file an opposition to the registration of a mark, to initiate the cancellation of a trademark registration, to request an appeal of the Trademark Examining Attorney's final decision, and to collect the additional papers needed to prosecute an inter partes or ex parte appeal. This information is not collected elsewhere within the USPTO. Where possible, the ESTTA system retrieves already existing data and completes fields within the ESTTA forms to eliminate the need for the filer to provide data already in the TTAB database.

5. Minimizing the Burden to Small Entities

Since registrations, oppositions, cancellations, and appeals are voluntary activities on the part of the public, the USPTO has not collected data to determine whether the collection of information impacts small businesses or other small entities.

6. Consequences of Less Frequent Collection

Less frequent collection of this information is not possible, since the information is collected only when voluntarily submitted by the public. Failure to collect this information would prevent parties from exercising their right to file an opposition to the registration of a mark, request an extension of time to file an opposition to a mark, to cancel a federally registered trademark, to appeal any final decision of the Trademark Examining Attorney in charge of the requested registration of a mark, and to file the papers needed to further prosecute an inter partes or ex parte appeal. The information could not be collected less frequently. If the collection of information was not conducted, the USPTO could not comply with the requirements of 15 U.S.C. §§1063, 1064, and 1070, and 37 CFR Part 2, 2.101-102, 2.104, 2.111 – 2.112, and 2.141 to 2.142

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultation Outside the Agency

The 60-Day Federal Register Notice was published on May 24, 2007 (Vol. 72, No. 100). The public comment period ended on July 23, 2007. No comments were received from the public.

Large and well-organized bar associations frequently communicate their views to the USPTO. Also, the Trademark Public Advisory Committee was created by the 1999 American Inventors Protection Act to advise the Director of the USPTO on the agency's operations, including its goals, performance, budget, and user fees. The Committee has nine voting members who are appointed by and serve at the pleasure of the Secretary of Commerce. The statute also provides non-voting membership on the Committee for the agency's three recognized unions. The appointments include inventors, lawyers, corporate executives, entrepreneurs, and academicians with significant experience in management, finance, science, technology, labor relations, and intellectual property issues. The members of the Trademark Public Advisory Committee reflect the broad array of the USPTO's stakeholders. This diversity of interests is an effective tool in helping the USPTO nurture and protect the intellectual property that is the underpinning of America's strong economy.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent. Response to this information collection is necessary to file an opposition to the registration of a mark, to petition for an extension of time to file an opposition to the registration of a mark, to petition to cancel a trademark registration, to file a notice of appeal of any final decision of the Trademark Examining Attorney in charge of the requested registration of a mark, and to file the additional papers necessary for the further prosecution of the inter partes or ex parte case.

10. Assurance of Confidentiality

Trademark applications are open to public inspection. The case files for oppositions, extensions of time to oppose a registration, petitions to cancel a trademark registration, and appeals are open to the public for review and do not require confidentiality except for certain documents filed under a claim of confidentiality, which are not available for public review. Confidential papers may be filed either electronically or in paper, under separate cover, as specified in 37 CFR 2.126(d).

11. Justification for Sensitive Questions

None of the required information is considered to be of a sensitive nature.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the burden hours and costs of this information collection to the public, based on the following factors. These estimates include Madrid submissions as well:

- **Respondent Calculation Factors**

Based on filings from the previous years, the USPTO estimates that it will receive 79,000 responses per year. The USPTO estimates that 79% of these responses will be submitted electronically. Table 3, column (b) shows the number of responses for the items in this collection.

- **Burden Hour Calculation Factors**

The USPTO estimates that it takes the public approximately 10 to 45 minutes (0.17 to 0.75 hours) to complete this information, depending on the request. This includes the time to gather the necessary information, prepare the petitions, notices, extensions, or additional papers, and submit the completed request to the USPTO. The USPTO believes that it will take the same amount of time (and possibly less time) to gather the necessary information, prepare the submission, and submit it electronically to the TTAB as it does to submit the information in paper form. Table 3, column (a) shows the time estimates for the items in this collection.

- **Cost Burden Calculation Factors**

The USPTO estimates that it will take a combined 50/50 level of effort by associate attorneys and paraprofessionals/paralegals to complete the requirements in this collection. The professional hourly rate for associate attorneys in private firms is \$304, while the hourly rate for paraprofessionals/paralegals in private firms is \$90. The professional rate of \$304 per hour used in this submission is the median rate for associate attorneys in private firms that is published in the 2005 report of the Committee on Economics of Legal Practice of the American Intellectual Property Law Association, which summarizes the results of a survey with data on hourly billing rates. The paraprofessional/paralegal rate of \$90 used in this submission is the average/typical rate for paralegals/legal assistants as shown in the 2004 National Utilization and Compensation Survey published by the National Association of Legal Assistants (NALA) in October 2004. After calculating the average of the professional and paraprofessional/paralegal rates, the USPTO estimates that the hourly rate for completing the petitions, notices, requests, and other papers will be \$197. This is a fully-loaded hourly rate. Table 3, column (e) shows the cost burden to the public for this collection.

Table 3: Burden Hour/Burden Cost to Respondents

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Petition to Cancel	0.75	350	263	\$197.00	\$51,811.00
Electronic Petition to Cancel	0.75	1,250	938	\$197.00	\$184,786.00
Notice of Opposition	0.75	1,000	750	\$197.00	\$147,750.00
Electronic Notice of Opposition	0.75	5,400	4,050	\$197.00	\$797,850.00

Extension of Time to File an Opposition	0.17	600	102	\$197.00	\$20,094.00
Electronic Request for Extension of Time to File an Opposition	0.17	19,000	3,230	\$197.00	\$636,310.00
Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	0.17	9,500	1,615	\$197.00	\$318,155.00
Electronic Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	0.17	32,500	5,525	\$197.00	\$1,088,425.00
Notice of Appeal	0.25	900	225	\$197.00	\$44,325.00
Electronic Notice of Appeal	0.25	2,100	525	\$197.00	\$103,425.00
Miscellaneous Ex Parte Papers	0.17	4,500	765	\$197.00	\$150,705.00
Electronic Miscellaneous Ex Parte Papers	0.17	1,900	323	\$197.00	\$63,631.00
Total	- - - -	79,000	18,311	- - - -	\$3,607,267.00

13. Total Annualized Cost Burden

There are no capital start-up or maintenance costs associated with this information collection. However, there are postage and recordkeeping costs, as well as filing fees, associated with this information collection.

Postage Costs

Parties may submit the petitions to cancel, the notices of opposition, the appeals, the extensions of time to file an opposition, and the additional papers filed in inter partes and ex parte cases to the USPTO or serve them on the other parties involved in the proceedings by Express or first-class mail through the United States Postal Service. All of these papers can also be hand delivered to the TTAB.

Using the Express Mail service is beneficial because it establishes the filing date of the papers. For example, papers that are mailed on the due date are considered to be timely filed with the TTAB, even if the TTAB receives the paper after the due date, if it was submitted using the Express Mail service. The USPTO estimates that 6% of the petitions, notices, extensions, and additional inter partes and ex parte papers that are filed in paper will be submitted using Express Mail. The USPTO estimates that the average submission will weigh 2 ounces and that the respondent will be mailing the original to the TTAB and serving copies on the other parties involved in the proceedings. The USPTO estimates that it costs \$16.25 to send the petitions, notices, extensions, appeals, and additional papers by Express Mail to the TTAB. To account for the service of papers on other parties, the USPTO is adding an additional 20% of the postage rate for an estimated cost of \$19.50. The USPTO estimates that out of 16,850 petitions, notices, extensions, appeals, and additional papers filed, up to 1,011 submissions per year may be mailed to the USPTO and other parties using Express Mail, for an estimated postage cost of \$19,715 per year.

The USPTO believes that 89% of the petitions to cancel, the notices of opposition and appeal, the extensions of time to file an opposition, and the additional papers filed in inter partes and ex parte proceedings that are filed in paper will be sent by first-class mail. The USPTO estimates that the average submission will weigh 2 ounces and that the respondent will be mailing the original to the TTAB and serving copies on the other parties involved in the proceedings. The USPTO estimates that it costs 58 cents to mail the petitions, notices, extensions, appeals, and additional papers to the TTAB. To account for the service of papers on other parties, the USPTO is adding an additional 80% of the postage rate for an estimated cost of \$1.04. The USPTO estimates that out of 16,850 petitions, notices, extensions, appeals, and additional papers filed, up to 14,997 submissions per year may be mailed to the USPTO and other parties by first-class mail, for a postage cost of \$15,597.

Therefore, the USPTO estimates that the total postage cost for this collection for filing the various papers with the TTAB and serving copies on the other parties involved in proceedings before the TTAB using both Express and first-class mail for this collection is \$35,312 per year.

Recordkeeping Costs

The USPTO strongly advises applicants who file their petitions to cancel, notices of opposition, appeals, extensions of time to file an opposition, and additional papers for ex parte and inter partes cases electronically to keep a copy of the acknowledgment receipt as clear evidence that the file was received by the USPTO on the date noted. The USPTO estimates that it will take 5 seconds (0.001 hours) to print the acknowledgment receipt and that 62,150 petitions, notices, extensions, and other papers will be submitted electronically, for a burden of 62 hours per year. The USPTO believes that paraprofessionals will print these copies, at a rate of \$90 per hour. Using this rate, the USPTO estimates that the recordkeeping costs will be approximately \$5,580 per year (62,150 petitions x 0.001 hours = 62 hours x \$90 = \$5,580).

Therefore, the USPTO estimates that the total recordkeeping cost for this collection will be \$5,580 per year.

Filing Fees

There is also annual non-hour cost burden in the way of filing fees associated with this collection. The petitions to cancel and the notices of opposition have filing fees of \$300, while the filing fee for the notices of appeal is \$100. These fees are set to recover the aggregate cost to the USPTO for processing the petitions, oppositions, and appeals. These fees are per class of identified goods and/or services; therefore the total filing fees can vary depending on the number of classes involved in a proceeding.

There are no filing fees for the extensions of time to file an opposition. The additional papers that are filed in ex parte and inter partes proceedings do not have their own specific fees, so they do not add new fees to the collection.

Table 4 shows the annual filing fees for parties filing the petitions to cancel, the notices of opposition, and the notices of appeal. The total filing fees of \$2,700,000 shown below are the minimum fees associated with this information collection.

Table 4: Filing Fees for the Petitions to Cancel, Oppositions, and Appeals – Nonhour Cost Burden

Item	Responses (yr) (a)	Filing Fees (b)	Total Non-Hour Cost Burden (yr) (a) x (b)
Petition to Cancel	350	\$300.00	\$105,000.00
Electronic Petition to Cancel	1,250	\$300.00	\$375,000.00
Notice of Opposition	1,000	\$300.00	\$300,000.00
Electronic Notice of Opposition	5,400	\$300.00	\$1,620,000.00
Extension of Time to File an Opposition	600	\$0.00	\$0.00
Electronic Request for Extension of Time to File an Opposition	19,000	\$0.00	\$0.00
Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	9,500	\$0.00	\$0.00

Electronic Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	32,500	\$0.00	\$0.00
Notice of Appeal	900	\$100.00	\$90,000.00
Electronic Notice of Appeal	2,100	\$100.00	\$210,000.00
Miscellaneous Ex Parte Papers	4,500	\$0.00	\$0.00
Electronic Miscellaneous Ex Parte Papers	1,900	\$0.00	\$0.00
Totals	79,000	-----	\$2,700,000.00

The USPTO estimates that the total non-hour respondent cost burden for this collection, in the form of postage and recordkeeping costs, in addition to the filing fees, is \$2,740,892 per year.

14. Annual Cost to the Federal Government

For the most part, personnel employed on a contractual basis process all of the papers filed in Board proceedings in the paper format. The TTAB staff does not process certain papers filed in Board proceedings, such as the miscellaneous papers filed in both ex parte and inter partes proceedings. These papers are processed entirely by contract personnel. The TTAB staff only partially processes notices of opposition, petitions for cancellation, and notices of appeal. These papers are processed initially by the contract personnel. The contract personnel scan each paper listed above into the electronic application record. The USPTO believes that contract personnel with an hourly rate comparable to that of a GS-9, step 5 will process these papers, and estimates that it takes, on average, approximately 4 minutes (0.07 hours) to process each paper. The hourly rate for a GS-9, step 5, is currently \$25. Generally, an additional 30% of the hourly rate is added to account for a fully loaded rate that covers both overhead and benefits. Since this work is being performed by contract personnel, the USPTO will only pay for the overhead costs, not the benefits. Therefore, the USPTO believes that approximately 15% will be added to the hourly rate. When 15% is added to account for a hourly rate including overhead, the cost per hour for the contract personnel is approximately $\$25 + \$3.75 = \$28.75$.

The TTAB staff process the extensions of time to file an opposition. In addition to the initial processing performed by the contract personnel, the TTAB staff also processes the notices of opposition, the petitions for cancellation, and the notices of appeal. The USPTO believes that a GS-11, step 5 will process these papers and estimates that it

takes approximately 10 minutes (0.17 hours) to complete the processing of extensions of time to file a notice of opposition and 24 minutes (0.40 hours) to complete the processing of notices of opposition, petitions for cancellation, and notices of appeal. The hourly rate for a GS-11, step 5 is currently \$30.25. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for a GS-11, step 5 is $\$30.25 + \$9.08 = \$39.33$.

Although the TTAB staff does not process the majority of papers submitted electronically through ESTTA, they do perform additional processing for 40% of the electronic notices of opposition and 34% of the electronic notices of appeal. Out of 5,400 notices of opposition and 2,100 notices of appeal filed electronically, TTAB staff perform additional processing for approximately 2,160 notices of opposition and 714 notices of appeal. The USPTO believes that a GS-11, step 5 will process these papers and estimates that it takes approximately 24 minutes (0.40 hours) to complete processing them. The hourly rate for a GS-11, step 5 is currently \$30.25. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the cost per hour for a GS-11, step 5 is $\$30.25 + \$9.08 = \$39.33$.

The TTAB staff does not process the extensions of time to file a notice of opposition, notices of opposition, petitions to cancel, notices of appeal, and miscellaneous papers filed in both ex parte and inter partes proceedings submitted electronically through ESTTA. ESTTA enters the information into the file electronically and then passes the information to the TTABIS database. This database then processes the information electronically and updates the appropriate TTABIS application file. In addition, ESTTA automatically institutes 60% of the notices of opposition and 66% of the notices of appeal. There is no human intervention at all during this process.

Table 5 calculates the processing hours and costs of this information collection to the Federal Government.

Table 5: Burden Hour/Burden Cost to the Federal Government

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Petition to Cancel	0.07 0.40	350	25 140	\$24.23	\$606.00 \$3,392.00
Electronic Petition to Cancel	0.00	1,250	0	\$0.00	\$0.00
Notice of Opposition	0.07 0.40	1,000	70 400	\$28.75 \$39.33	\$2,013.00 \$15,732.00
Electronic Notice of Opposition	0.40 0.00	2,160 3,240	864 0	\$39.33 \$0.00	\$33,981.00 \$0.00
Extension of Time to File an Opposition	0.17 0.40	600	102 240	\$28.75 \$39.33	\$2,933.00 \$9,439.00
Electronic Request for Extension of Time to File an Opposition	0.00	19,000	0	\$0.00	\$0.00

Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleading • Amendment of Application or Registration during Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	0.07	9,500	665	\$28.75	\$19,119.00
Electronic Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleading • Amendment of Application or Registration during Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	0	32,500	0	\$0.00	\$0.00
Notice of Appeal	0.07 0.40	900	63 360	\$28.75 \$39.33	\$1,811.00 \$14,159.00
Electronic Notice of Appeal	0.40 0.00	714 1,386	286 0	\$39.33 \$0.00	\$11,248.00 \$0.00
Miscellaneous Ex Parte Papers	0.07	4,500	315	\$28.75	\$9,056.00
Electronic Miscellaneous Ex Parte Papers	0	1,900	0	\$0.00	\$0.00
Total	- - - - -	79,000	3,530	- - - - -	\$123,489.00

Please note that since the previous renewal of this collection, the TTAB has made some changes in how they process the petitions, notices, requests for extensions, and miscellaneous papers in ex parte and inter partes cases in this collection. These changes have made some adjustments to the costs, besides the addition of the miscellaneous papers in ex parte and inter partes cases submitted in paper format into this collection, adjustments to the burden estimates, and the annual increases in the hourly rates for government personnel. There have been changes in who processes the forms, if the forms need to be processed at all, and changes in the time estimates.

In the previous renewal, TTAB personnel processed all of the information in this collection, with the exception of the request for extension and the electronic papers in inter partes cases. For this renewal, it has been determined that the TTAB personnel no longer process all of this information. Contract personnel working on behalf of the TTAB now process all of the petitions, notices, extension requests, and miscellaneous papers that are filed in paper. The petitions to cancel, notices of opposition, extensions of time, and notices of appeal are processed by both TTAB and contract personnel.

TTAB personnel do not process the miscellaneous papers filed in ex parte and inter partes proceedings; these papers are processed entirely by contract personnel. In the previous renewal, GS-7 staff processed the petitions to cancel, the notices of opposition, and the extension request to submit a notice of opposition. It has now been determined that GS-9 and GS-11 rated personnel process these papers.

In the previous renewal, it was reported that TTAB staff processed the electronic petition to cancel and the electronic miscellaneous papers filed in ex parte cases. These papers are no longer processed manually; they are now processed entirely electronically without human intervention. In the past, all of the notices of opposition and appeal that were submitted electronically through ESTTA were processed by TTAB personnel. This is no longer the case. Currently, TTAB personnel process only 40% of the notices of opposition filed electronically and 34% of the notices of appeal filed electronically. The rest of the submissions are processed entirely electronically without human intervention.

The last significant change in how these papers are processed are adjustments in the processing times for the petitions to cancel, the notices of opposition, the extensions of time to file an opposition, and the notices of appeal that are filed in paper. In the previous renewal, these papers were processed entirely by TTAB personnel. Since that submission, these papers are now processed by both TTAB personnel and contract personnel working on behalf of the TTAB. This has necessitated adjustments in the processing estimates for these papers. For the petitions to cancel, the notices of opposition, and the notices of appeal, these adjustments have been very slight, from a previous estimate of 30 minutes to the current estimate of 28 minutes. In the case of the extensions of time, the adjustment has been significant, from the previous estimate of 6 minutes to the current estimate of 34 minutes.

The USPTO's total estimated cost for processing the information in this collection is estimated at \$123,489 per year.

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

The OMB approved the renewal for this information collection on September 30, 2004, with 46,900 responses, 12,505 burden hours, and \$2,556,962 in annualized (non-hour) costs. On August 31, 2005, OMB approved a change worksheet which decreased the responses to 38,360, the burden hours to 10,315, and the annualized (non-hour) cost burden to \$2,120,658.

With this renewal, the USPTO estimates that the total burden and annualized (non-hour) costs for this collection will be 79,000 responses, 18,311 burden hours, and \$2,740,892 in annualized costs. This is an increase of 40,640 responses, 7,996 burden hours, and \$620,234 in annualized costs over the currently approved burden for this collection. The increases in the responses and burden hours are due to administrative

adjustments, while the increases in the annualized (non-hour) costs are due to both program changes and administrative adjustments.

Changes in Burden Estimates Since the 60-Day Federal Register Notice

In the 60-Day Federal Register Notice published on May 24, 2007 for this renewal, the USPTO reported that this collection would have 78,589 responses, 18,566 burden hours, \$3,657,502 in total respondent cost burden, and \$2,915,634 in estimated total annual non-hour respondent cost burden per year.

Since the publication of the 60-Day Federal Register Notice, the USPTO decided that the estimated estimates for all of the information requirements in this collection should be readjusted. The USPTO now estimates that this collection will have 79,000 responses, 18,311 burden hours, \$3,607,267 in total respondent cost burden, and \$2,740,892 in estimated total annual non-hour respondent cost burden per year. Overall, the new estimates have increased the number of responses, but decreased the burden hours, total respondent cost burden, and estimated total annual non-hour respondent cost burden.

The new estimates adjust the distribution of the estimated responses between the paper and electronic filings. For the most part, the adjustments have lowered the number of paper filings and increased the number of electronic filings, with the exception of the electronic request for extension, where the responses decreased, and the paper miscellaneous ex parte papers, where the responses increased. Due to these two exceptions, the overall annual burden hours and total respondent cost burden estimated in this renewal submission have decreased over those originally reported in the 60-Day Federal Register Notice, despite the increase in the number of responses.

Despite the overall increase in the number of electronic submissions that the USPTO now estimates, the agency now believes that the total estimated annual non-hour respondent cost burden will be less than that originally reported in the 60-Day Notice. The USPTO believes that the new estimated reductions in the postage costs and filing fees outlined in this renewal submission will offset the increases in the recordkeeping costs.

Changes in Respondent Cost Burden

When this collection was previously approved in September 2004, the USPTO estimated that it took a combined 50/50 level of effort by associate attorneys and paraprofessionals/paralegals to complete all of the requirements in this collection. The estimated hourly rate for the associate attorneys was \$286, while the estimated hourly rate for the paraprofessionals/paralegals was \$81. The estimated average of these rates was \$183.50 per hour.

The hourly rates for the associate attorneys and paraprofessionals/paralegals have increased since the last renewal. Based on rates provided by the Committee on

Economics of Legal Practice of the American Intellectual Property Law Association, the estimated hourly billing rate for associate attorneys has increased from \$286 to \$304. Based on rates provided by the National Association of Legal Assistants, the estimated hourly billing rate for paraprofessionals/paralegals has increased from \$81 to \$90. With these increases, the USPTO now estimates that the average of these hourly billing rates is \$197.

Since the previous renewal, the USPTO submitted a change worksheet adjusting the number of responses (and associated costs) for the information collection. The change worksheet, which was approved in September 2005, decreased the respondent cost burden by \$401,863, from the previously approved burden of \$2,294,669 to \$1,892,806. With this renewal submission, the USPTO estimates that the total respondent cost burden will increase by \$1,714,461, from \$1,892,806 to \$3,607,267 per year.

Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses for this collection will increase by 40,640 responses, from 38,360 to 79,000 responses per year. The USPTO estimates that the total burden hours for this collection will increase by 7,996 hours, from 10,315 to 18,311 burden hours per year. These changes are due to administrative adjustments, as follows:

- The additional papers that are filed in inter partes cases can be submitted electronically through ESTTA or they can be filed with the TTAB in paper. The electronic submissions of these papers are covered in the currently approved collection. When these papers were made available through ESTTA, the USPTO believed that the ability to file these papers electronically would eliminate the need for paper filings. The USPTO has determined that although the number of paper filings is decreasing in favor of electronic filings, there are still a substantial number of these documents being submitted in paper. Since the TTAB is still receiving paper submissions of these documents, the USPTO is taking this opportunity to add the paper submissions of the inter partes papers into the collection. The USPTO estimates that 9,500 papers in inter partes proceedings will be filed per year in paper. The USPTO estimates that it will take 10 minutes to complete these submissions, adding 1,615 hours per year to the USPTO's inventory. **Therefore, this collection takes a net burden increase of 1,615 hours per year as an administrative adjustment.**
- The miscellaneous papers that are filed in ex partes cases can be submitted electronically through ESTTA or they can be filed with the TTAB in paper. The electronic submissions of these papers are covered in the currently approved collection. When these papers were made available through ESTTA, the USPTO believed that the ability to file these papers electronically would eliminate the need for paper filings. The USPTO has determined that although the number of paper filings is decreasing in favor of electronic filings, there are still a substantial number of these documents being submitted in paper. Since the TTAB is still receiving

paper submissions of these documents, the USPTO is taking this opportunity to add the paper submissions of the miscellaneous papers in ex parte cases into the collection. The USPTO estimates that 4,500 papers in ex parte cases will be filed per year in paper. The USPTO estimates that it will take 10 minutes to complete these submissions, adding 765 hours per year to the USPTO's inventory. **Therefore, this collection takes a net burden increase of 765 hours per year as an administrative adjustment.**

- The USPTO believes that the public will file fewer petitions to cancel, notices of opposition, extensions of time to file an opposition, and notices of appeal in paper since this information can be submitted electronically through ESTTA. The USPTO estimates that the number of petitions, notices, and extensions filed in paper will decrease by 6,000 responses per year, from 8,850 responses to 2,850 responses. The USPTO believes that this in turn will reduce the burden for this collection by 2,175 hours per year, from 3,515 hours to 1,340 hours. **Therefore, this collection takes a net burden decrease of 2,175 hours per year as an administrative adjustment.**
- The USPTO believes that more filers will choose to submit their petitions to cancel, notices of opposition, extensions of time to file an opposition, papers in inter partes cases, notices of appeal, and miscellaneous ex parte papers electronically rather than filing them in paper. The USPTO estimates that the number of petitions, notices, extensions, and additional papers in ex parte and inter partes cases filed electronically will increase by 32,640 responses per year, from 29,510 responses to 62,150 responses. The USPTO estimates that this in turn will increase the burden for this collection by 7,791 hours per year, from 6,800 hours to 14,591 hours. **Therefore, this collection takes a net burden increase of 7,791 hours per year as an administrative adjustment.**

The USPTO estimates that the total net burden for this collection will increase by 7,996 hours per year, from 10,315 hours to 18,311 hours per year. In total, the USPTO estimates that 10,171 hours will be added to the collection, but this will be offset by a reduction of 2,175 hours, for a total net burden increase of 7,996 hours resulting from administrative adjustments. **In sum, this information collection has a net burden increase of 7,996 hours per year resulting from administrative adjustments.**

Changes in Annual (Non-Hour) Costs

For this renewal, the USPTO estimates that the annual (non-hour) costs for this collection will increase by \$620,234, from \$2,120,658 to \$2,740,892 per year. This change is due to both program changes and administrative adjustments, as follows:

- Although more filers are choosing to submit their petitions, notices, extensions, and additional papers in ex parte and inter partes cases electronically through ESTTA, the USPTO believes that the first-class postage fees for this collection will increase by \$11,477 per year, from \$4,120 to \$15,597. This increase is due partly to

increased postage costs, which have offset the decrease in the number of paper copies filed. Additional postage costs were also added into the collection at this time to account for respondents serving copies of their petitions, notices, extensions, and additional papers in inter partes and ex parte cases on the other parties involved in proceedings before the TTAB. These costs were overlooked in the previous submission. In total, the USPTO estimates that the increased postage costs and the additional postage to cover serving papers on others involved in the proceedings add a total \$10,924 in annual (non-hour) costs to the collection due to administrative adjustments. While researching the requirements for service of papers, it was discovered that the TTAB recently made procedural and rule changes that affected the service of copies. Originally, filers who submitted petitions to cancel or notices of opposition did not have to serve copies of these papers because the TTAB would mail copies to the parties involved in the proceedings. This has been changed, however, so respondents are responsible for serving copies of the petitions to cancel and the notices of opposition as well. The USPTO estimates that this change will add \$553 in annual (non-hour) costs to the collection as a program change. **Therefore, this collection has a net total increase of \$11,477 in first-class postage costs, with \$553 due to program changes and \$10,924 due to administrative adjustments.**

- The USPTO also believes that the postage costs for submitting the petitions to cancel, notices of opposition, extensions of time to file an opposition, notices of appeal, and the additional papers in inter partes and ex parte proceeding to the USPTO using Express Mail will increase, even though the paper filings are decreasing in favor of electronic filing. The USPTO estimates that the express mail costs for this collection will increase by \$13,682, from \$6,033 to \$19,715. The USPTO believes that a greater percentage of applications will be submitted using Express Mail than previously, and that, coupled with increased postage rates for Express Mail, have increased the costs. Additional costs to account for respondents serving copies of their papers on other parties involved in the proceeding were also added to the Express Mailing costs. In total, the USPTO estimates that the increased postage cost, the additional postage to cover serving papers on others, and the increased filings submitted using Express Mail add a total of \$13,419 in annual (non-hour) costs to the collection due to administrative adjustment. Any petitions to cancel and notices of opposition that are submitted using Express Mail have to be served on the other parties involved in proceedings as well. The USPTO estimates that serving these copies will add \$263 in annual (non-hour) costs to the collection as a program change. **Therefore, this collection has a net total increase of \$13,682 in Express Mail costs, with \$263 due to program changes and \$13,419 due to administrative adjustments.**
- The USPTO strongly advises that applicants filing their papers electronically through ESTTA keep a copy of the acknowledgment receipt as evidence that the file was received by the USPTO. The USPTO believes that the recordkeeping costs for this collection will increase because of estimated increases in the electronic filings. However, this increase will be offset due to a reestimate of the hourly rate from

\$183.50 to \$90. The USPTO estimates that the recordkeeping costs will increase by \$75 per year, from \$5,505 to \$5,580. **Therefore, this collection has a net total increase of \$75 in recordkeeping costs due to administrative adjustments.**

- The USPTO believes that the filing fees for this collection will increase due to the increases in the electronic filings. The USPTO estimates that the filing fees for this collection will increase by \$595,000 per year, from \$2,105,000 to \$2,700,000. **Therefore, this collection has a net total increase of \$595,000 in filing fees due to administrative adjustments.**

The USPTO estimates that this submission will increase the total net burden in annual (non-hour) costs for this collection by \$619,891. The USPTO estimates that \$816 will be added to this collection as a result of program changes and that \$619,075 will be added as a result of administrative adjustment. **In sum, this information collection has a total net burden increase of \$619,891 in annual (non-hour) costs, due to increases of \$816 in program changes and \$619,075 in administrative adjustments.**

16. Project Schedule

There is no plan to publish this information for statistical use.

17. Display of Expiration Date of OMB Approval

The forms in this information collection will display the OMB Control Number and the OMB expiration date.

18. Exception to the Certificate Statement

This collection of information does not include any exceptions to the certificate statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.