

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Trademark Trial and Appeal Board (TTAB) Actions**  
**OMB CONTROL NO. 0651-0040**  
**(January 2011)**

**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 registration 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 as the issue may be presented in such cases. The Chief Administrative Trademark Judge and 18 administrative trademark judges decide proceedings filed with the TTAB. A panel of three judges decides each case when it is ready for final decision on the merits. The TTAB follows the Federal Rules of Civil Procedure when applicable, and the "Trademark Rules" in 37 CFR Part 2.

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).

For this renewal, the USPTO is deleting the recordkeeping costs from the collection’s annual (non-hour) cost burden. The USPTO has determined that the recordkeeping costs do not need to be included in the burden estimates because applicants are not required to keep a copy of the files that are submitted electronically; the USPTO only suggests that applicants do so.

Table 1 provides the specific statutes and regulations requiring the USPTO to collect the information in this collection.

**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 <i>Inter Partes</i> Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amendment of Application or Registration During Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB Decision</li> </ul>	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 <i>Ex Parte</i> 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 other correspondence delivery services, 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 contents of a petition or notice should be framed or presented. 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](http://www.uspto.gov), explains 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 this information collection and its supporting statement 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"> <li>Used by the public to request the cancellation of a trademark registration in whole or in part.</li> <li>Used by the public to submit the required fee.</li> <li>Used by the USPTO to institute a cancellation proceeding and to notify the registrant of the grounds for cancellation</li> </ul>
Electronic Petition to Cancel (Ref C)	PTO 2188	<ul style="list-style-type: none"> <li>Used by the public to request the cancellation of a trademark registration in whole or in part electronically.</li> <li>Used by the public to submit the required fee electronically.</li> <li>Used by the USPTO to institute a cancellation proceeding and to notify the registrant of the grounds for cancellation.</li> </ul>
Notice of Opposition (Ref D)	No Form Associated; Suggested Format	<ul style="list-style-type: none"> <li>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.</li> <li>Used by the USPTO to process an opposition to the registration of a mark.</li> </ul>
Electronic Notice of Opposition (Ref E)	PTO 2120	<ul style="list-style-type: none"> <li>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.</li> <li>Used by the USPTO to process an opposition to the registration of a mark electronically.</li> </ul>
Extension of Time to File an Opposition	No Form Associated	<ul style="list-style-type: none"> <li>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.</li> <li>Used by the USPTO to extend the time for filing an opposition an additional 30 days, and to grant further extensions in accordance with TTAB rules.</li> <li>Used by the USPTO to notify the applicant of each extension of time for filing an opposition.</li> </ul>
Electronic Request for Extension of Time to File an Opposition (Ref F)	PTO 2153	<ul style="list-style-type: none"> <li>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.</li> <li>Used by the USPTO to extend the time for filing an opposition an additional 30 days, and to grant further extensions in accordance with TTAB rules.</li> <li>Used by the USPTO to notify the applicant of each extension of time for filing an opposition.</li> </ul>
Papers in <i>Inter Partes</i> Cases <ul style="list-style-type: none"> <li>Answers</li> <li>Amendments to Pleadings</li> <li>Amendment of Application or Registration during Proceeding</li> <li>Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>Evidence</li> <li>Briefs</li> <li>Surrender of Registration</li> <li>Abandonment of Application</li> <li>Documents Related to Concurrent Use Applications</li> <li>Notice of Intent to Appeal a TTAB Decision.</li> </ul>	No Form Associated	<ul style="list-style-type: none"> <li>Used by the public to file papers, such as motions and briefs, needed to prosecute <i>inter partes</i> cases.</li> <li>Used by the USPTO to process <i>inter partes</i> cases.</li> <li>Used by the USPTO as a suspense copy for appeals of TTAB decisions filed with a federal court.</li> </ul>

Form and Function	Form #	Needs and Uses
Electronic Papers in <i>Inter Partes</i> Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amendment of Application or Registration during Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB Decision.</li> </ul> (Ref G)	PTO 2151	<ul style="list-style-type: none"> <li>• Used by the public to electronically file papers, such as motions and briefs, needed to prosecute <i>inter partes</i> cases.</li> <li>• Used by the USPTO to process <i>inter partes</i> cases.</li> <li>• Used by the USPTO as a suspense copy for appeals of TTAB decisions filed with a federal court.</li> </ul>
Notice of Appeal	No Form Associated	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Used by the public to submit the required fees.</li> <li>• Used by the USPTO to institute and process an appeal.</li> </ul>
Electronic Notice of Appeal (Ref H)	PTO 2190	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Used by the public to submit the required fees.</li> <li>• Used by the USPTO to institute and process an appeal.</li> </ul>
Miscellaneous <i>Ex Parte</i> Papers	No Form Associated	<ul style="list-style-type: none"> <li>• Used by the public to file papers in <i>ex parte</i> appeal cases.</li> <li>• Used by the USPTO to process <i>ex parte</i> cases.</li> </ul>
Electronic Miscellaneous <i>Ex Parte</i> Papers (Ref I)	PTO 2189	<ul style="list-style-type: none"> <li>• Used by the public to file papers in <i>ex parte</i> appeal cases electronically.</li> <li>• Used by the USPTO to process <i>ex parte</i> cases.</li> </ul>

### 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 web site and allows filers to timely complete and submit forms to 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 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 within the USPTO over the Intranet and by the public over the 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 web site. 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 June 29, 2010 (75 Fed. Reg. 37380). The public comment period ended on August 30, 2010. 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 an *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). The TTAB has a standard order allowing for the submission of confidential material, but parties are free to agree to alternative arrangements.

## **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 71,743 responses per year. The USPTO estimates that approximately 86% (61,900) of these responses will be submitted electronically.



- **Burden Hour Calculation Factors**

The USPTO estimates that it takes the public approximately 10 to 30 minutes (0.17 to 0.50 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 estimates 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.

- **Cost Burden Calculation Factors**

The USPTO estimates that it will take a 50/50 level of effort by attorneys and paraprofessional/paralegals to complete the requirements in this collection. The professional hourly rate for attorneys in private firms is \$325, while the hourly rate for paraprofessionals/paralegals in private firms is \$122. The professional rate of \$325 per hour used in this submission is the median rate for attorneys in private firms published in the 2009 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 \$122 used in this submission is the average/typical rate for paralegals/legal assistants as shown in the 2010 National Utilization and Compensation Survey published by the National Association of Legal Assistants (NALA) in October 2010. 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 \$224. This is a fully-loaded hourly rate.

**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	0.50	88	44	\$224.00	\$9,856.00
Electronic Petition to Cancel	0.50	1,300	650	\$224.00	\$145,600.00
Notice of Opposition	0.50	205	103	\$224.00	\$23,072.00
Electronic Notice of Opposition	0.50	4,400	2,200	\$224.00	\$492,800.00
Extension of Time to File an Opposition	0.17	150	26	\$224.00	\$5,824.00
Electronic Request for Extension of Time to File an Opposition	0.17	15,700	2,669	\$224.00	\$597,856.00
Papers in Inter Partes Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amendment of Application or Registration During Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB decision</li> </ul>	0.17	4,800	816	\$224.00	\$182,784.00

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Electronic Papers in Inter Partes Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amendment of Application or Registration During Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB decision</li> </ul>	0.17	35,500	6,035	\$224.00	\$1,351,840.00
Notice of Appeal	0.25	300	75	\$224.00	\$16,800.00
Electronic Notice of Appeal	0.25	2,800	700	\$224.00	\$156,800.00
Miscellaneous Ex Parte Papers	0.17	4,300	731	\$224.00	\$163,744.00
Electronic Miscellaneous Ex Parte Papers	0.17	2,200	374	\$224.00	\$83,776.00
<b>Total</b>	- - - -	<b>71,743</b>	<b>14,423</b>	- - - -	<b>\$3,230,752.00</b>

### 13. Total Annualized Cost Burden

There are no capital start-up, operation, or maintenance costs associated with this information collection. Currently, the collection does have recordkeeping costs, but these costs are being deleted from the collection as explained in Section 15. There are, however, postage costs and filing fees associated with this collection.

#### Postage Costs

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* cases may be submitted to the USPTO or served on the other parties by Express or first-class mail through the United States Postal Service. These papers can also be forwarded by other services or 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 by Express Mail on the due date are considered to be timely filed with the TTAB, even if the TTAB receives the paper after the due date.

The USPTO estimates that 6% of the petitions, notices, extensions, and additional inter partes and ex parte papers that are filed in paper form 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 an average of \$18.54 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 (\$3.71), for an estimated cost of \$22.25. The USPTO estimates that up to 590 submissions per year may be mailed to the USPTO and other parties using Express Mail, for an estimated postage cost of \$13,128.

The USPTO estimates that the remaining 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 form (roughly 94%) will be sent by first-class mail. The USPTO estimates that the average submission will weigh 2 ounces and that the respondent will mail the original to the TTAB and serve copies on the other parties involved in the proceedings. The USPTO estimates that it costs 61 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 (49 cents), for an estimated cost of \$1.10. The USPTO estimates that up to 9,252 submissions per year may be mailed to the USPTO and other parties by first-class mail, for a postage cost of \$10,177.

**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 is \$23,305 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 \$2,107,900 shown below are the minimum fees associated with this information collection.

**Table 4: Filing Fees – Non-hour Cost Burden of Information Collected for Trademark Trial and Appeal Board (TTAB) Actions**

Item	Responses (yr) (a)	Filing Fees (b)	Total Non-Hour Cost Burden (yr) (a) x (b)
Petition to Cancel	88	\$300.00	\$26,400.00
Electronic Petition to Cancel	1,300	\$300.00	\$390,000.00

Item	Responses (yr) (a)	Filing Fees (b)	Total Non-Hour Cost Burden (yr) (a) x (b)
Notice of Opposition	205	\$300.00	\$61,500.00
Electronic Notice of Opposition	4,400	\$300.00	\$1,320,000.00
Extension of Time to File an Opposition	150	\$0.00	\$0.00
Electronic Request for Extension of Time to File an Opposition	15,700	\$0.00	\$0.00
Papers in Inter Partes Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amendment of Application or Registration During Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB decision</li> </ul>	4,800	\$0.00	\$0.00
Electronic Papers in Inter Partes Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amendment of Application or Registration During Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB decision</li> </ul>	35,500	\$0.00	\$0.00
Notice of Appeal	300	\$100.00	\$30,000.00
Electronic Notice of Appeal	2,800	\$100.00	\$280,000.00
Miscellaneous Ex Parte Papers	4,300	\$0.00	\$0.00
Electronic Miscellaneous Ex Parte Papers	2,200	\$0.00	\$0.00
<b>Totals</b>	<b>71,743</b>	<b>-----</b>	<b>\$2,107,900.00</b>

**The USPTO estimates that the total non-hour respondent cost burden for this collection, in the form of postage costs and filing fees, is \$2,131,205 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 estimates 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 \$28.04. 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 estimates 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 \$32.25 (\$28.04 + \$4.21).

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 estimates 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 30 minutes (0.50 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 \$33.92. 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 \$44.10 (\$33.92+ \$10.18).

Although the TTAB staff does not process the majority of papers submitted electronically through ESTTA, they do perform additional processing for 26% of the electronic notices of opposition, 18% of the electronic notices of appeal, and 7% of the electronic extensions of time to file an opposition. Out of approximately 4,400 notices of opposition and 2,800 notices of appeal filed electronically, the TTAB staff performs additional processing for approximately 1,170 notices of opposition and 500 notices of appeal. Out of approximately 15,700 electronic requests for extensions of time to file an opposition, the TTAB staff performs additional processing for approximately 1,100. The TTAB staff performs additional processing for all 1,300 petitions to cancel filed electronically. The USPTO estimates 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 30 minutes (0.50 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 \$33.92. 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  $\$33.92 + \$10.18 = \$44.10$ .

The TTAB staff does not process the extensions of time to file a notice of opposition, notices of opposition, 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 74% of the notices of opposition and 82% 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 GS-9, step 5 GS-11, step 5	0.07 0.50	88	6 44	\$32.25 \$44.10	\$194.00 \$1,940.00
Electronic Petition to Cancel GS-11, step 5	0.50	1,300	650	\$44.10	\$28,665.00
Notice of Opposition GS-9, step 5 GS-11, step 5	0.07 0.50	205	14 103	\$32.25 \$44.10	\$452.00 \$4,542.00
Electronic Notice of Opposition GS-11, step 5 Processed electronically by ESTTA	0.50 0.00	1,170 3,230	585 0	\$44.10 \$0.00	\$25,799.00 \$0.00
Extension of Time to File an Opposition GS-9, step 5 GS-11, step 5	0.07 0.17	150	11 26	\$32.25 \$44.10	\$355.00 \$1,147.00
Electronic Request for Extension of Time to File an Opposition GS-11, step 5 Processed electronically by ESTTA	0.17 0.00	1,100 14,600	187 0	\$44.10 \$0.00	\$8,247.00 \$0.00
Papers in Inter Partes Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleading</li> <li>• Amendment of Application or Registration during Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB decision</li> </ul>	0.07	4,800	336	\$32.25	\$10,836.00

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
Electronic Papers in Inter Partes Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleading</li> <li>• Amendment of Application or Registration during Proceeding</li> <li>• Motions (such as consent motions, motions to extend, motions to suspend, etc.)</li> <li>• Evidence</li> <li>• Briefs</li> <li>• Surrender of Registration</li> <li>• Abandonment of Application</li> <li>• Documents Related to Concurrent Use Applications</li> <li>• Notice of Intent to Appeal a TTAB decision</li> </ul>	0.00	35,500	0	\$0.00	\$0.00
Notice of Appeal					
GS-9, step 5	0.07	300	21	\$32.25	\$677.00
GS-11, step 5	0.50		150	\$44.10	\$6,615.00
Electronic Notice of Appeal					
GS-11, step 5	0.50	500	250	\$44.10	\$11,025.00
Processed electronically by ESTTA	0.00	2,300	0	\$0.00	\$0.00
Miscellaneous Ex Parte Papers					
GS-9, step 5	0.07	4,300	301	\$32.25	\$9,707.00
Electronic Miscellaneous Ex Parte Papers	0.00	2,200	0	\$0.00	\$0.00
<b>Total</b>	- - - - -	<b>71,743</b>	<b>2,684</b>	- - - - -	<b>\$110,201.00</b>

**The USPTO's total estimated cost for processing the information in this collection is estimated at \$110,201 per year.**

## 15. Reason for Change in Burden

### Summary of Changes Since the Previous Renewal

The renewal of this information collection was approved by OMB on January 24, 2008, with 79,000 responses, 18,311 burden hours, and \$2,740,891 in annualized (non-hour) costs. Although the Notice of Action for this approval shows the annualized (non-hour) costs as \$2,740,891, the cost calculated in the actual justification statement is \$2,740,892. The calculations below were derived using \$2,740,892 as the base number.

With this renewal, the USPTO estimates that the total burden and annualized (non-hour) costs for this collection will be 71,743 responses, 14,423 burden hours, and \$2,131,205 in annualized costs. This is a decrease of 7,257 responses, 3,888 burden hours and \$609,687 in annualized costs over the currently approved burden for this collection. The reductions in the responses and burden hours are due to administrative adjustments. The reductions in the annualized costs are due to a program change and to administrative adjustments.

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

In the 60-Day Federal Register Notice published on June 29, 2010 for this renewal, the USPTO estimated that the burden for this collection would be 80,025 responses, 17,815 burden hours, and \$2,417,326 in annual (non-hour) costs. The USPTO also estimated that the annual respondent cost burden would be \$3,794,595 per year.

Since the publication of the 60-Day Notice, the USPTO has made a number of adjustments that affect the burden estimates for this collection.

The USPTO has re-estimated the number of responses for all of the items in the collection, with the exception of the electronic petition to cancel. In addition to these changes, the USPTO also re-estimated the amount of time that it takes to complete the petitions to cancel and the notices of opposition. In the 60-Day Notice, the USPTO estimated that it would take 45 minutes to complete these items, whether they are filed in paper or electronically. The USPTO now estimates that it takes 30 minutes to complete these items.

Based on the re-estimates of the number of responses and the completion times for the petitions to cancel and the notices of opposition, the USPTO estimates that this collection will have 71,743 responses as opposed to 80,025 and 14,423 burden hours instead of 17,815. This is a decrease of 8,282 responses and 3,392 hours.

In the 60-Day Federal Register Notice, the USPTO estimated the annual (non-hour) costs for this collection at \$2,417,326. This included total postage costs of \$28,026, a recordkeeping cost of \$6,800, and a filing fee cost of \$2,382,500.

The change in the overall estimates for the collection also changed the estimated number of submissions mailed to the USPTO. In the 60-Day Notice, the USPTO estimated that 710 submissions would be mailed using Express Mail, and that the postage cost would be \$15,798. For the first-class submissions, the USPTO estimated that 11,116 would be mailed, at a postage cost of \$12,228. The USPTO estimated the total postage cost of \$28,026. The USPTO now estimates that fewer submissions will be mailed using Express and first-class mail, with 590 submissions at an estimated cost of \$13,128 for Express Mail and 9,252 submissions at an estimated cost of \$10,177 for first-class mail. The USPTO now estimates that the total postage cost for this collection at \$23,305 per year, which is a decrease of \$4,721 from the postage costs estimated in the 60-Day Federal Register Notice.

The revised response estimates also revise the filing fee totals that were reported in the 60-Day Federal Register Notice. Based on expected reductions in the number of overall responses for this collection, the USPTO now estimates that the filing fees for this collection will total \$2,107,900, as opposed to \$2,382,500 as estimated in the 60-Day Federal Register Notice, for an estimated decrease of \$274,600.



In the 60-Day Federal Register Notice, recordkeeping costs were reported for all of the electronic submissions. The USPTO has since determined that these costs should be deleted from the annual (non-hour) cost burden because there is no requirement for applicants to keep a copy of their electronically-filed submissions. These recordkeeping costs have therefore been deleted from the collection.

Based on these changes, the USPTO now estimates the annual (non-hour) costs for this collection at \$2,131,205 per year, with a total postage cost of \$23,305 and a filing fee cost of \$2,107,900. This is an estimated reduction of \$286,121 from the costs reported in the 60-Day Federal Register Notice.

In the 60-Day Federal Register Notice, the annual respondent cost burden was reported as \$3,794,595. The USPTO now estimates the annual respondent cost burden at \$3,230,752. Since the hourly rates were calculated for the notice, NALA published their 2010 National Utilization and Compensation Survey. As a result, the USPTO is now using the adjusted para-professional rate of \$122 to calculate the hourly rate. As a result, the estimated hourly rate for this collection has changed from \$213 as reported in the 60-Day Federal Register Notice, to \$224. Despite the increased rate, the overall reduction in the response estimates has resulted in a lower annual respondent cost than originally reported in the 60-Day Federal Register Notice. The USPTO now estimates that the annual respondent cost burden for this collection will be \$3,230,752, a \$563,843 reduction over the costs reported originally.

#### Changes in Respondent Cost Burden

When this collection was previously approved in January 2008, the USPTO estimated that it took a combined 50/50 level of effort by both attorneys and para-professionals/paralegals to complete all of the requirements in this collection. The estimated hourly rate for the attorneys was \$304, while the estimated hourly rate for the para-professionals/paralegals was \$90. The estimated average of these rates was \$197 per hour.

The hourly rates for the attorneys and para-professionals/paralegals have increased since the last renewal. Based on rates published in the 2009 report of the Committee on Economics of Legal Practice of the American Intellectual Property Law Association, the estimated hourly billing rate for attorneys has increased from \$304 to \$325. Based on rates from the 2010 National Utilization and Compensation Survey published by the National Association of Legal Assistants (NALA) in October 2010, the estimated hourly rate for the para-professionals/paralegals has increased from \$90 to \$122. The USPTO now estimates that the average of these hourly billing rates is \$224.

Despite the increase in the hourly rates, the USPTO expects an overall decrease in the respondent costs for the collection due to an overall reduction in the number of submissions. In addition, the USPTO has re-estimated the completion time for the petitions to cancel and the notices of opposition. The USPTO now estimates that it takes 30 minutes (0.50 hours) to complete these items, as opposed to 45 minutes (0.75

hours). The USPTO expects that these reductions will offset the increase in the hourly rate.

Therefore, for this renewal, the USPTO estimates that the total respondent cost burden will decrease by \$376,515, from \$3,607,267 to \$3,230,752 per year.

### Changes in Responses and Burden Hours

For this renewal, the USPTO estimates that the annual responses for this collection will decrease by 7,257 responses, from 79,000 to 71,743 responses per year. In turn, the USPTO estimates that the burden hours will decrease by 3,888 hours, from 18,311 to 14,423 hours per year. The USPTO expects reduced submissions for most of the items in the collection, although the agency does estimate an increase in the number of responses for the petitions to cancel, the papers in inter partes cases, the notices of appeal, and the miscellaneous ex parte papers that are filed electronically. This increase, however, is offset by the overall decrease in the number of responses for this collection. These changes are due to administrative adjustments, as follows:

- The USPTO expects that fewer petitions to cancel (paper) will be filed for this renewal. The USPTO estimates that the total number of petitions filed will decrease by 262 responses, from 350 to 88 responses per year. In addition, the USPTO has also re-estimated the amount of time that it takes to complete a petition to cancel. Currently, the USPTO estimates that it takes 45 minutes (0.75 hours) to complete a petition to cancel. With this renewal, the USPTO now estimates that it takes 30 minutes (0.50 hours) to complete the petitions. Based on these changes, the USPTO estimates that the burden hours will decrease by 219 hours, from 263 to 44 hours per year. **Therefore, this collection has a burden reduction of 219 hours due to an administrative adjustment.**
- The USPTO estimates that the number of petitions to cancel filed electronically will increase by 50 responses for this renewal, from 1,250 to 1,300 responses per year. However, the USPTO is also re-estimating the completion for the electronically-filed petitions from 45 to 30 minutes. The USPTO expects that this adjustment will offset the slight increase in submissions and estimates that the burden hours for these petitions will decrease by 288 hours, from 938 to 650 hours per year. **Therefore, this collection has a burden reduction of 288 hours due to an administrative adjustment.**
- The USPTO expects that fewer notices of opposition (paper) will be filed for this renewal. The USPTO estimates that the total number of oppositions filed will decrease by 795 responses, from 1,000 to 205 responses per year. The USPTO is also re-estimating the amount of time that it takes to complete these oppositions from 45 minutes (0.75 hours) to 30 minutes (0.50 hours). Due to these changes, the USPTO estimates that the burden hours for the oppositions will decrease by 647 hours, from 750 to 103 hours per year. **Therefore, this collection has a burden reduction of 647 hours due to an administrative adjustment.**

- The USPTO estimates that the number of notices of opposition filed electronically will decrease by 1,000 responses for this renewal, from 5,400 to 4,400 responses per year. The USPTO expects that it will take the same amount of time to complete and file the oppositions electronically as it does in paper form, so the completion time for these applications is being re-estimated from 45 minutes (0.75 hours) to 30 minutes (0.50 hours). Due to these changes, the USPTO estimates that the burden hours for the oppositions filed electronically will decrease by 1,850 hours, from 4,050 to 2,200 hours per year. **Therefore, this collection has a burden reduction of 1,850 hours due to an administrative adjustment.**
- The USPTO expects that fewer extensions of time to file an opposition (paper) will be filed for this renewal. The USPTO estimates that the total number of oppositions filed will decrease by 450 responses, from 600 to 150 responses per year. Due to this decrease, the USPTO estimates that the burden hours will decrease by 76 hours, from 102 to 26 hours per year. **Therefore, this collection has a burden reduction of 76 hours due to an administrative adjustment.**
- The USPTO estimates that the number of requests for extension to time to file an opposition electronically will decrease by 3,300 responses for this renewal, from 19,000 to 15,700 responses per year. Due to this decrease, the USPTO estimates that the burden hours for the extensions will decrease by 561 hours, from 3,230 to 2,669 hours per year. **Therefore, this collection has a burden reduction of 561 hours due to an administrative adjustment.**
- The USPTO expects that fewer papers in inter partes cases (paper) will be filed for this renewal. The USPTO estimates that the number of papers filed will decrease by 4,700 responses, from 9,500 to 4,800 responses per year. Due to this decrease, the USPTO estimates that the burden hours for the papers will decrease by 799 hours, from 1,615 to 816 hours per year. **Therefore, this collection has a burden reduction of 799 hours due to an administrative adjustment.**
- The USPTO estimates that the number of papers in inter partes cases filed electronically will increase by 3,000 responses for this renewal, from 32,500 to 35,500 responses per year. Due to this increase, the USPTO estimates that the burden hours for these papers will increase by 510 hours, from 5,525 to 6,035 hours per year. **Therefore, this collection has a burden increase of 510 hours due to an administrative adjustment.**
- The USPTO expects that fewer notices of appeal (paper) will be filed for this renewal. The USPTO estimates that the number of notices filed will decrease by 600 responses, from 900 to 300 responses per year. Due to this decrease, the USPTO estimates that the burden hours for the notices will decrease by 150 hours, from 225 to 75 hours per year. **Therefore, this collection has a burden reduction of 150 hours due to an administrative adjustment.**
- The USPTO estimates that the number of notices of appeal filed electronically will increase by 700 responses for this renewal, from 2,100 to 2,800 responses per year.

Due to this increase, the USPTO estimates that the burden hours for the notices will increase by 175 hours, from 525 to 700 hours per year. **Therefore, this collection has a burden increase of 175 hours due to an administrative adjustment.**

- The USPTO expects that fewer miscellaneous ex parte papers (paper) will be filed for this renewal. The USPTO estimates that the number of ex parte papers filed will decrease by 200 responses, from 4,500 to 4,300 responses per year. Due to this decrease, the USPTO estimates that the burden hours will decrease by 34 hours, from 765 to 731 hours per year. **Therefore, this collection has a burden reduction of 34 hours due to an administrative adjustment.**
- The USPTO estimates that the number of miscellaneous ex parte papers filed electronically will increase by 300 responses for this renewal, from 1,900 to 2,200 responses per year. Due to this increase, the USPTO estimates that the burden hours will increase by 51 hours, from 323 to 374 hours per year. **Therefore, this collection has a burden increase of 51 hours due to an administrative adjustment.**

The USPTO estimates that the total net burden for this collection will decrease by 3,888 hours, from 18,311 to 14,423 hours per year. The USPTO estimates that 736 hours will be added to the collection as a result of an administrative adjustment. This increase is offset, however, by a reduction of 4,624 hours, also due to administrative adjustments, for a total burden reduction of 3,888 hours. **Therefore, this information collection has a burden reduction of 3,888 hours due to administrative adjustments.**

#### Changes in Annual (Non-Hour) Costs

For this renewal, the USPTO estimates that the annual (non-hour) costs for this collection will decrease by \$609,687, from \$2,740,892 to \$2,131,205 per year. This change is due to administrative adjustments and a program change, as follows:

- The USPTO expects the costs for sending the petitions, notices, extensions, and additional inter partes and ex parte papers to the USPTO by Express Mail will decrease for this renewal. The USPTO estimates that the Express Mail rate for these submissions will increase from \$16.25 to \$18.54 and that the total cost to account for the service of papers on other parties will increase from \$19.50 to \$22.25. However, the USPTO expects that these increases will be offset by expected reductions in the number of submissions sent by Express Mail. The USPTO estimates that the number of submissions sent by Express Mail will decrease by 421 responses, from 1,011 to 590 responses per year. Due to the reduced submissions, the USPTO estimates that the Express Mail postage costs will decrease by \$6,587, from \$19,715 to \$13,128 per year. **Therefore, this collection has a reduction of \$6,587 in Express Mail cost due to an administrative adjustment.**
- The USPTO expects the costs for sending the petitions, notices, extensions, and additional inter partes and ex parte papers to the USPTO by first-class mail will

decrease for this renewal, despite increases in the postage rate and in the percentage of paper submissions sent by first-class mail. The USPTO estimates that the first-class postage rate will increase from 58 to 61 cents and that the total cost to account for service of these papers on other parties will increase from \$1.04 to \$1.10. The USPTO also estimates that the percentage of petitions, notices, extensions, and additional inter partes and ex parte papers submitted using first-class mail will increase from 89% to 94%. However, even though a greater percentage of applications are expected to be sent by first-class mail, the USPTO estimates that the overall number of applications sent this way will decrease by 5,745 responses, from 14,997 to 9,252 first-class submissions per year. The USPTO estimates that the first-class postage costs will decrease by \$5,420, from \$15,597 to \$10,177 per year. **Therefore, this collection has a reduction of \$5,420 in first-class postage costs due to an administrative adjustment.**

- For the petitions to cancel, notices of opposition and appeal, and the additional papers in inter partes and ex parte cases that are filed electronically, the USPTO strongly advises applicants to keep a copy of the file and the acknowledgement receipt as clear evidence that the file was received by the USPTO on the date noted. In the currently approved collection, recordkeeping costs for these copies are included as part of the annual (non-hour) cost burden. The Office of General Law at the USPTO has concluded that these costs do not need to be included in the burden calculations because the agency does not require applicants to keep a copy of their electronically-filed submission, but only suggests that they do so. The USPTO is therefore deleting the recordkeeping costs from the collection's burden. **Therefore, this collection has a reduction of \$5,580 in recordkeeping costs due to a program change.**
- The USPTO expects the total filing fees for the petition to cancel (paper) will decrease for this renewal. The USPTO estimates that the number of petitions filed will decrease from 350 to 88 responses per year. The USPTO estimates that the reduced submissions will decrease the total filing fees by \$78,600, from \$105,000 to \$26,400 per year. **Therefore, this collection has a reduction of \$78,600 in filing fee costs due to an administrative adjustment.**
- The USPTO expects the total filing fees for the petitions to cancel filed electronically will increase for this renewal. The USPTO estimates that the number of petitions filed electronically will increase from 1,250 to 1,300 responses per year. Due to this increase, the USPTO estimates that the total filing fees will increase by \$15,000, from \$375,000 to \$390,000 per year. **Therefore, this collection has an increase of \$15,000 in filing fee costs due to an administrative adjustment.**
- The USPTO expects the total filing fees for the notices of opposition (paper) will decrease for this renewal. The USPTO estimates that the total number of notices of opposition filed will decrease from 1,000 to 205 responses per year. The USPTO estimates that the reduced submissions will decrease the total filing fees by

\$238,500, from \$300,000 to \$61,500 per year. **Therefore, this collection has a reduction of \$238,500 in filing fee costs due to an administrative adjustment.**

- The USPTO estimates that the total filing fees for the notices of opposition filed electronically will decrease for this renewal. The USPTO estimates that the total number of notices of opposition filed will decrease from 5,400 to 4,400 responses per year, which in turn will reduce the total filing fees by \$300,000, from \$1,620,000 to \$1,320,000 per year. **Therefore, this collection has a reduction of \$300,000 in filing fee costs due to an administrative adjustment.**
- The USPTO expects the total filing fees for the notices of appeal (paper) to decrease for this renewal. The USPTO estimates that the total number of notices of appeal filed will decrease from 900 to 300 responses per year. The USPTO estimates that the reduced submissions will decrease the total filing fees by \$60,000, from \$90,000 to \$30,000 per year. **Therefore, this collection has a reduction of \$60,000 in filing fee costs due to an administrative adjustment.**
- The USPTO expects the total filing fees for the notices of appeal filed electronically to increase for this renewal. The USPTO estimates that the total number of notices of appeal filed will increase from 2,100 to 2,800 responses per year. The USPTO estimates that this will increase the total filing fees by \$70,000, from \$210,000 to \$280,000 per year. **Therefore, this collection has an increase of \$70,000 in filing fee costs due to an administrative adjustment.**

The USPTO estimates that the total annual (non-hour) costs for this renewal will decrease by \$609,687, from \$2,740,892 to \$2,131,205 per year. The USPTO estimates that \$5,580 will be reduced from the burden from the removal of the recordkeeping costs. The USPTO estimates that \$85,000 will be added to the collection as a result of administrative adjustments. However, the USPTO expects that this increase will be offset by a reduction of \$689,107, which is also due to administrative adjustments, for an overall reduction of \$604,107. **Therefore, this collection has a total net burden reduction of \$609,687 in annual (non-hours) costs, with a reduction of \$5,580 due to a program change and a reduction of \$604,107 due to 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.

### **References**

- A. USPTO Information Quality Guidelines
- B. Petition to Cancel (Suggested Format)
- C. PTO 2188 Electronic Petition to Cancel
- D. Notice of Opposition (Suggested Format)
- E. PTO 2120 Electronic Notice of Opposition
- F. PTO 2153 Electronic Request for Extension of Time to File an Opposition
- G. PTO 2151 Electronic Papers in Inter Partes Cases
- H. PTO 2190 Electronic Notice of Appeal
- I. PTO 2189 Electronic Miscellaneous Ex Parte Papers