

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Trademark Trial and Appeal Board (TTAB) Actions**  
**OMB CONTROL NO. 0651-0040**  
**(March 2014)**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

This collection of information is required by the Trademark Act of 1946, Sections 13, 14, and 20, 15 U.S.C.1063, 1064, and 1070, respectively. Under the Trademark Act, 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. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark, while Section 13 allows individuals and entities who believe that they would be damaged by the registration of a mark to file an opposition, or an extension of time to file an opposition, to the registration of a mark. Section 20 of the Trademark Act allows individuals and entities to file an appeal from any final decision of the Trademark Examining Attorney assigned to review an application for registration of a mark.

The United States Patent and Trademark Office (USPTO) administers the Trademark Act pursuant to 37 CFR Part 2, which contains the various rules that govern the filing of petitions to cancel the registration of a mark, 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 20 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).

## 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 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.

Table 1 lists the specific statutes and regulations authorizing the USPTO to collect this information and outlines how this information is used by the public and the USPTO:

**Table 1: Information Requirements and Needs and Uses of Information Collected**

Item #	Requirement	Statute	Rule	Form #	Needs and Uses
1	Petition to Cancel	15 U.S.C. § 1064	37 CFR 2.111 and 2.112	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>
1	Electronic Petition to Cancel	15 U.S.C. § 1064	37 CFR 2.111 and 2.112	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 electronically.</li> </ul>
2	Notice of Opposition	15 U.S.C. § 1063	37 CFR 2.101 and 2.104	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>

Item #	Requirement	Statute	Rule	Form #	Needs and Uses
2	Electronic Notice of Opposition	15 U.S.C. § 1063	37 CFR 2.101 and 2.104	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>
3	Extension of Time to File an Opposition	15 U.S.C. § 1063	37 CFR 2.102	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>
3	Electronic Request for Extension of Time to File an Opposition	15 U.S.C. § 1063	37 CFR 2.102	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>

Item #	Requirement	Statute	Rule	Form #	Needs and Uses
4	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 2.106 & 2.114 37 CFR 2.107 & 2.115  37 CFR 2.133  37 CFR 2.120, 2.125, 2.127 and 2.129  37 CFR 2.122-125 37 CFR 2.128 37 CFR 2.134  37 CFR 2.135  37 CFR 2.299  37 CFR 2.145	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>

Item #	Requirement	Statute	Rule	Form #	Needs and Uses
4	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>	Not Applicable	37 CFR 2.106 & 2.114 37 CFR 2.107 & 2.115  37 CFR 2.133   37 CFR 2.120, 2.125, 2.127 and 2.129   37 CFR 2.122-125 37 CFR 2.128 37 CFR 2.134  37 CFR 2.135  37 CFR 2.299   37 CFR 2.145	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>
5	Notice of Appeal	15 U.S.C. § 1070	37 CFR 2.102	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>
5	Electronic Notice of Appeal	15 U.S.C. § 1070	37 CFR 2.102	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>
6	Miscellaneous <i>Ex Parte</i> Papers	Not Applicable	37 CFR 2.144	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>

Item #	Requirement	Statute	Rule	Form #	Needs and Uses
6	Electronic Miscellaneous <i>Ex Parte</i> Papers	Not Applicable	37 CFR 2.144	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

The information in this collection can be submitted in paper format or electronically through ESTTA when a party files a petition to cancel a trademark registration, an opposition to the registration of a trademark, a request to extend the time to file an opposition, a notice of appeal, or additional papers for inter partes and ex parte proceedings with the USPTO. However, 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. Only notices of appeal for ex parte appeals can be submitted by facsimile, in accordance with 37 CFR 2.195(d)(3).

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 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 November 14, 2013 (78 Fed. Reg. 68419). The public comment period ended on January 13, 2014. No comments were received from the public.

## **9. Payment or Gifts to Respondents**

This information collection does not involve a payment or gift to any respondent.

## **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 sensitive.



## 12. Estimate of Hour and Cost Burden to Respondents

Table 2 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**

The USPTO estimates that it will receive approximately 76,017 responses per year for this collection. Approximately 70,100 of these responses will be filed electronically.

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected by these items.

- **Burden Hour Calculation Factors**

The USPTO estimates that the responses in this collection will take the public approximately 10 to 30 minutes (0.17 to 0.50 hours) to complete, 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 calculates that, on balance, it takes the same amount of time to gather the necessary information, create the document, and submit it to the TTAB, whether the public submits the information in paper form or electronically.

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected and the length of time necessary to complete responses containing similar or like information.

- **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 USPTO uses a professional rate of \$389 per hour, which is the mean rate for attorneys in private firms as shown in the 2013 *Report of the Economic Survey*, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA). The hourly rate for paraprofessional/paralegals is \$122, based on the average/typical rate for paraprofessionals/paralegals 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 these two rates, the USPTO estimates that the hourly rate for completing the petitions, notices, requests, and other papers will be \$256.

Based on the Agency's long-standing institutional knowledge of and experience with the type of information collected, the Agency expects \$256 is an accurate estimate of the cost per hour to collect this information.

**Table 2: Burden Hour/Burden Cost to Respondents**

Item #	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petition to Cancel	0.50	77	39	\$256.00	\$9,984.00
1	Electronic Petition to Cancel	0.50	1,500	750	\$256.00	\$192,000.00

Item #	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
2	Notice of Opposition	0.50	140	70	\$256.00	\$17,920.00
2	Electronic Notice of Opposition	0.50	5,500	2,750	\$256.00	\$704,000.00
3	Extension of Time to File an Opposition	0.17	70	12	\$256.00	\$3,072.00
3	Electronic Request for Extension of Time to File an Opposition	0.17	17,000	2,890	\$256.00	\$739,840.00
4	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	3,100	527	\$256.00	\$134,912.00
4	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	37,000	6,290	\$256.00	\$1,610,240.00
5	Notice of Appeal	0.25	130	33	\$256.00	\$8,448.00
5	Electronic Notice of Appeal	0.25	2,600	650	\$256.00	\$166,400.00
6	Miscellaneous Ex Parte Papers	0.17	2,400	408	\$256.00	\$104,448.00
6	Electronic Miscellaneous Ex Parte Papers	0.17	6,500	1,105	\$256.00	\$282,880.00
	<b>Total</b>	- - - -	<b>76,017</b>	<b>15,524</b>	- - - -	<b>\$3,974,144.00</b>

### 13. Total Annual (Non-hour) Cost Burden

The total annual (non-hour) respondent cost burden for this collection is calculated in Table 3 below. This collection has no capital start-up, maintenance, or recordkeeping costs.

#### Filing Fees

There is 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.

Table 3 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 \$2,438,100 shown below are the minimum fees associated with this information collection.

#### Postage

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 \$19.99 for a standard flat rate envelope 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 (\$4), for an estimated cost of \$23.99.

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 70 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 (56 cents), for an estimated cost of \$1.26.

**Table 3: Annual (Non-hour) Cost Burden**

Item #	Type of Cost	Estimated Annual Responses	Amount	Totals
	FEES			
1	Petition to Cancel	77	\$300.00	\$23,100.00
1	Electronic Petition to Cancel	1,500	\$300.00	\$450,000.00
2	Notice of Opposition	140	\$300.00	\$42,000.00
2	Electronic Notice of Opposition	5,500	\$300.00	\$1,650,000.00
3	Extension of Time to File an Opposition	70	\$0.00	\$0.00
3	Electronic Request for Extension of Time to File an Opposition	17,000	\$0.00	\$0.00
4	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>	3,100	\$0.00	\$0.00
4	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>	37,000	\$0.00	\$0.00
5	Notice of Appeal	130	\$100.00	\$13,000.00
5	Electronic Notice of Appeal	2,600	\$100.00	\$260,000.00
6	Miscellaneous Ex Parte Papers	2,400	\$0.00	\$0.00

Item #	Type of Cost	Estimated Annual Responses	Amount	Totals
6	Electronic Miscellaneous Ex Parte Papers	6,500	\$0.00	\$0.00
	<b>Total Fees</b>	<b>76,017</b>	<b>- - - - -</b>	<b>\$2,438,100.00</b>
	POSTAGE			
1	Petition to Cancel 5 @ \$23.99 72 @ \$ 1.26	77	\$120.00 \$91.00	\$211.00
2	Notice of Opposition 8 @ \$23.99 132 @ \$ 1.26	140	\$192.00 \$166.00	\$358.00
3	Extension of Time to File an Opposition 4@ \$23.99 66 @ \$ 1.26	70	\$96.00 \$83.00	\$179.00
4	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> 186 @ \$23.99 2,914 @ \$ 1.26	3,100	\$4,462.00 \$3,672.00	\$8,134.00
5	Notice of Appeal 8 @ \$23.99 122@ \$ 1.26	130	\$192.00 \$154.00	\$346.00
6	Miscellaneous Ex Parte Papers 144 @ \$23.99 2,256 @ \$ 1.26	2,400	\$3,455.00 \$2,843.00	\$6,298.00
	<b>Total Postage for mailed submissions</b>	<b>5,917</b>	<b>- - - - -</b>	<b>\$15,526.00</b>
	<b>Total Annual (Non-hour) Cost Burden</b>	<b>- - - - -</b>	<b>- - - - -</b>	<b>\$2,453,626.00</b>

#### 14. Annual Cost to the Federal Government

For the most part, personnel employed on a contractual basis process all of the submissions filed in Board proceedings in paper format. The contract personnel scan each paper into the appropriate electronic file records of the TTABIS system, and then file and maintain for possible future use, the paper submissions. Once the documents are in electronic format, the TTAB staff finishes the processing of the electronic form of the document using TTABIS. The contract personnel are not involved in processing of submissions made electronically. 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 \$28.32. 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 an hourly rate including overhead, the cost per hour for the contract personnel is approximately \$32.57 (\$28.32 + \$4.25).

Following the initial processing performed by the contract personnel, the TTAB staff also will engage in some additional processing of extensions of time to file an opposition, notices of opposition, petitions for cancellation, and 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 \$34.26. 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 \$44.54 (\$34.26+ \$10.28).

Neither contractors nor TTAB staff, however, are required to process the majority of 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 case 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 automatic institution process.

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 5,100 notices of opposition and 2,500 notices of appeal filed electronically, the TTAB staff performs additional processing for approximately 1,300 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 1,400 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 \$34.26. 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 \$44.54 (\$34.26 + \$10.28).

Table 4 calculates the processing hours and costs of this information collection to the Federal Government.

**Table 4: Burden Hour/Burden Cost to the Federal Government**

Item #	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petition to Cancel	0.07	77	5	\$32.57	\$163.00
	GS-9, step 5	0.50		39	\$44.54	\$1,737.00
1	Electronic Petition to Cancel	0.50	1,400	700	\$44.54	\$31,178.00
2	Notice of Opposition	0.07	140	10	\$32.57	\$326.00
	GS-9, step 5	0.50		70	\$44.54	\$3,118.00
2	Electronic Notice of Opposition	0.50	1,370	685	\$44.54	\$30,510.00
	GS-11, step 5	0.00		3,730	0	\$0.00
3	Extension of Time to File an Opposition	0.07	70	5	\$32.57	\$163.00
	GS-9, step 5	0.17		12	\$44.54	\$534.00
3	Electronic Request for Extension of Time to File an Opposition	0.17	1,100	187	\$44.54	\$8,329.00
	GS-11, step 5	0.00		14,600	0	\$0.00
4	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	3,100	217	\$32.57	\$7,068.00

Item #	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
4	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	37,000	0	\$0.00	\$0.00
5	Notice of Appeal		140			
	GS-9, step 5	0.07		10	\$32.57	\$326.00
	GS-11, step 5	0.50		70	\$44.54	\$3,118.00
5	Electronic Notice of Appeal					
	GS-11, step 5	0.50	500	250	\$44.54	\$11,135.00
	Processed electronically by ESTTA	0.00	2,000	0	\$0.00	\$0.00
6	Miscellaneous Ex Parte Papers					
	GS-9, step 5	0.07	2,600	182	\$32.57	\$5,928.00
6	Electronic Miscellaneous Ex Parte Papers	0.00	6,000	0	\$0.00	\$0.00
	<b>Total</b>	- - - - -	<b>73,332</b>	<b>2,442</b>	- - - - -	<b>\$103,633.00</b>

## 15. Reason for Changes in Burden from the Current Inventory

The USPTO is submitting the following changes for this renewal:

- Adjusting the estimated annual responses and burden hours.
- Adjusting the estimated number of mailed submissions and the estimated postage rate.

This information collection is currently approved with a total of 71,743 responses, 14,423 burden hours, and \$2,131,205 in annual (non-hour) costs. There have been no interim approvals.

### Changes in Responses and Burden Hours from the Current Inventory

The USPTO estimates total annual responses of 76,017 and total annual burden hours of 15,524, which is an increase of 4,274 responses along with an increase of 1,101 burden hours from the currently approved burden for this collection.



These changes are due to administrative adjustments from updated annual response estimates.

**Table 5a: Changes in Responses and Burden Hours from the Current Inventory**

Item #	Item	Currently approved responses	Updated responses	Change in responses (admin.)	Currently approved burden hours	Updated burden hours	Change in burden hours (admin.)
1	Petition to Cancel	88	77	(11)	44	39	(5)
1	Electronic Petition to Cancel	1,300	1,500	200	650	750	100
2	Notice of Opposition	205	140	(65)	103	70	(33)
2	Electronic Notice of Opposition	4,400	5,500	1,100	2,200	2,750	550
3	Extension of Time to File an Opposition	150	70	(80)	26	12	(14)
3	Electronic Extension of Time to File an Opposition	15,700	17,000	1,300	2,669	2,890	221
4	Papers in Inter Partes Cases	4,800	3,100	(1,700)	816	527	(289)
4	Electronic Papers in Inter Partes Cases	35,500	37,000	1,500	6,035	6,290	255
5	Notice of Appeal	300	130	(170)	75	33	(42)
5	Electronic Notice of Appeal	2,800	2,600	(200)	700	650	(50)
6	Miscellaneous Ex Parte Papers	4,300	2,400	(1,900)	731	408	(323)
6	Electronic Miscellaneous Ex Parte Papers	2,200	6,500	4,300	374	1,105	731
	<b>Totals</b>	<b>71,743</b>	<b>76,017</b>	<b>4,274</b>	<b>14,423</b>	<b>15,524</b>	<b>1,101</b>

### Changes in Annual (Non-hour) Costs from the Current Inventory

The total annual (non-hour) cost burden for this renewal submission of \$2,453,626 is an increase of \$322,421 from the currently approved total of \$2,131,205. This increase is due to administrative adjustments.

### **Administrative Adjustments**

- **Postage:** Decrease due to a decrease in the estimated number of mailed submissions offset by an adjustment in USPS postage rates since the previous renewal.
- **Filing Fees:** Increase due to an increase in the number of responses. The filing fee amounts have stayed the same.

**Table 5b: Changes in Annual (Non-hour) Costs from the Current Inventory**

<b>Cost</b>	<b>Currently approved annual cost burden</b>	<b>Program changes</b>	<b>Administrative adjustments</b>	<b>Total change in costs</b>	<b>Updated annual cost burden</b>
Filing Fees	\$2,107,900.00	\$0.00	\$330,200.00	\$330,200.00	\$2,438,100.00
Postage	\$23,305.00	\$0.00	(\$7,779.00)	(\$7,779.00)	\$15,526.00
<b>Totals</b>	<b>\$2,131,205.00</b>	<b>\$0.00</b>	<b>\$322,421.00</b>	<b>\$322,421.00</b>	<b>\$2,453,626.00</b>

**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.