

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Trademark Trial and Appeal Board (TTAB) Actions
OMB Control Number 0651-0040

Background

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 request is to update fee prices for four fees add four new fees to this collection that are as part of the rulemaking NPRM 0651-AD08. Respondent numbers are also changing due to agency discretion in conjunction with the rule.

Fee Increases

Item	Currently Approved Fee	Proposed Fee	Fee Increase
Filing a Petition to Cancel on Paper, per Class	\$300	\$500	\$200
Filing a Petition to Cancel through ESTTA, per Class	\$300	\$400	\$100
Filing a Notice of Opposition on Paper, per Class	\$300	\$500	\$200
Filing a Notice of Opposition through ESTTA, per Class	\$300	\$400	\$100

Ex Parte Appeal to the Trademark Trial and Appeal Board Filed on Paper, per Class	\$100	\$300	\$200
Ex Parte Appeal to the Trademark Trial and Appeal Board Filed through ESTTA, per Class	\$100	\$200	\$100

New Fees

Item	Proposed Respondents	Proposed Fee
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) on Paper	53	\$200
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) through ESTTA	5,263	\$100
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) on Paper	124	\$300
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) through ESTTA under §2.102(c)(1)(ii) or (c)(2) through ESTTA	12,280	\$200

Respondent Total Increases

Item	Currently Approved Estimate	Proposed Estimate	Respondent Increase
Filing a Petition to Cancel on Paper, per Class	77	24	-53
Filing a Petition to Cancel through ESTTA, per Class	1,500	2,352	852
Filing a Notice of Opposition on Paper, per Class	140	88	-52
Filing a Notice of Opposition through ESTTA, per Class	5,500	5,797	297
Ex Parte Appeal to the Trademark Trial and Appeal Board Filed on Paper, per Class (Notice of Appeal)	130	69	-61
Ex Parte Appeal to the Trademark Trial and Appeal Board Filed through ESTTA, per Class (Notice of Appeal)	2,600	3,359	759

Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) on Paper	70* (both fees apply to same IC line)	124	107
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) on Paper		53	
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) through ESTTA under §2.102(c)(1)(ii) or (c)(2) through ESTTA	17,000* (both fees apply to same IC line)	12,280	543
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) through ESTTA		5,263	
Totals	---	---	2,392

Fee Total Increases

Item	Currently Approved Estimate	Proposed Estimate	Respondent Increase
Filing a Petition to Cancel on Paper, per Class	\$23,100	\$12,000	-\$11,000
Filing a Petition to Cancel through ESTTA, per Class	\$450,000	\$940,800	\$490,800
Filing a Notice of Opposition on Paper, per Class	\$42,000	\$44,000	\$2,000
Filing a Notice of Opposition through ESTTA, per Class	\$1,650,000	\$2,318,800	\$668,000
Ex Parte Appeal to the Trademark Trial and Appeal Board Filed on Paper, per Class	\$13,000	\$20,700	\$7,700
Ex Parte Appeal to the Trademark Trial and Appeal Board Filed through ESTTA, per Class	\$260,000	\$671,800	\$411,800
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) on Paper	-	\$10,600	\$10,600
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) through ESTTA	-	\$526,300	\$526,300
Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) on Paper	-	\$37,200	\$37,200

Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) through ESTTA under §2.102(c)(1)(ii) or (c)(2) through ESTTA	-	\$2,456,000	\$2,456,000
Totals	---	---	\$4,599,400

Summary of Changes

The increase of \$4,599,400 in fees and 2,392 responses from collection 0651-0040 is on account of the changes following the rulemaking action NPRM 0651-AD08.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Respondents	76,017	2,392	78,409
Non-hour costs	\$2,453,626	\$4,599,400	\$7,053,026

Consequently, this collection takes a net burden increase of \$4,599,400 in annual (non-hour) costs as a program change.

The 0651-0040 revised total burden is as follows:

- 78,409 respondents
- \$7,053,026 in annual (non-hour) fees