

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Trademark Trial and Appeal Board (TTAB) Actions**  
**OMB CONTROL NUMBER 0651-0040**  
**2023**

**A. JUSTIFICATION**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Information is collected in view of the provisions of the Trademark Act of 1946<sup>1</sup>, Sections 13, 14, and 20, 15 U.S.C.1063, 1064, and 1070. 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 13 of the Trademark Act allows individuals and entities who believe that they would be damaged by the registration of a mark to file an extension of time to file an opposition, and to file an opposition, to the registration of a mark. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark. Section 20 of the Trademark Act allows individuals and entities to appeal any final decision of the examiner in charge of the registration of marks or a final decision by an examiner in an *ex parte* expungement proceeding or *ex parte* reexamination proceeding.

The United States Patent and Trademark Office (USPTO) administers, under the Trademark Act pursuant to 37 CFR Part 2, 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 submissions filed in connection with *inter partes* and *ex parte* proceedings. These petitions, notices, extensions, and additional submissions are filed with the Trademark Trial and Appeal Board (TTAB). The TTAB is an administrative tribunal empowered to determine whether a trademark should be registered in an *ex parte* appeal, or, if registered, should continue to be registered in an *inter partes* case. A panel of three judges typically 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” set forth in 37 CFR Part 2.

The USPTO receives submissions made under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“Madrid Protocol”), an

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<sup>1</sup> <https://tfsr.uspto.gov/RDMS/TFsr/current>.

international agreement governing trademark protection. Under the Madrid Protocol, a plaintiff can file an opposition to an extension of protection under the Madrid Protocol, as well as a request for an extension of time to oppose an extension of protection. Oppositions and extensions filed under the Madrid Protocol must be filed electronically through the TTAB's electronic filing system.

Table 1 lists the statutes and regulations under which the USPTO collects information pertaining to the provisions discussed above:

**Table 1: Information Requirements**

Item No.	Requirement	Statute	Regulation
1	Petition to Cancel	15 U.S.C. § 1064	37 CR 2.111 - 2.115
2	Notice of Opposition	15 U.S.C. § 1063	37 CFR 2.101 - 2.107
3	Extension of Time to File an Opposition	15 U.S.C. § 1063	37 CFR 2.102
4	Submissions in <i>Inter Parte</i> Cases <ul style="list-style-type: none"> <li>• Answers</li> <li>• Amendments to Pleadings</li> <li>• Amending of Application to Registration during Proceedings</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>	15 U.S.C. §§ 1063 and 1064,	37 CFR 2.116 –2.129, 37 CFR 2.132-2.135
5	Notice of Appeal	15 U.S.C. §§ 1063 and 1064, and 15 U.S.C. § 1071	37 CFR 2.141-2.142, 2.145
6	Appeal Brief	15 U.S.C. §§ 1063 and 1064, and 15 U.S.C. § 1071	37 CFR 2.141-2.142, 2.145
7	Miscellaneous <i>Ex Parte</i> submissions	Not Applicable	37 CFR 2.144

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Information must be submitted electronically through the TTAB's electronic filing system 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 submissions for inter partes and ex parte proceedings with the USPTO. Submissions filed in paper form via mail or hand delivery are permitted only when Electronic System for Trademark Trial and Appeals (ESTTA) is unavailable due to technical problems, or when extraordinary circumstances are present.

Electronic submissions to the TTAB are possible through the TTAB's electronic filing system, accessible through the USPTO's web site. The filer can access step-by-step instructions and help screens for assistance. The system prompts the filer to validate required fields and sign the submission before transmission to the TTAB.

The information collected, maintained, and used in this collection is based on OMB and USPTO guidelines. This includes the basic information quality standards established in the Paperwork Reduction Act (44 U.S.C. Chapter 35), in OMB Circular A-130, and in the USPTO Information Quality Guidelines.

Table 2 outlines how this collection of information is used by the public and the USPTO:

**Table 2: Needs and Uses**

IC No.	Form/ Function	Form No.	Needs and Uses
1	Petition to Cancel	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.</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>
2	Notice of Opposition	PTO 2120	<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 an extension of time for filing an opposition.</li> <li>Used by the public to submit a required fee.</li> <li>Used by the USPTO to process an opposition to the registration of a mark.</li> </ul>
3	Extension of Time to File an Opposition	PTO 2153	<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 public to submit a required fee.</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>
4	Submissions in <i>Inter Parte</i> Cases <ul style="list-style-type: none"> <li>Answers</li> <li>Amendments to Pleadings</li> <li>Amending of Application to Registration during Proceedings</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>	PTO 2151	<ul style="list-style-type: none"> <li>Used by the public to submit filings, such as motions and briefs.</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</li> </ul>
5	Notice of Appeal	PTO 2190	<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 a required fee.</li> <li>Used by the USPTO to institute and process an appeal.</li> </ul>

6	Appeal Brief	PTO 2189	<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 a required fee.</li> <li>• Used by the USPTO to institute and process an appeal.</li> <li>• Used by the public to submit filings in <i>ex parte</i> appeal cases.</li> <li>• Used by the USPTO to process <i>ex parte</i> cases.</li> </ul>
7	Miscellaneous <i>Ex Parte</i> submissions	PTO 2189	<ul style="list-style-type: none"> <li>• Used by the public to submit filings in <i>ex parte</i> appeal cases.</li> <li>• Used by the USPTO to process <i>ex parte</i> cases.</li> </ul>

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Information must be submitted through the TTAB’s electronic filing system 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 submissions for inter partes and ex parte proceedings with the USPTO. Submissions filed in paper form via mail or hand delivery are permitted only when ESTTA is unavailable due to technical problems, or when extraordinary circumstances are present.

Electronic submissions to the TTAB are possible through the TTAB’s electronic filing system, accessible through the USPTO’s web site. The filer can access step-by-step instructions and help screens for assistance. The system prompts the filer to validate required fields and sign the submission before transmission to the TTAB.

TTAB disseminates information collected through the filing of notices of opposition, extensions of time to oppose, petitions to cancel, and other submissions through the TTAB’s electronic filing system. This system, which provides online images of documents within the TTAB record for a proceeding, can be accessed through the USPTO’s website. The system allows users to view the record of a TTAB proceeding created through Internet filings or papers which have been scanned into the system. Additionally, the system allows users to print and enlarge documents. TTAB decisions from 1996 to the present are available to the general public through the TTAB’s home page accessible on the USPTO website.

Once received by the USPTO, the submission is assigned an ESTTA tracking number. Submissions are time-stamped in Eastern Time with the date the USPTO receives the submission. If a fee is required, the time-stamp, in Eastern Time, is applied when the payment process has been completed. The filing system will then display a receipt. The

official filing date and time of the submission will be displayed on the confirmation web screen and in confirmation by e-mail confirmation sent to the e-mail address provided by the filer or in the proceeding record.

The information submitted through TTAB's electronic filing system moves directly into the TTAB's electronic workflow system. This system processes incoming and outgoing documents electronically and permits staff to prepare correspondence, track cases, generate reports for TTAB managers, and monitor proceedings in an effective, secure, and timely manner. Information regarding TTAB proceedings is available to TTAB employees through the USPTO's internal computer system and to the general public over the Internet. TTAB employees can add electronic notations to proceeding files.

TTABVUE allows the general public to retrieve information concerning TTAB proceedings from the TTAB's internal databases through the Internet. The general public can search, view, and print specific information. Information about a proceeding can be retrieved through a proceeding number, the plaintiff's or defendant's name, the trademark, any words within an index, the application serial number, or the registration serial number.

The revised edition of the Trademark Trial and Appeal Board's Manual of Procedure<sup>2</sup> (TBMP) is available through the USPTO's web site. The TBMP sets forth current TTAB practice and legal precedent, trademark rules, relevant statutory provisions, and procedures for telephone conferences and final hearings, including video conferencing. The TBMP addresses electronic filing, access to the TTAB's electronic database through the Internet, and offers examples of formatting for certain TTAB filings. TTAB decisions from 1996 to date are available to the general public through the TTAB's home page accessible on the USPTO website.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

Every effort has been made to identify and eliminate duplication of information. The TTAB's information 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, and to make filings in connection with litigating an *inter partes* proceeding or prosecuting an *ex parte* appeal. This information is not collected elsewhere within the USPTO. Where possible, the TTAB's electronic filing system retrieves existing data and completes fields within forms to eliminate the need for the filer to provide data already in the TTAB database.

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<sup>2</sup> <https://tbmp.uspto.gov/RDMS/TBMP/current>.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The information collected is the minimum needed to execute the transaction and to ensure that the recording of the assignment is complete. This collection of information does not impose a significant economic impact or put an unnecessary burden on small entities or small businesses. The same information is required of every filer and is not available from any other source.

Registrations, oppositions, cancellations, and appeals are voluntary activities on the part of the public. The USPTO expects that the submission of the information places no undue burden on small businesses or other small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

This information is collected only when voluntarily submitted by the public. This information collection could not be conducted 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 2.101-102, 2.104, 2.111–2.112, and 2.141 to 2.142.

Failure to collect this information would prevent filers from exercising their right to oppose the registration of a mark, request an extension of time to oppose the registration of a mark, to petition to cancel a federally registered trademark, to appeal a final decision of the Trademark Examining Attorney in charge of the requested registration of a mark, and to make submissions needed to further litigate an inter partes proceeding or prosecute an ex parte appeal.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB; • that includes a pledge of confidentiality that is not

supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The 60-Day Notice was published in the *Federal Register* on June 5, 2023 (88 FR 36541).<sup>3</sup> The comment period ended on August 4, 2023. Two comments were received. Neither were relevant to the information collection renewal. One comment was a potentially misfiled comment. The other comment was about how helpful the economic effects of rules that include quantitative and qualitative data are.

In addition, a 30-day notice was published in the Federal Register on August 29, 2023 (88 FR 59510). The public comment period ends on September 28, 2023.<sup>4</sup>

The USPTO has long-standing relationships with groups who frequently communicate their views on information collections, including the American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), and International Trademark Association (INTA), as well as business groups, inventor associations, and users of our public facilities. Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an

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<sup>3</sup> <https://www.govinfo.gov/content/pkg/FR-2023-06-05/pdf/2023-11889.pdf>.

<sup>4</sup> <https://www.govinfo.gov/content/pkg/FR-2023-08-29/pdf/2023-18545.pdf>.



information collection. These organized groups did not communicate any comments regarding the present renewal.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

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

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

Trademark applications and registrations are open to public inspection. Confidentiality is not required in processing this information. 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 by parties in inter partes proceedings under a claim of confidentiality, which are not available for public review. Papers with confidential business information may be filed electronically, under separate cover, as specified in 37 CFR 2.126(c), and a copy of the submission for public viewing with the confidential portions redacted must be submitted concurrently. The TTAB has a standard order allowing for the submission of confidential material, but parties are free to agree to alternative arrangements.

This information collection contains information which is subject to the Privacy Act. This information is collected in connection with the registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and entities that use, or intend to use such marks in commerce may file an application to register their marks with the USPTO. Trademark Application information collection activities are covered under the Statement of Records Notice (SORN) COMMERCE/USPTO-26 Trademark Application and Registration Records; published on February 18, 2020 (85 FR 8847).<sup>5</sup> This SORN identifies the categories of records in the system containing applicants for trademark, includes the name, citizenship, domicile, email address, postal address, and telephone number of the trademark applicant, registrant, and applicant's or registrant's legal or other authorized representative(s), an attorney's law firm or company affiliation and professional licensing information, and other information pertaining to an applicant's or registrant's activities in connection with the applied-for or registered mark. Records in this system include trademark applications, applicant and registrant declarations, office actions, registration certificates, and correspondence generated in the course of the prosecution of a trademark application or maintenance of a trademark registration.

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<sup>5</sup> <https://www.govinfo.gov/content/pkg/FR-2020-02-18/pdf/2020-03068.pdf>.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

None of the required information in this collection is considered to be sensitive.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.**
- **Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

Table 3 calculates the burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**  
The USPTO estimates that this information collection will receive approximately 41,300 responses per year, with approximately 5% (2,065) submitted by small entity respondent. The USPTO further estimates that it will receive approximately 76,650 responses per year for this information collection.

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 public requires approximately 10 minutes (0.17 hours) to 21 hours to complete forms for TTAB filings, depending on the complexity of the situation and item. This includes the time to submit a request to the USPTO. It does not include the time to gather the necessary information, prepare the petitions, notices, extensions or additional filings. The USPTO calculates that 20 minutes (0.33 hours) are required to gather the necessary background information to file an inter partes proceeding. The USPTO calculates that approximately 18 hours are required to create a petition to cancel and a notice of opposition. The USPTO estimates that the public requires approximately 21 hours to submit materials related to *inter partes* cases.

These estimates are based on the Agency's long-standing institution knowledge of and experience with the type of information collected and the length of time necessary to complete filings containing similar or like information. Using these burden factors, USPTO estimates the total respondent burden for this information collection is 1,038,747 hours per year.

- **Cost Burden Calculation Factors**

The USPTO estimates that it will take a 50/50 level of effort by attorneys and paraprofessionals/paralegals to complete the requirements in this information collection. The USPTO uses a professional rate of \$435 per hour for respondent cost burden calculations, which is the median rate for intellectual property attorneys in private firms as shown in the 2021 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA). The hourly rate for paraprofessional/paralegals is \$149 based on the average/typical rate for paraprofessionals/paralegals. This rate was published by the National Association of Legal Assistants (NALA) in 2020.

The average of the attorney rate (\$435) and the paraprofessional/paralegal rate (\$149) is \$292.

Using these hourly rates, the USPTO estimates that the total respondent cost burden for this information collection is \$303,314,124 per year.

**Table 3: Total Burden Hours and Hourly Costs to Private Sector Respondents**

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time For Response (hours)	Estimated Burden (hour/year)	Rate <sup>6</sup> (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)

1	Petition to Cancel <b>PTO-2188</b>	2,300	1	2,300	18	41,400	\$292	\$12,088,800
2	Notice of Opposition <b>PTO-2120</b>	6,800	1	6,800	18	122,400	\$292	\$35,740,800
3	Extension of Time to File an Opposition <b>PTO-2153</b>	10,000	1.75	17,500	0.30	5,250	\$292	\$1,533,000
4	Submissions in <i>Inter Parte</i> Cases <b>PTO-2151</b>	18,200	2.25	40,950	21	859,950	\$292	\$251,105,400
5	Notice of Appeal <b>PTO-2190</b>	3,400	1	3,400	1.20	4,080	\$292	\$1,191,360
6	Appeal Briefs <b>PTO-2189</b>	600	1	600	8	4,800	\$292	\$1,401,600
7	Miscellaneous Ex Parte Submissions <ul style="list-style-type: none"> <li>• Appeal Briefs</li> <li>• Requests to extend time to file Appeal Briefs</li> <li>• Oral hearing requests</li> </ul> <b>PTO-2189</b>	Same as line 5	1.50	5,100	0.17	867	\$292	\$253,164
	<b>Totals</b>	<b>41,300</b>	<b>---</b>	<b>76,650</b>	<b>---</b>	<b>1,038,747</b>	<b>---</b>	<b>\$303,314,124</b>

<sup>6</sup> 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour; (<https://www.aipla.org/home/news-publications/economic-survey>). 2020 National Utilization and Compensation Survey Report, published by the National Association of Legal Assistants (NALA); pg. 10; (<https://nala.org/wp-content/uploads/2021/07/2020UtilizationSurvey-FINAL-Summary-of-Findings.pdf>).

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

There are no maintenance costs, capital start-up costs, or recordkeeping costs associated with this information collection. However, this collection does have non-hourly cost burdens in both fees paid by the public and associated postage costs for mailing items to USPTO.

The total (non-hour) respondent cost burden for this collection is estimated to be \$9,080,047 per year, which includes \$9,079,500 in fees and \$547 in postage.

#### Filing Fees

There are fees associated for parties filing the petitions to cancel, the notices of opposition, and the notices of appeal for a total of \$9,079,500 per year as outlined in Table 5 below.

**Table 4: Filing Fees**

Item No.	Fee Code	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
1	6401	Petition to Cancel (Paper Submission)	5	\$700	\$3,500
1	7401	Petition to Cancel	2,295	\$600	\$1,377,000
2	6402	Notice of Opposition (Paper Submission)	20	\$700	\$14,000
2	7402	Notice of Opposition	6,780	\$600	\$4,068,000
3	6405	Request for Extension of Time to File an Opposition under §2.102(c) (3) (Paper Submission)	5	\$500	\$2,500
3	7405	Request for Extension of Time to File an Opposition under §2.102(c) (3)	2,400	\$400	\$960,000
3	6404	Request for Extension of Time to File an Opposition under §2.102(c) (1)(ii) or (c)(2) (Paper Submission)	5	\$400	\$2,000
3	7404	Request for Extension of Time to File an Opposition under §2.102(c) (1)(ii) or (c)(2)	8,345	\$200	\$1,669,000
5	6403	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed (Paper Submission)	10	\$325	\$3,250
5	7403	Ex Parte Appeal to the Trademark Trial and Appeal Board	3,390	\$225	\$762,750
6	6406	Brief in an Ex Parte Appeal to the Board, per Class	5	\$300	\$1,500
6	7406	Electronic Brief in an Ex Parte Appeal to the Board, per Class	595	\$200	\$119,000
7	6407	Second or Subsequent Request for an Extension of Time to File an Appeal Brief, per Application	5	\$200	\$1,000
7	7407	Electronic Second or Subsequent Request for an Extension of Time to File an Appeal Brief, per Application	335	\$100	\$33,500

Item No.	Fee Code	Information Collection Instrument	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
7	7408	Request for an Oral Hearing	125	\$500	\$62,500
		<b>Totals</b>	<b>24,320</b>	<b>- - -</b>	<b>\$9,079,500</b>

### Postage Costs

Usually, there are no postage costs associated with this information collection. The petitions to cancel, the notices of opposition, the notices of appeal, the extensions of time to file an opposition, and the additional submissions filed in inter partes and ex parte cases must be submitted to the USPTO electronically or served on other parties by email. Express or first-class mail through the United States Postal Service or hand delivery to the TTAB is only available under extraordinary circumstances. The USPTO estimates that the average first-class postage cost for a mailed submission will be \$9.95 (2-day legal flat rate envelope) and that approximately 55 submissions will be mailed to the USPTO per year.

Based on the number of submissions and the average first-class postage cost, the estimated annual postage costs for this collection is \$547 per year.

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The majority of the items in this information collection are processed automatically by electronic systems. Therefore, TTAB staff does not process the majority of the extensions of time to file a notice of opposition, notices of opposition, notices of appeal, and miscellaneous submissions filed in both ex parte and inter partes proceedings submitted electronically through the TTAB's electronic filing system. The TTAB's electronic filing system will process information submitted to the TTAB and update appropriate electronic files. The TTAB's electronic filing system automatically institutes 94% of the notices of opposition, 97% of the notices of appeal and 50% of petitions for cancellation. There is no human intervention during this process.

Although TTAB staff does not process the majority of the electronic submissions, they do perform additional processing for 6% of the notices of opposition, 3% of the notices

of appeal, 50% of petitions for cancellation and 1% of the extensions of time to file an opposition. Out of approximately 6,780 notices of opposition and 3,395 notices of appeal filed electronically, TTAB staff performs additional processing for approximately 408 notices of opposition, 102 notices of appeal, and 18 appeal briefs. Out of approximately 16,700 electronic requests for extensions of time to file an opposition, TTAB staff performs additional processing for approximately 167. TTAB staff performs additional processing for all 2,300 petitions to cancel filed electronically.

USPTO employees paid at a GS-11, step 5, grade process TTAB filings. The USPTO estimates that the cost to the USPTO of a GS-11, step 5 employee is \$55.48 per hour (GS hourly rate of \$42.68 with 30% (\$12.80) added for benefits and overhead). The USPTO estimates that it takes an employee 19 minutes (0.32 hours) to complete the processing of extensions of time to file a notice of opposition, and 20.33 hours to complete the submissions in *inter parte* cases.

For the most part, USPTO contractors process TTAB submissions in the paper format. The contractors scan each paper into the electronic record, file, and temporarily maintain the paper submission. Once submissions are in electronic format, TTAB staff finishes the processing of the electronic form of the document.

USPTO pays contractors the equivalent of a USPTO employee paid at a GS-9, step 5 grade process TTAB filings in paper form. The USPTO estimates that the cost to the USPTO of a GS-9, step 5 employee is \$40.56 per hour (GS hourly rate of \$35.27 with 15% (\$5.29) added for benefits and overhead). The USPTO estimates that it will take an employee 4 minutes (0.07 hours) to process each paper.

After the initial processing performed by contractors, TTAB staff processes any extensions of time to file an opposition, notices of opposition, petitions for cancellation, and notices of appeal filed in paper form.

Table 7 calculates the burden hours and costs to the Federal Government for processing this information collection:

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

Item No.	Item	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate <sup>7</sup> (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petition to Cancel GS-9, step 5 GS-11, step 5	5 1,145	0.50	3 573	\$40.56 \$55.48	\$122 \$31,790

<sup>7</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB_h.pdf).



Item No.	Item	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
2	Notice of Opposition GS-9, step 5 GS-11, step 5	5 403	0.50	3 202	\$40.56 \$55.48	\$122 \$11,207
3	Extension of Time to File an Opposition GS-9, step 5 GS-11, step 5	5 162	0.17	1 28	\$40.56 \$55.48	\$41 \$1,553
4	Submissions 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>	24,600	0.25	6,150	\$40.56	\$249,444
5	Notice of Appeal GS-9, step 5 GS-11, step 5	5 97	0.07 0.50	1 49	\$40.56 \$55.48	\$41 \$2,719
6	Appeal Brief GS-9, step 5 GS-11, step 5	1 17	0.07 0.50	1 9	\$40.56 \$55.48	\$41 \$499
7	Miscellaneous Ex Parte Submissions	5,800	0.07	406	\$40.56	\$16,467
	<b>Totals</b>	<b>32,245</b>	<b>---</b>	<b>7,425</b>	<b>---</b>	<b>\$314,004</b>

**15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.**

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	76,650	0	600	-7,050	0	83,100
Annual Time Burden (Hr)	1,038,747	0	998,341	19,273	0	21,133

Annual Cost	9,080,047	0	2,910,947	-442,506	0	6,611,606
Burden (\$)						

### Change in Respondents

The total number of respondents has decreased by 6,450 due to estimated fluctuations in the number of responses/submissions in this information collection. Overall fewer respondents submitted items within this information collection. One new item, appeal brief were added on its own line to better represent the items included in this information collection; this added 600 respondents.

### Changes in Hourly Burdens

The total number of annual time burden estimates have increased by 998,341 hours due to a change in the burden estimates for three IC lines. The IC lines and the adjustments are:

- IC Line 1 – increasing the estimated time per response from 0.50 hours per response to 18 hours per response.
- IC Line 2 – increasing the estimated time per response from 0.5 hours per response to 18 hours per response.
- IC Line 4 – increasing the estimate time per response from 0.25 hours per response to 21 hours per response.

These time burden estimated were increased to bring TTAB estimates into alignment with other USPTO estimates for similar items, especially those used by PTAB. In reviewing the time estimates, the previous values were not enough to cover the full drafting of the legal documents required for that item. These new estimates provide a better reflection of the time burdens that these legal actions require for parties seeking a TTAB decision.

Additionally, there is a slight increase (19,273 burden hours) due to natural fluctuations in individuals filing out particular items within this information collection even as the overall number of respondents slightly declined.

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

For this renewal, the USPTO estimates that the total annual (non-hour) costs will increase by \$2,910,947 from the previous approval due to changing fees amounts for various TTAB items. This information collection also saw a slight decrease in annual (non-hour) costs burdens (-442,506) due to fluctuations in submissions for items that require a fee, particularly for Requests for Extension of Time to File an Opposition.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

USPTO makes submissions under this information collection available to the public via the TTAB's electronic filing system. The purpose of this public access is not for statistical use and the Agency does not perform statistical analysis on the details within submissions.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

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

**18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

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.