**USPTO Fee Setting—**

**Activity Based Information and**

**Trademark[[1]](#footnote-1) Fee Unit Expense Methodology**

This document provides additional details on the cost methodologies used to derive the historical fee unit expenses outlined in the Table of Trademark Fees—Current, Proposed, and Unit Costs. Five sections are included:

1. **Background:** Provides background information on the Activity Based Information (ABI) program (managerial cost accounting) at the United States Patent and Trademark Office (USPTO or Office).
2. **Objective:** Outlines the detailed objective(s) of the ABI program in calculating historical expenses by activity using ABI expense models.
3. **Foundational Elements:** Discusses the key components of the ABI expense methodology.
4. **Fully Burdened Expense:** Explains the approach for calculating the full expense of trademark processes and activities.
5. **Fee Unit Expense Calculation:** Outlines the three major approaches for developing a fee unit expense calculation based on the fully burdened expense of trademark processes and activities. Also provides historical fee unit expense information for the previous three fiscal years.

Questions related to the ABI program or methodologies discussed in the narrative are welcome. For further information, contact Brendan Hourigan, Office of Planning and Budget, by telephone at (571) 272-8966.

# SECTION 1: BACKGROUND

While there are numerous regulations that require agencies to track and report the expense of program delivery, the Federal Accounting Standards Advisory Board (FASAB) Statement of Federal Financial Accounting Standards (SFFAS) No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government,issued in July 1995, outlines the key federal managerial cost accounting (MCA) requirements. In 1997, the USPTO instituted the ABI program to comply with prevailing federal managerial cost accounting standards and inform decisions based on sound business principles. The USPTO ABI program uses standard Activity Based Costing (ABC) methodologies to determine total USPTO expenses related to the processing of patent and trademark applications, including the share of administrative costs, for financial reporting. The ABI program is examined each year as part of the financial statement audit, and no internal control weaknesses concerning the ABI methodology or data have been reported. An independent verification and validation study conducted on the ABI program in 2009 identified the USPTO ABI program as a best practice in federal government. In 2015, the Department of Commerce’s Office of Inspector General (OIG) conducted an audit of Trademark’s Activity Based Information System and issued Final Report No. OIG-16-020-A. The objectives of this audit were to review allocation algorithms and controls of the ABI system and determine whether the use of ABI justifies and supports fee changes. The OIG determined that cost allocation algorithms were implemented consistently with supporting documentation and the internal control over the execution of ABI methodologies was operating effectively. Since the inception of the program, ABI methodologies have continuously improved and are consistently used to inform fee setting, budgeting, performance reporting, financial statement (Statement of Net Cost) preparation, business decision-making, and ad-hoc expense analyses and studies.

The USPTO ABI program maintains an expense model for each USPTO business unit to capture and determine historical expenses on a per-process or per-service basis and to determine the expenses associated with the specific fees included in the proposed rulemaking (Setting and Adjusting Trademark Fees during Fiscal Year 2020). The ABI fee expense analysis methodology follows the full cost guidance outlined in Office of Management and Budget (OMB) Circular A-25 (Subject: “User Charges”) and the fee setting guidance outlined in the Government Accountability Office (GAO) report on Federal User Fees (Federal User Fees: A Design Guide, GAO-08-386SP (May 2008)). To ensure the ABI expense models keep pace with the changing environment, improvements are made to the models and allocation methodologies each year.

To facilitate agency-wide collaboration and transparency in the ABI program, the ABI Steering Committee was established in 2007 and is the official oversight body for all topics related to the USPTO ABI program and ABC data. This committee is chaired by the Deputy Chief Financial Officer or his/her designee, with representatives from the various USPTO business organizations. The governance of the ABI program and all changes to the expense assignment and allocation methodologies are managed and approved by the steering committee. Prior to 2007, a Cost Management Committee made up of business unit liaisons from across the agency met regularly to review and validate quarterly ABI results.

The Office finds reviewing the trend of ABI historical expense information the most useful way to inform fee setting in the absence of a significant future change in related activities and processes. Therefore, the past three years of data is provided in this document (Fiscal Year (FY) 2017, FY 2018 and FY 2019). The ABI expense information should be reviewed in the context of its surrounding fiscal environment, and the “mathematical” result of these financial and operational circumstances should, where appropriate, be reviewed over a multiple-year period. As noted above, the Office provides the three-year historical trend. The latest fiscal-year data included is calculated using the expense model most representative of current operations.

# SECTION 2: OBJECTIVE

The ABI expense models and supporting fee expense analyses provide the full expense of activities in the various business units. To provide such information, the ABI program analyzes direct expenses across different processes and activities and appropriately assigns or allocates support and business-sustaining expenses from within and outside the business unit organizations. Expense information is analyzed and reported at different organizational and process levels for management use, such as informing budget formulation, monitoring budget execution, performance reporting, developing the Statement of Net Cost, determining the use of patent and trademark fee revenues, and supporting the USPTO fee setting process.

The ABI fee expense analysis referenced in this document is based on FY 2017, FY 2018, and FY 2019 data. The term “model” in this document refers to the ABI expense model for the various business units. The ABI program provides historical expense data on total USPTO expenses to assign a cost associated with the delivery of every product and service. It should be noted that ABI expense information is not the equivalent of the USPTO budget. Budgetary data represents an estimate of the time period in which prospective costs will be funded (obligations and commitments) and is forward-looking, while ABI expense data is historical expense information representing the actual cost of services provided or work performed, regardless of the year in which the expense was funded. For this reason, “costs” are referred to as “expenses” throughout the ABI analysis.

# SECTION 3: FOUNDATIONAL ELEMENTS

**Program, Project, and Activity (PPA) Codes**

In accordance with the Common Government-wide Accounting Classification (CGAC) structure, the USPTO uses codes to categorize labor and non-labor financial transactions against programs, projects, and activities. Programs, projects, and activities (PPAs) are a set of three individual codes used in combination to form a part of an accounting string that provides business information, including hours worked and expenses incurred. Each code provides unique information and allows employees, analysts, and decision-makers to establish relationships between expenses and the work performed. Each PPA combination appears as one string in the USPTO financial management and time reporting systems.

* A **program** is a group of activities directed towards a high-level process or system. Programs are often strategic in nature, relate to budget decisions, or have long-term outcomes.
* A **project** is a planned undertaking in support of a program. Projects always have a beginning and end date. However, a project code is optional and not always used.
* An **activity** is a group of tasks performed to produce or deliver products and services. Activities are always in support of projects and programs.

A program code and activity code are required and used to track all labor and non-labor expenses at the USPTO. For example, trademark examination hours are recorded to a PPA program code titled “Examine TM Applications” and a PPA activity code titled “Examine Applications—Examining Attorney,” with no specific project code because it is an ongoing operational activity with no planned end date. Similarly, non-Trademarks business units also capture expenses against PPA combinations that define the type of work performed by the support organization. For example, many information technology (IT) programs and activities maintain project codes to accumulate specific expenses based on planned beginning and end dates of the initiative. These expenses are then allocated in each support organization business model to activities based on cost drivers. Allocation of expenses from outside the Trademarks business unit is a crucial step in the development of the fully burdened expense of trademark processes and activities (see Section 4: Fully Burdened Expense).

The cost driver selection for assigning expenses follows the guidance set forth by the FASAB Managerial Cost Accounting Standard #4. The hierarchy of driver selection is based on the following, in order of preference:

1. **Direct trace (code-driven):** At the USPTO, the majority of expenses are driven based on the PPAs that are reported by employees in the time-reporting system (compensation) as well as on requisitions (non-compensation). The tasks identified by the PPA for labor or on requisitions are in support of a particular activity and program. An example of a PPA direct trace driver is Budget Formulation and Justification for the Trademarks Business Unit. This expense is incurred in the Office of the Chief Financial Officer and the Trademarks organization based on time spent in support of the Trademarks business unit charged to the PPA code and is directly assigned to the Trademarks business unit through the model.
2. **Cause and effect:** Expenses are also assigned on a cause-and-effect basis if direct trace is not readily available. Examples of cause-and-effect drivers are workloads such as:
	1. Usage based drivers: # of 2.66 petitions reviewed, # of amendments, # of SOUs examined, # *inter partes* final decisions (Trademark Trial and Appeal Board (TTAB)), etc.
	2. Resource based drivers: full-time equivalents (FTEs) by business area, FTE + contractor, revenue, etc.

For example, IT service desk expenses (accumulated using PPA codes) from the Office of the Chief Information Officer are allocated to benefiting business units, including Trademarks, based on the “# of help desk tickets by business unit.”

1. **Reasonable and consistent basis:** The final method of allocating expenses is assigning them on a reasonable and consistent basis. Business-sustaining expenses that cannot be attributed to any core business function should be assigned globally based on a simple, visible, and non‐controversial method. An example of this assignment is the Office of the Chief Administrative Officer (CAO) “provide personnel suitability investigative security clearance” expense model activity, which is allocated to the business units based on the number of FTEs working in that business unit.

Finally, the cost drivers are reviewed and approved by the ABI Steering Committee before they are recorded in the expense models.

Across the agency, PPA codes reflect the type of tasks and activities performed. Some of these PPA codes equate directly to ABI activities in the model. For example, in Trademarks, the tasks associated with quality review are assigned a specific PPA code: TQLTRV-0000-330185. This PPA code is then associated directly with the “perform examination quality review” activity in the expense model. For other activities, the PPA code represents an overall summary level of expenses that must be assigned to more detailed activities in the trademark expense model. For instance, 45% of Trademarks’s direct expenses over the last three years have been attributable to an overall activity for trademark examination. Trademark examiners charge a single PPA code, TETMAP-0000-330150, for any work associated with the trademark examination activities. The overall trademark examination activity in the cost model is comprised of a number of distinct activities; however, requiring trademark examiners to consistently record the exact time they worked on each discrete activity would be highly inefficient. A quarterly production and workload report is used to break out the expense of this PPA code into the following discrete activities that constitute “examine trademark applications”:

1. First actions;
2. Subsequent action;
3. Suspension review;
4. Publications;
5. Final refusals;
6. Abandonments;
7. Amendment to allege use (AAU); and
8. Statement of use (SOU).

# SECTION 4: FULLY BURDENED EXPENSE

The USPTO’s ABI fee expense analysis identifies the “fully burdened” expense of all Trademarks and TTAB activities. Approximately 82 trademark activities (based on PPA codes) are captured in the trademark ABC model and are rolled up into the following fourteen processes:

1. Process mail
2. Prepare TM file for material examination
3. Manage law office docket
4. Examine TM applications
5. Process and examine post-notice of allowance requests
6. Process petitions to commissioner
7. Process approved and allowed TM case files
8. Process post-registration filings
9. Madrid Protocol
10. Quality review
11. Trials (TTAB)
12. *Ex parte* appeals (TTAB)
13. Other trademarks
14. Other TTAB

## DIRECT AND INDIRECT EXPENSES

The expense model compiles both direct expenses and an appropriate allocation of indirect expenses to obtain a total expense for each specified activity. Direct expenses include those expenses that are budgeted, managed, and charged directly within the Trademarks business unit (e.g., personnel compensation, contractual services, supplies and materials, property and equipment, etc.). Other direct expenses are allocated to the Trademarks business unit using a cost driver, as they are budgeted and managed within another organization (e.g., rent, Trademarks-specific IT system expenses, etc.) but benefit the trademark process directly. Indirect expenses, generally originating in support organizations, facilitate trademark services or contribute to trademark products indirectly (i.e., IT infrastructure and support, human resources, financial management, legal and other administrative expenses, etc.) and are assigned to the Trademarks business unit through various allocation cost drivers.

Direct expenses that originate within the Trademarks business unit are generally assigned to processes and activities based on PPA codes. There are two types of activities in the trademark expense model: primary and secondary activities. Primary activities are activities that represent functions and processes essential to the mission of the division; “examine statement of use” and “process extensions of time request”are two examples*.* The non-primary duties of an organization are classified as secondary activities in the expense model. These activities represent expenses such as annual leave, training, and management and supervision. Secondary activity expenses are reallocated to the primary activity expenses. In the trademark expense model, several processes are reallocated to primary processes to obtain the fully burdened expense.

Direct and indirect expenses from outside the Trademarks business unit are assigned to trademark activities based on the type of expense. For example, the Trademark Cropped Image Manager (TCIM) system expense from the Office of the Chief Information Officer (OCIO) expense model is assigned to “process mail, review and enter amendments” and “review for publication” and represents a direct expense in the trademark model. On the other hand, indirect expenses, such as housekeeping expenses, are first assigned to the trademark expense model based on the square footage of space used in USPTO buildings and then allocated to all trademark activities based on the relative direct expense of activities. During the past eight fiscal years (i.e., FY 2012 through FY 2019), on average, direct expenses accounted for 69% of the Trademarks business operating expenses, while the remaining 31% were indirect expenses. The direct expenses for an activity plus the indirect expenses constitute the “fully burdened” expense for that activity.

## PROCESSES AND ACTIVITIES

The processes and activities identified in **Table 1** are all trademark-related activities, including those activities from the TTAB.

**Table 1. Trademark Processes/Activities[[2]](#footnote-2)**

| **Trademark Process/Activity** |
| --- |
| **TPRCML - Process Mail** |
| Process Trademarks/TTAB mail |
| **TPTFME - Prepare TM File for Material Examination** |
| Review and classify new electronically-filed applications |
| Review and classify new paper-filed applications |
| **TMGLOD - Manage Law Office Docket** |
| Review and enter amendments |
| Review for publication |
| Review for publication – ITU |
| LIE suspension checks |
| **TETMAP - Examine TM Applications** |
| Prepare appeals briefs |
| First actions\* |
| Subsequent actions\* |
| Suspension reviews\* |
| Publications\* |
| Final refusals\* |
| Abandonments\* |
| AAU\* |
| SOU\* |
| TRAM II processing by examiner |
| Perform library work |
| Provide Law Library reference and online database services |
| Perform law office publications quality review |
| **TPEPNA - Process and Examine Post-Notice of Allowance Requests** |
| Divide applications |
| Process extensions of time request |
| Examine statement of use |
| **TPPTCM - Process Petitions to Commissioner** |
| Perform 2.66 petitions review |
| Process petitions correspondence |
| Maintain petitions docket |
| Examine 2.146 petitions |
| **TPAAAF - Process Approved and Allowed TM Case Files** |
| Review OG records prior to publication |
| Conduct and monitor photocomp project |
| **TPPRGF - Process Post-Registration Filings** |
| Examine section 7 |
| Examine sections 8, 9, 15, 8/15 |
| Process files for TMOG and registration |
| Process examined files |
| Process sections 8 and 71 affidavits under the Madrid Protocol |
| **TMDPRT - Madrid Protocol** |
| Process initial Madrid applications |
| Examine international applications |
| Process irregularity notices |
| Process subsequent designations |
| Examine replacements |
| Process provisional refusals |
| Process ceasing of effects |
| Examine corrections, restrictions, and limitations |
| Process final decision notices |
| Process transformations |
| Examine invalidations |
| Miscellaneous correspondence |
| **TQLTRV - Quality Review** |
| Perform examination quality review |
| Perform non-examination quality review |
| Special mark review |
| Affidavit and renewal quality review |
| Section 7 OG quality review |
| ID class review |
| LIE OG review |
| ITU quality review |
| MPU quality review |
| LIE quality review |
| Pre-exam quality review |
| **Other Trademarks** |
| 245 non-production - system unavailable |
| Fastener Quality Act activity |
| Scan registered files |
| Information dissemination activity |
| Shared systems |
| Shared services |
| TECLO systems cost |
| Assignment cost |
| Trademark AIS programs |
| Dissemination programs |
| ITA activity |
| **LTRIAL – Trials** |
| Process ext. of time to oppose and misc. potential papers |
| Process and decide contested interloc. motions & C.U. (not S.J.) |
| Conduct hearings and decide *inter partes* cases on merits |
| Institute trial proceedings |
| Submit to panel - terminate and close *inter partes* cases |
| Process and decide uncontested interloc. Motions |
| Process and decide summary judgment motions |
| Evidence - *inter partes* |
| **LEXPAP - *Ex Parte* Appeals** |
| Hear and decide *ex parte* appeals on merits |
| Submit to panel - terminate and close *ex parte* appeals |
| Institute and process *ex parte* appeals |
| **Other TTAB** |
| Shared systems – TTAB |
| Shared services – TTAB |
| TTAB AIS programs |

# SECTION 5: FEE UNIT EXPENSE CALCULATION

For the fee unit expense calculation analysis, there are multiple approaches utilized in the ABI fee expense analyses, depending on the nature of work performed for the service provided and the level of detail captured in the trademark expense model. The various methodologies used to develop fee unit expenses include:

1. **Total Activity Unit Expense**
2. **Total Activity Unit Expense Adjusted for Frequency of Occurrence**
3. **Total Activity Unit Expense Using Equivalent Unit of Production**

The approaches are discussed in the subsequent sub-sections followed by a comprehensive table that identifies the final fee unit expenses for FY 2016, FY 2017, FY 2018, and FY 2019 using each respective approach.

## Total Activity Unit Expense

As discussed previously, the ABI trademark expense model captures all direct and indirect expenses for the Trademarks business line. The model displays the expenses in the form of activities or work performed within the Trademarks business unit. When a fee is collected, certain activities are performed. In this fee expense approach, trademark model activities are mapped to each fee code based on the relevant work performed for each fee. As described in section 4, the fully burdened expense of each activity is identified in the trademark expense model. For each activity, there is a volume driver representing the workload as a measure of how many activities are performed relative to the particular expense. Workload volume data originates in various operational systems, but the majority of the workload information comes from the Trademark Reporting and Monitoringsystem, or TRAM. An example of an activity and associated driver is “review and enter amendments” with an activity driver of “# of amendments.” The full expense of the activity is divided by the relevant workload volume to determine an average unit expense by activity. This occurs for each activity associated with a fee code. To obtain a final full unit expense for the fee, all activity unit expenses for the activities associated with that fee code are summed together, and a final fully burdened fee unit expense is calculated. This calculation ultimately yields the full unit expense to perform the work related to the fee one time. The majority of fee unit expenses are calculated using this approach. Fee code calculations using this approach are identified in Table 2.

## Total Activity Unit Expense Adjusted for Frequency of Occurrence

This approach builds on the total activity unit expense approach discussed in the previous section. For each fee, activity expenses are identified for the relevant activities, the activity expense is divided by the driver volume, and the activity unit expense is calculated. However, in some cases, for a given fee code, there may be an activity that is typically performed multiple times for every application rather than just once. Similarly, there may be other activities that are not always performed for every application. This is termed “frequency of occurrence” in the ABI fee expense analyses. In such cases, to adjust for the frequency of occurrence, the activity driver volume as it relates to the total applications completed in the fiscal year is analyzed for the particular activity in question to determine a percentage factor. This factor identifies how often that activity occurs and is then applied to the average unit expense for each activity to determine the final activity unit expense. The relevant activity unit expenses are then summed to determine an adjusted full unit expense for the fee. This approach is used primarily for fee unit expense calculations related to the TTAB. Fee code calculations using this approach are identified in Table 2.

## Total Activity Unit Expense Using Equivalent Unit of Production

The Equivalent Unit of Production (EUP) approach builds on the second approach in that it takes into account activity frequency but then adjusts the workload to incorporate work in process and processed applications rather than filed applications. Work in process is not captured in the processed applications but represents significant progress towards completion of an application. This progress and related resource usage is captured as an equivalent unit of production. Each activity expense mapped to a particular fee code is divided by the processed workload to obtain a unit expense per activity. The unit expenses are then summed to obtain a final total unit expense for that fee code.

The processed workload is based on an examination production report provided by the Trademarks business unit. The total processed workload value for each fee code is calculated by taking the workload of each of the examination activities mapped to a given fee code and dividing it by the frequency at which the activity occurs for that particular fee code. The final workload figure for each fee code is a summation of the processed workloads for each examination activity. The processed workload is typically similar to the filed workload used for non-EUP activity unit expenses but can vary significantly during times of changing in-process inventories and workload levels, such as when new fee codes are introduced. It is, therefore, a better reflection of actual work performed in a given period. Fee code calculations using this approach are identified in Table 2.

**Table 2. Fee Unit Expense Trend and Calculation Methodology[[3]](#footnote-3)**

Note: FY 2016, FY 2017, and FY 2018 are included for comparison purposes.

| **Fee Code** | **Fee Description** | **Fee Unit Expense** | **Fee Calculation Methodology**  |
| --- | --- | --- | --- |
|  |  | **FY16** | **FY 17** | **FY18** | **FY19** |
| **Application Filings** |
| 6001 | Application for registration, per international class (paper filing) | $845  | $674  | $774  | $900  | III |
| 6006 | Dividing an application, per new application (file wrapper) created | $286  | $319  | $216  | $194  | I |
| 6008 | Additional fee for application that doesn’t meet TEAS Plus filing requirements, per class | $38  | $55  | $20  | $23  | I |
| 7001 | Application for registration, per international class (electronic filing, TEAS application) | $517  | $456  | $489  | $484  | III |
| 7006 | Dividing an application, per new application (file wrapper) created | n/a | n/a | $160  | $133  | I |
| 7007 | Application for registration, per international class (electronic filing, TEAS Plus application) | $317  | $316  | $336  | $336  | III |
| 7008 | Additional fee for application that doesn’t meet TEAS Plus filing requirements, per class | $5  | $4  | $5  | $6  | I |
| 7009 | Application for registration, per international class (electronic filing, TEAS RF application) | $394  | $393  | $421  | $421  | III |
| 7931 | Electronic-application fee filed at WIPO | $716  | $644  | $697  | $691  | III |
| 7933 | Electronic-subsequent designation filed at WIPO | $699  | $635  | $682  | $675  | III |
| **Maintaining Exclusive Rights** |
| 6201 | Application for renewal, per class | $92  | $92  | $59  | $57  | I |
| 6203 | Additional fee for filing renewal application during grace period, per class | $106  | $111  | $43  | $48  | I |
| 6204 | Correcting a deficiency in a renewal application | $161  | n/a | $77  | n/a | I |
| 6205 | Filing § 8 affidavit, per class | $92  | $92  | $60  | $58  | I |
| 6206 | Additional fee for filing § 8 affidavit during grace period, per class | $97  | $111  | $43  | $48  | I |
| 6207 | Correcting a deficiency in a § 8 affidavit | $135  | $145  | $79  | $80  | I |
| 6208 | Filing § 15 affidavit, per class | $93  | $92  | $60  | $58  | I |
| 6210 | Publication of mark under § 12(c), per class | n/a | n/a | n/a | n/a | I |
| 6211 | Issuing new certificate of registration | $576  | $1,067  | n/a | n/a | I |
| 6212 | Certificate of correction, registrant’s error | $1,151  | $1,067  | $820  | n/a | I |
| 6213 | Filing disclaimer to registration | n/a | n/a | n/a | n/a | I |
| 6214 | Filing amendment to registration | $982  | $1,067  | $820  | $760  | I |
| 7201 | Application for renewal, per class | $32  | $27  | $30  | $27  | I |
| 7203 | Additional fee for filing renewal application during grace period, per class | $8  | $7  | $8  | $10  | I |
| 7204 | Correcting a deficiency in a renewal application | n/a | n/a | $28  | $25  | I |
| 7205 | Filing § 8 affidavit, per class | $32  | $28  | $30  | $28  | I |
| 7206 | Additional fee for filing § 8 affidavit during grace period, per class | $8  | $7  | $8  | $10  | I |
| 7207 | Correcting a deficiency in a § 8 affidavit | n/a | n/a | $28  | $27  | I |
| 7208 | Filing § 15 affidavit, per class | $32  | $28  | $30  | $28  | I |
| 7210 | Publication of mark under § 12(c), per class | n/a | n/a | $24  | $23  | I |
| 7211 | Issuing new certificate of registration | n/a | n/a | $442  | $411  | I |
| 7212 | Certificate of correction, registrant’s error | $449  | $466  | $444  | $412  | I |
| 7213 | Filing disclaimer to registration | n/a | n/a | n/a | n/a | I |
| 7214 | Filing amendment to registration | $115  | $34  | $41  | $74  | I |
| **Intent to Use/Use Fees** |
| 6002 | Filing an amendment to allege use under § 1(c), per class | $370  | $405  | $202  | $223  | I |
| 6003 | Filing a statement of use under § 1(d)(1), per class | $152  | $153  | $124  | $132  | I |
| 6004 | Filing a request for a six-month extension of time for filing a statement of use under § 1(d)(1), per class | $70  | $65  | $30  | $38  | I |
| 7002 | Filing an amendment to allege use under § 1(c), per class | $82  | $80  | $85  | $88  | I |
| 7003 | Filing a statement of use under § 1(d)(1), per class | $105  | $102  | $108  | $116  | I |
| 7004 | Filing a request for a six-month extension of time for filing a statement of use under § 1(d)(1), per class | $20  | $13  | $13  | $19  | I |
| **Madrid Protocol Fees** |
| 6901 | Certifying an international application based on a single application or registration, per class | $152  | $135  | $66  | $63  | I |
| 6902 | Certifying an international application based on more than one basic application or registration, per class | $270  | $242  | $105  | n/a | I |
| 6903 | Transmitting a request to record an assignment or restriction under §7.23 or §7.24 | $102  | $111  | $43  | $48  | I |
| 6904 | Filing a notice of replacement, per class | $343  | $303  | n/a | n/a | I |
| 6905 | Filing an affidavit under §71 of the Act, per class | $88  | $112  | $47  | $50  | I |
| 6906 | Surcharge for filing an affidavit under §71 of the Act during grace period, per class | $112  | $112  | $45  | $48  | I |
| 6907 | Transmitting a subsequent designation | n/a | n/a | n/a | n/a | I |
| 6908 | Correcting a deficiency in an affidavit under §71 of the Act  | n/a | n/a | n/a | n/a | I |
| 7901 | Certifying an international application based on a single application or registration, per class | $63  | $50  | $44  | $39  | I |
| 7902 | Certifying an international application based on more than one basic application or registration, per class | $64  | $50  | $44  | $39  | I |
| 7903 | Transmitting a request to record an assignment or restriction under §7.23 or §7.24 | $6  | n/a | n/a | $6  | I |
| 7904 | Filing a notice of replacement, per class | n/a | n/a | n/a | n/a | I |
| 7905 | Filing an affidavit under §71 of the Act, per class | $1  | $5  | $13  | $11  | I |
| 7906 | Surcharge for filing an affidavit under §71 of the Act during grace period, per class | $1  | $5  | $13  | $11  | I |
| 7907 | Transmitting a subsequent designation | $32  | $28  | $29  | $29  | I |
| 7908 | Correcting a deficiency in an affidavit under §71 of the Act Total | $1  | $5  | $6  | $4  | I |
| **Trademark Trial and Appeal Board** |
| 6401 | Petition for cancellation, per class | $3,281  | $2,467  | $124  | $761  | II |
| 6402 | Notice of opposition, per class | $2,564  | $2,375  | $275  | $996  | II |
| 6403 | *Ex parte* appeal, per class | $731  | $2,807  | $2,654  | $2,368  | II |
| 6404 | Filing a request for an extension of time to file a notice of opposition under § 2.102(c)(3) on paper | n/a | n/a | n/a | n/a | I |
| 6405 | 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 | n/a | n/a | n/a | n/a | I |
| 7401 | Petition for cancellation, per class | $3,248  | $3,479  | $2,740  | $2,897  | II |
| 7402 | Notice of opposition, per class | $2,611  | $2,722  | $2,217  | $2,326  | II |
| 7403 | *Ex parte* appeal, per class | $3,086  | $3,156  | $2,728  | $2,503  | II |
| 7404 | Filing a request for an extension of time to file a notice of opposition under § 2.102(c)(3)  | n/a | n/a | $112  | $82  | I |
| 7405 | 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 | n/a | n/a | $112  | $82  | I |
| **Other Fees - Fastener Quality Act** |
| 6991 | Recordal application fee | $916  | $732  | $659  | $1,619  | I |
| 6992 | Renewal application fee | $764  | $732  | $659  | $1,619  | I |
| 6993 | Late fee for renewal application | n/a | $732  | $659  | $1,619  | I |
| 6994 | Application fee for reactivation of insignia, per request | $1,166  | $732  | $659  | $1,619  | I |
| **Trademark Processing Fees** |
| 6005 | Petitions to the director | $3,813  | $3,735  | $3,006  | $3,503  | I |
| 7005 | Petitions to the director | $125  | $119  | $108  | $138  | I |

The fee codes are grouped into seven trademark product categories. The expenses represent the fully burdened costs allocated to trademark products (i.e., fee codes) from trademark activities. The expenses are compared to the earned revenue at a trademark product level quarterly and annually. For the past several years, the year-over-year trend is consistent, with certain product categories generating more expenses than earned revenue and vice versa.

Table 3 below shows FY 2019 total earned revenue, total expense, and the difference between earned revenue and expense by trademark product (i.e., fee code) category. Note that certain fee categories cost much more than the fees collected for that category, and vice versa. The differences, or variances, are offset in total. Similarly, fee amounts are proposed based on the expected revenue to budget or spending so that total revenues are planned to equal budget or spending levels.

**Table 3. FY 2019 Total Expense versus Total Earned Revenue**

|  |  |  |  |
| --- | --- | --- | --- |
| **Trademark Products** | **FY 2019 Earned Revenue** | **FY 2019 Expense** | **FY 2019 Variance** |
|
| **Application Filings** | $190,457,284  | $291,678,207  | ($101,220,923) |
| **Intent to Use/Use Fees** | $49,885,175  | $17,154,805  | $32,730,370  |
| **Trademark Processing Fees** | $2,619,600  | $5,212,800  | ($2,593,200) |
| **Maintaining Exclusive Rights** | $79,942,987  | $13,991,853  | $65,951,134  |
| **Madrid Protocol** | $4,294,675  | $1,006,834  | $3,287,841  |
| **Other Trademark Fees[[4]](#footnote-4)** | $10,571,283  | $8,902,431  | $1,668,852  |
| **Trademark Trial and Appeal Board** | $8,452,900  | $27,633,083  | ($19,180,183) |
| **Total** | **$346,223,905**  | **$365,580,013**  | **($19,356,109)** |

1. In this document, when the Patent or the Trademark business unit is mentioned, both Trademarks and the Trademark Trial and Appeal Board are included. [↑](#footnote-ref-1)
2. Those activities with an asterisk in the table above are examination activities split out from a single PPA code using a quarterly examination production report and examiner input. [↑](#footnote-ref-2)
3. The fee expense calculation methodologies include:

	1. Total Activity Unit Expense
	2. Total Activity Unit Expense Adjusted for Frequency of Occurrence
	3. Total Activity Unit Expense Using Equivalent Units of ProductionIf a fee code is not listed in the above table, either there is no associated expense, or an expense has not been developed for the particular fee. “n/a” identifies those fee codes for which there is no calculated expense in the given fiscal year. [↑](#footnote-ref-3)
4. Other Trademark Fees include: Trademark Service Fees, Fastener Quality Act Fees, and Trademark International Application Fees. [↑](#footnote-ref-4)