

SECTION I – PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name Attorney Advisor (Trademarks) – GS-9, GS-11 and GS-12	Date	Element No. 1 of 3
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Item 1. Performance Element and Objective (Critical)

Element: **PRODUCTION**

Objective: Attaining customer service goals of reduced cycle times and pendency

Weighting Factor: (Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weights for performance plans must total 100. Enter weight for this element in the adjacent block.) 40

Item 2. Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)

- The attorney advisor works, as directed by management, to help meet the goals of the Office regarding pendency for first action or pendency for completion of the entire examination process.
- The attorney advisor maintains consistent workflow throughout the rating period.
- For new applications, the attorney advisor completes examination of the application, including the search of the mark and preparing an Office action or approving the application for publication for opposition, within seven (7) calendar days.
- For amended applications, the attorney advisor reviews the application and takes appropriate action within twenty-one (21) calendar days.
- For applications returned for correction, the attorney advisor takes appropriate action within seven (7) calendar days.
- For applications returned for abandonment, the attorney advisor takes appropriate action within fourteen (14) calendar days.

Item 3. Criteria for Evaluation (Use the generic performance standards printed in Appendix A. Supplemental performance standards may be specified below.)

1. BALANCED DISPOSALS

a) The rating scale for this element relative to balanced disposals (BDs) per quarter is as follows:

	GS-9 and GS-11	GS-12
Outstanding	515 or more	535 or more
Commendable	490 – 514	510 – 534
Fully Successful	425 – 489	435 – 509
Marginal	400 – 424	410 – 434
Unacceptable	Fewer than 400	Fewer than 410

- b) All of the following count as one balanced disposal per class:
- First action (initial examination)
 - Approval for publication
 - Allowance on the Supplemental Register (initial examination)
 - Abandonment (initial examination)
- c) The quarterly goals will not apply during the attorney advisor’s initial pre-production training period. However, if the attorney advisor produces more than 100 BDs during the pre-production period, any BDs in excess of 100 will be applied to the attorney advisor’s totals for the following quarter so long as the attorney advisor’s production for that period would otherwise have been Fully Successful before adding in these additional BDs.

2. DOCKET MANAGEMENT

- a) The attorney advisor must take appropriate action on all files as assigned, as follows:
- New applications must be completed within seven (7) calendar days of the date of delivery to the attorney advisor, unless the supervisor approves an extension prior to the due date.
 - Amended applications must be completed within twenty-one (21) calendar days of the date of delivery to the attorney advisor, unless the supervisor approves an extension prior to the due date.
 - Applications returned to the attorney advisor for correction for any reason (including Official Gazette queries) must be completed within seven (7) calendar days of the date of delivery to the attorney advisor, unless the supervisor approves an extension prior to the due date.
 - Applications returned to the attorney advisor for abandonment due to failure to respond must be completed within fourteen (14) calendar days of the date of delivery to the attorney advisor, unless the supervisor approves an extension prior to the due date.
- b) Each quarter's score for balanced disposals will be modified as follows based on findings of applications not being completed in a timely fashion:
- Upon three (3) unexcused occurrences of applications not being completed in a timely fashion during the quarter, the quarter's score will be no higher than Marginal.
 - Upon four (4) unexcused occurrences of applications not being completed in a timely fashion during the quarter, the quarter's score will be Unacceptable.
- c) "Amended applications" are any previously examined applications and include, but are not limited to, applications where the applicant has submitted a response to an Office action during initial or statement of use examination, returned examiner's amendments, requests for reconsideration, applications remanded to the examining attorney, applications returned to the examining attorney for suspension checks, new statements of use, revived applications, and reinstated applications, but do not include applications returned for an examiner's statement.

3. FIRST ACTIONS

To be rated higher than Fully Successful in this element, a GS-12 attorney advisor must complete at least 435 first action classes in the first six months of the rating period. To be rated higher than Marginal in this element, a GS-12 attorney advisor must complete at least 870 first action classes during the entire rating period.

4. The above goals for balanced disposals will be prorated for attorney advisors for their pre-production training period, for those on a part-time schedule, and for those with extended absences from the Office due to illness, disability, or maternity/paternity.
5. With respect to sections 1 and 3 above, the attorney advisor will not receive first action or BD credits from first actions in excess of 150 first action classes for any single biweek except with a waiver by the supervisor. In any case, all applications in such biweeks may be subject to additional quality review, and the errors discovered will be counted towards the employee's total errors under the Statutory Refusals and Practice and Procedure components of the Quality element. If errors are discovered, the balanced disposal credits for those applications will be deducted for that biweek and credited to the attorney advisor only in the biweek when corrective action is taken.
6. Each quarter the attorney advisor will receive a score based on the balanced disposals earned that quarter, modified for actions not completed in a timely fashion, as follows: Outstanding = 5; Commendable = 4; Fully Successful = 3; Marginal = 2; Unacceptable = 1. The final rating will be the average of the quarterly scores, as follows:

OUTSTANDING	4.50 or greater
COMMENDABLE	3.50 – 4.49
FULLY SUCCESSFUL	2.50 – 3.49
MARGINAL	1.50 – 2.49
UNACCEPTABLE	Less than 1.50

However, if the rating for one quarter is Unacceptable, the final rating for this element may be no higher than Marginal. If the rating for two or more quarters is Marginal, the final rating for this element may be no higher than Marginal. If the rating for two or more quarters is Unacceptable, the final rating for this element will be Unacceptable.

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Name Attorney Advisor (Trademarks) – GS-9, GS-11 and GS-12	Date	Element No. 2 of 3
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Item 1.	Performance Element and Objective (Critical)	
Element:	QUALITY	
Objective:	Attaining the customer service goal of providing high quality examination consistent with the goal established in Section 12 of the Trademark Act to register all marks entitled to register and providing a high quality search under Section 2(d).	
Weighting Factor:	(Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weights for performance plans must total 100. Enter weight for this element in the adjacent block.)	40

Item 2.	Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)	
	<ul style="list-style-type: none"> • The attorney advisor demonstrates independent decision-making. • The attorney advisor examines applications to determine whether registration is appropriate. • Office actions are complete, logical, and well written. • Office actions identify appropriate statutory refusals, providing a full discussion of the issues and evidence supporting the refusals and suggest ways to rectify the problems, as appropriate. • Office actions are in accordance with the Lanham Act, Rules of Practice, case law, and Office practice, and provide a full discussion of all substantive and procedural issues as appropriate. • In Office actions, special attention and direction is provided to <i>pro se</i> applicants. • Applications are approved for publication or registration in accordance with the Lanham Act, Rules of Practice, case law, and Office practice. • All searches are designed to identify any marks that, when used on or in connection with goods or services closely related to those of the applicant, are likely to cause confusion, or to cause mistake or to deceive. • The attorney advisor reviews the application for the accuracy and completeness of all data and corrects all errors and discrepancies. • The attorney advisor accurately approves or disapproves the entry of proposed amendments, or accurately enters amendments into the record, as required. 	

Item 3.	Criteria for Evaluation (Use the generic performance standards printed in Appendix A. Supplemental performance standards may be specified below.)	
	<p>1. All work of the attorney advisor is subject to review under this element. The rating official will take into consideration all information relevant to this element, particularly with respect to (1) the proper handling of statutory refusals, (2) proper adherence to Office practice and procedure, (3) searching, and (4) the effectiveness of written communications. The rating official may consider all relevant information, including the following:</p> <ul style="list-style-type: none"> • Drafts of the attorney advisor’s Office actions submitted for review to the mentor or supervisor, or representative samples thereof. • Mentor reports concerning the attorney advisor’s progress. • All applications proposed for approval for publication, abandonment or partial abandonment. • Observations of the attorney advisor’s mentor and supervisors concerning the attorney advisor’s understanding and abilities concerning the Lanham Act, Rules of Practice, case law, and Office practice. • For those attorney advisors with partial signatory authority or probationary full signatory authority, a review of a minimum of nine (9) Office actions per quarter that were not reviewed prior to issuance. • Review findings and other information from outside the law office, including findings of the Office of Trademark Quality Review and Training, Official Gazette queries, letters of protest, opposition and cancellation proceedings filed with the Trademark Trial and Appeal Board, and communications from applicants and their attorneys. 	

2. The attorney advisor's work will be considered under the following criteria:

EXCELLENT – Substantive and procedural issues were:

- Properly raised, handled and explained in a clear, succinct and concise manner by linking law and evidence to the facts of the case and presenting solutions where appropriate; and
- Supported with properly cited, most appropriate, relevant and feasible, on-point evidence specific to the applicant's mark and goods or services; and
- Written in a format that was targeted to the audience and was easy to read and understand.

SATISFACTORY – Substantive and procedural issues were properly raised, handled, supported and explained.

DEFICIENT – A substantive or procedural issue:

- Was missed entirely; or
- Was raised inappropriately; or
- Was so inadequately written or explained as to make a proper response difficult in that the writing was unclear, did not address the applicant's arguments where necessary, or did not present solutions where appropriate; or
- Did not link law and evidence to the facts, did not properly cite attached evidence, did not have sufficient evidence to support the refusal; or
- Was otherwise handled incorrectly.

3. The rating for this element will be based on the following standards:

OUTSTANDING

- Most work is of excellent quality; and
- Errors or cases with deficient quality are minimal; and
- The attorney advisor demonstrates rapid and consistent progress towards independent decision-making.

COMMENDABLE

- Work is about equally of excellent and satisfactory quality; and
- Errors or cases with deficient quality are infrequent and rarely repeated once corrected; and
- The attorney advisor demonstrates rapid and consistent progress towards independent decision-making.

FULLY SUCCESSFUL

- Most work is of satisfactory quality; and
- Most cases require no more than minor revision, while significant errors or deficiencies are infrequent; and
- The attorney advisor demonstrates expected levels of consistent progress towards independent decision-making.

MARGINAL

- While most work is of satisfactory quality, errors or cases with deficient quality are frequent; or
- The attorney advisor demonstrates progress towards independent decision-making below the expected levels.

UNACCEPTABLE

- Work is regularly found to have errors or deficient quality; or
- The attorney advisor demonstrates inadequate progress towards independent decision-making.

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Name Attorney Advisor (Trademarks) – GS-9, GS-11 and GS-12	Date	Element No. 3 of 3
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Item 1.	Performance Element and Objective (Critical)	
Element:	E-Government, Customer Service and Organizational Effectiveness	
Objective:	Attaining customer service goals of proficiency in and utilization of the Office’s electronic systems, providing high quality service and responsiveness to internal and external customers.	
Weighting Factor:	(Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weights for performance plans must total 100. Enter weight for this element in the adjacent block.)	20

Item 2.	Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)	
	<ul style="list-style-type: none"> The attorney advisor demonstrates a commitment to the Office’s goals and objectives for e-government. The attorney advisor demonstrates a commitment to the Office’s goals and objectives for customer service. Attorney advisors without full signatory authority work with mentors and supervisors in a manner designed to develop professionalism, knowledge, skills and competencies. 	

Item 3.	Criteria for Evaluation (Use the generic performance standards printed in Appendix A. Supplemental performance standards may be specified below. EXAMINER’S AMENDMENT USAGE shall comprise 50% and E-GOVERNMENT AND ORGANIZATIONAL EFFECTIVENESS shall comprise 50% of this element. If the rating period includes the attorney advisor’s initial pre-production training period, TELEPHONE AND E-MAIL USAGE shall comprise 50% and TRAINING shall comprise 50% of this element.)
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1. **EXAMINER’S AMENDMENT USAGE – 50% of this element**
 - a) The rating for this component is calculated based on the total number of examiner’s amendments by class, divided by the number of first action classes.
 - b) Rating scale for this component based on the percentage of examiner’s amendment usage:

OUTSTANDING	35.00% or greater
COMMENDABLE	25.00% to 34.99%
FULLY SUCCESSFUL	15.00% to 24.99%
MARGINAL	10.00% to 14.99%
UNACCEPTABLE	Less than 10.00%
 - c) If the attorney advisor is Unacceptable for this component, then the summary rating for this element will be no higher than Marginal.

2. **TRAINING – 0% to 50% of this element**
 - a) This component applies only if the rating period includes the attorney advisor’s initial pre-production training period and will be based on the attorney advisor’s performance during this training period. The rating will be based on the attorney advisor’s performance in the classroom and hands-on training in the law office, as well as on the number of applications examined during the pre-production training period.
 - b) Generic performance standards established for the General Work Force will be applied for activities under this component during the pre-production training period, taking into consideration:
 - Attendance in classes, participation in classroom activities, and completion of assignments;
 - Performance on quizzes and examinations;

- Progress reports submitted by the attorney advisor's trainers and mentors;
- Drafts of the attorney advisor's Office actions provided by the mentor as representative of the attorney advisor's work;
- Completing work on a variety of actions, including final actions, requests for reconsideration, and/or briefs; and
- Completing work on at least 100 balanced disposals.

c) If the attorney advisor is "Marginal" for this component, then the summary rating for this element will be no higher than "Marginal." If the attorney advisor is "Unsatisfactory" for this component, then the summary rating for this element will be "Unsatisfactory."

3. **E-GOVERNMENT AND ORGANIZATIONAL EFFECTIVENESS** – 0% to 50% of this element

Generic performance standards established for the General Work Force will be applied for activities under this component.

4. **EMPLOYEE RESPONSIBILITIES**

To be rated Marginal or better in this element, the attorney advisor must consistently demonstrate all the following:

- Punctually attends required training sessions and meetings;
- For attorney advisors without full signatory authority, cooperates with mentors and follows mentors instructions;
- Completes corrections to draft actions within three (3) calendar days;
- Adheres to procedures made known to the attorney advisor regarding workflow, internal processes, and application file control procedures;
- Ensures the quality of the database with regard to the attorney advisor's own files;
- Promptly returns telephone calls and e-mails, i.e., returning messages the same day as received or, if received after 2:00 PM, no later than the next work morning;
- Informs internal and external customers of the attorney advisor's availability in voicemail and e-mail messages;
- Cooperates with internal and external customers;
- Adheres to the co-pending case procedures;
- Submits appeal briefs to the supervisor not less than fourteen (14) calendar days before the date the brief is due for filing and properly prepares for and participates in oral hearings before the Trademark Trial and Appeal Board;
- Adheres to all deadlines for applications under jurisdiction of the Trademark Trial and Appeal Board and attendance at all scheduled oral hearings;
- No repeated unexcused appearances on overdue lists; and
- No repeated actions that demonstrate a lack of professionalism and customer service.