

**SECTION I – PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD**

Name Attorney Advisor (Trademarks) GS-13 and GS-14	Date	Element No. 1 of 3
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Item 1. Performance Element and Objective (Critical)	
Element: <b>PENDENCY</b>	
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.)
<ul style="list-style-type: none"> <li>• 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.</li> <li>• The attorney advisor maintains consistent workflow throughout the rating period.</li> <li>• 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.</li> <li>• For amended applications, the attorney advisor reviews the application and takes appropriate action within twenty-one (21) calendar days.</li> <li>• For applications returned for correction, the attorney advisor takes appropriate action within seven (7) calendar days.</li> <li>• For applications returned for abandonment, the attorney advisor takes appropriate action within fourteen (14) calendar days.</li> </ul>

Item 3. Criteria for Evaluation (Use the generic performance standards printed in Appendix A. Supplemental performance standards may be specified below.)																		
<p>1. <b>BALANCED DISPOSALS</b></p> <p>a) The rating scale for this element relative to balanced disposals (BDs) per quarter is as follows:</p> <table border="0" style="margin-left: 40px;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>GS-13</u></th> <th style="text-align: center;"><u>GS-14</u></th> </tr> </thead> <tbody> <tr> <td>OUTSTANDING</td> <td style="text-align: center;">540 or more BDs</td> <td style="text-align: center;">575 or more BDs</td> </tr> <tr> <td>COMMENDABLE</td> <td style="text-align: center;">515 – 539</td> <td style="text-align: center;">550 – 574</td> </tr> <tr> <td>FULLY SUCCESSFUL</td> <td style="text-align: center;">440 – 514</td> <td style="text-align: center;">475 – 549</td> </tr> <tr> <td>MARGINAL</td> <td style="text-align: center;">415 – 439</td> <td style="text-align: center;">450 – 474</td> </tr> <tr> <td>UNACCEPTABLE</td> <td style="text-align: center;">Fewer than 415</td> <td style="text-align: center;">Fewer than 450</td> </tr> </tbody> </table> <p>b) All of the following count as one balanced disposal per class:</p> <ul style="list-style-type: none"> <li>• First action (initial examination)</li> <li>• Approval for publication</li> <li>• Allowance on the Supplemental Register (initial examination)</li> <li>• Abandonment (initial examination)</li> </ul> <p>2. <b>DOCKET MANAGEMENT</b></p> <p>a) The attorney advisor must take appropriate action on all files as assigned, as follows:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Amended applications must be completed within twenty-one (21) calendar days of the date of delivery to the</li> </ul>		<u>GS-13</u>	<u>GS-14</u>	OUTSTANDING	540 or more BDs	575 or more BDs	COMMENDABLE	515 – 539	550 – 574	FULLY SUCCESSFUL	440 – 514	475 – 549	MARGINAL	415 – 439	450 – 474	UNACCEPTABLE	Fewer than 415	Fewer than 450
	<u>GS-13</u>	<u>GS-14</u>																
OUTSTANDING	540 or more BDs	575 or more BDs																
COMMENDABLE	515 – 539	550 – 574																
FULLY SUCCESSFUL	440 – 514	475 – 549																
MARGINAL	415 – 439	450 – 474																
UNACCEPTABLE	Fewer than 415	Fewer than 450																

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-13 attorney advisor must complete at least 415 first action classes, and a GS-14 attorney advisor must complete at least 450 first action classes, in the first six months of the rating period. To be rated higher than Marginal in this element, a GS-13 attorney advisor must complete at least 830 first action classes, and a GS-14 attorney advisor must complete at least 900 first action classes, during the entire rating period.
4. The above goals for balanced disposals and first actions will be prorated for attorney advisors 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 be credited with 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 after 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.

## SECTION I – PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name Attorney Advisor (Trademarks) GS-13 and GS-14	Date	Element No. 2 of 3
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Item 1.	Performance Element and Objective (Critical)	
Element:	<b>QUALITY</b>	
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"> <li>• The attorney advisor examines applications to determine whether registration is appropriate.</li> <li>• Office actions are complete, logical, and well written.</li> <li>• 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.</li> <li>• 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.</li> <li>• In Office actions, special attention and direction is provided to <i>pro se</i> applicants.</li> <li>• Applications are approved for publication or registration in accordance with the Lanham Act, Rules of Practice, case law, and Office practice.</li> <li>• 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.</li> <li>• The attorney advisor reviews the application for the accuracy and completeness of all data and corrects all errors and discrepancies.</li> <li>• The attorney advisor accurately approves or disapproves the entry of proposed amendments, or accurately enters amendments into the record, as required.</li> </ul>

Item 3.	<p><b>Criteria for Evaluation</b> (Use the generic performance standards printed in Appendix A. Supplemental performance standards may be specified below. STATUTORY REFUSALS shall comprise 35%, PRACTICE AND PROCEDURE 30%, and WRITTEN COMMUNICATIONS 35% of this element.)</p> <p>1. <b>STATUTORY REFUSALS</b> – 35% of this element</p> <p>a) All applications where the attorney advisor has taken action are subject to review under this component, including, but not limited to, applications that have been reviewed due to an Official Gazette query, an internal quality review finding, a letter of protest, an opposition or cancellation proceeding filed with the Trademark Trial and Appeal Board, or any other information that has come to the Office’s attention. An attorney advisor will be held to have committed an error if the attorney advisor failed to properly issue, maintain, or support with appropriate evidence, a refusal of registration based on statutory grounds or issued an unnecessary refusal of registration based on statutory grounds. Multiple copending applications containing the identical error will be counted as one error only. Errors that have been corrected by the attorney advisor prior to the date the issue came to the supervisor’s attention will not be counted as errors under this component.</p> <p>b) All errors, as determined by the rating official, discovered during any point in the rating period will be counted under this component. The error rate per 1000 balanced disposals will be determined by dividing the number of errors during the rating period by the number of balanced disposals in the current rating period, multiplied by 1000. The rating scale for this component is as follows:</p>
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OUTSTANDING	Fewer than 2.00 errors per 1000 balanced disposals
COMMENDABLE	2.00 to 2.99 errors per 1000 balanced disposals
FULLY SUCCESSFUL	3.00 to 4.99 errors per 1000 balanced disposals
MARGINAL	5.00 to 5.99 errors per 1000 balanced disposals
UNACCEPTABLE	6.00 or more errors per 1000 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 Unacceptable for this component, then the summary rating for this element will be Unacceptable.

**2. PRACTICE AND PROCEDURE – 30% of this element**

- a) All applications where the attorney advisor has taken action are subject to review under this component, including but not limited to applications that have been reviewed due to an Official Gazette query, an internal quality review finding, a letter of protest, an opposition or cancellation proceeding filed with the Trademark Trial and Appeal Board, or any other information that has come to the Office’s attention. An attorney advisor will be held to have committed an error if the attorney advisor:
- Failed to raise all appropriate issues, or improperly raised issues, relating to application practice and procedure; or
  - Failed to follow proper Office procedures in the prosecution of the application, including failure to issue a final action in a timely fashion; or
  - Failed to accurately enter amendments as required, including approving or disapproving proposed amendments; or
  - Failed to correct material data entry errors in the record of the application; or
  - Performed a search that lacks obvious search strategies such that it would not retrieve all marks that could reasonably be considered a potential citation under Trademark Act Section 2(d).

Multiple copending applications containing the identical error will be counted as one error only. Errors that have been corrected by the attorney advisor prior to the date the issue came to the supervisor’s attention will not be counted as errors under this component.

- b) All errors, as determined by the rating official, discovered during any point in the rating period will be counted under this component. The error rate per 1000 balanced disposals will be determined by dividing the number of errors during the rating period by the number of balanced disposals in the current rating period, multiplied by 1000. The rating scale for this component is as follows:

OUTSTANDING	Fewer than 10.00 errors per 1000 balanced disposals
COMMENDABLE	10.00 to 19.99 errors per 1000 balanced disposals
FULLY SUCCESSFUL	20.00 to 29.99 errors per 1000 balanced disposals
MARGINAL	30.00 to 39.99 errors per 1000 balanced disposals
UNACCEPTABLE	40.00 or more errors per 1000 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 Unacceptable for this component, then the summary rating for this element will be Unacceptable.

**3. WRITTEN COMMUNICATIONS – 35% of this element**

- a) The writing of the attorney advisors will be evaluated based on a review of appeal briefs, final actions and first actions issued during each quarter of the rating period. All appeal briefs will be reviewed in the form first submitted to the supervisor and prior to submission to the Trademark Trial and Appeal Board. Additionally, a minimum of six Office actions (at least three first actions and three final actions, if possible) will be reviewed each quarter.
- b) Briefs and Office actions will be reviewed using 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 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.

c) Each Excellent action or brief will receive a score of 5, Satisfactory will receive a score of 3, and Deficient will receive a score of 1. The rating for this component will be based on the average of the scores for the individual applications reviewed during the rating period, as follows:

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

If 15% or more of the application files are rated Unacceptable, the rating for this component may be no higher than Marginal. If 25% or more of the application files are rated Unacceptable, the rating for this component is Unacceptable.

d) 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 Unacceptable for this component, then the summary rating for this element will be Unacceptable.

**SECTION I – PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD**

Name Attorney Advisor (Trademarks) GS-13 and GS-14	Date	Element No. 3 of 3
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Item 1.	Performance Element and Objective (Critical)	
Element:	<b>E-Government, Customer Service and Organizational Effectiveness</b>	
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"> <li>• The attorney advisor demonstrates a commitment to the Office’s goals and objectives for e-government.</li> <li>• The attorney advisor demonstrates a commitment to the Office’s goals and objectives for customer service.</li> <li>• Attorney advisors assigned as mentors work with the trainee in a manner designed to develop professionalism, knowledge, skills and competencies that will enable the trainee to be successful as an attorney advisor.</li> </ul>	

Item 3.	<p><b>Criteria for Evaluation</b> (Use the generic performance standards printed in Appendix A. Supplemental performance standards may be specified below. If the attorney advisor has no trainees during the fiscal year, EXAMINER’S AMENDMENT USAGE shall comprise 50% and E-GOVERNMENT AND ORGANIZATIONAL EFFECTIVENESS shall comprise 50% of this element. If the attorney advisor has one trainee during the fiscal year, EXAMINER’S AMENDMENT USAGE shall comprise 35%, E-GOVERNMENT AND ORGANIZATIONAL EFFECTIVENESS shall comprise 35%, and MENTORING shall comprise 30% of this element. If the attorney advisor has two or more trainees during the fiscal year, EXAMINER’S AMENDMENT USAGE shall comprise 25%, E-GOVERNMENT AND ORGANIZATIONAL EFFECTIVENESS shall comprise 25%, and MENTORING shall comprise 50% of this element.)</p>											
	<p><b>1. EXAMINER’S AMENDMENT USAGE – 25% to 50% of this element</b></p> <p>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.</p> <p>b) Rating scale for this component based on the percentage of examiner’s amendment usage:</p> <table style="margin-left: 40px;"> <tr> <td>OUTSTANDING</td> <td>35.00% or greater</td> </tr> <tr> <td>COMMENDABLE</td> <td>25.00% to 34.99%</td> </tr> <tr> <td>FULLY SUCCESSFUL</td> <td>15.00% to 24.99%</td> </tr> <tr> <td>MARGINAL</td> <td>10.00% to 14.99%</td> </tr> <tr> <td>UNACCEPTABLE</td> <td>Less than 10.00%</td> </tr> </table> <p>c) If the attorney advisor is Unacceptable for this component, then the summary rating for this element will be no higher than Marginal.</p> <p><b>2. MENTORING – 0% to 50% of this element</b></p> <p>a) Attorney advisors assigned as mentors will be rated based on the average of the ratings as indicated below.</p> <p>b) <b>QUALITY</b> – The rating is based on the generic performance standards taking into consideration monthly progress reports provided for each trainee, representative samples of the trainee’s Office actions including the mentor’s comments to the trainee, and any other information indicating whether the mentor is providing appropriate guidance.</p> <p>c) <b>TIMELINESS</b> – Trainees’ work is reviewed and returned by the mentor with appropriate guidance in a timely</p>		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%
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%											

manner based on the following supplemental standard for the average time for applications to be returned:

OUTSTANDING	24 hours or less
COMMENDABLE	More than 24 hours up to 48 hours
FULLY SUCCESSFUL	More than 48 hours up to 72 hours
MARGINAL	More than 72 hours up to one week
UNACCEPTABLE	More than one week

**3. E-GOVERNMENT AND ORGANIZATIONAL EFFECTIVENESS – 25% 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:

- 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.