

uspto

**President's Budget Submission
Fiscal Year 2014**



**UNITED STATES PATENT AND
TRADEMARK OFFICE**

FISCAL YEAR 2014

PRESIDENT'S BUDGET

April 10, 2013

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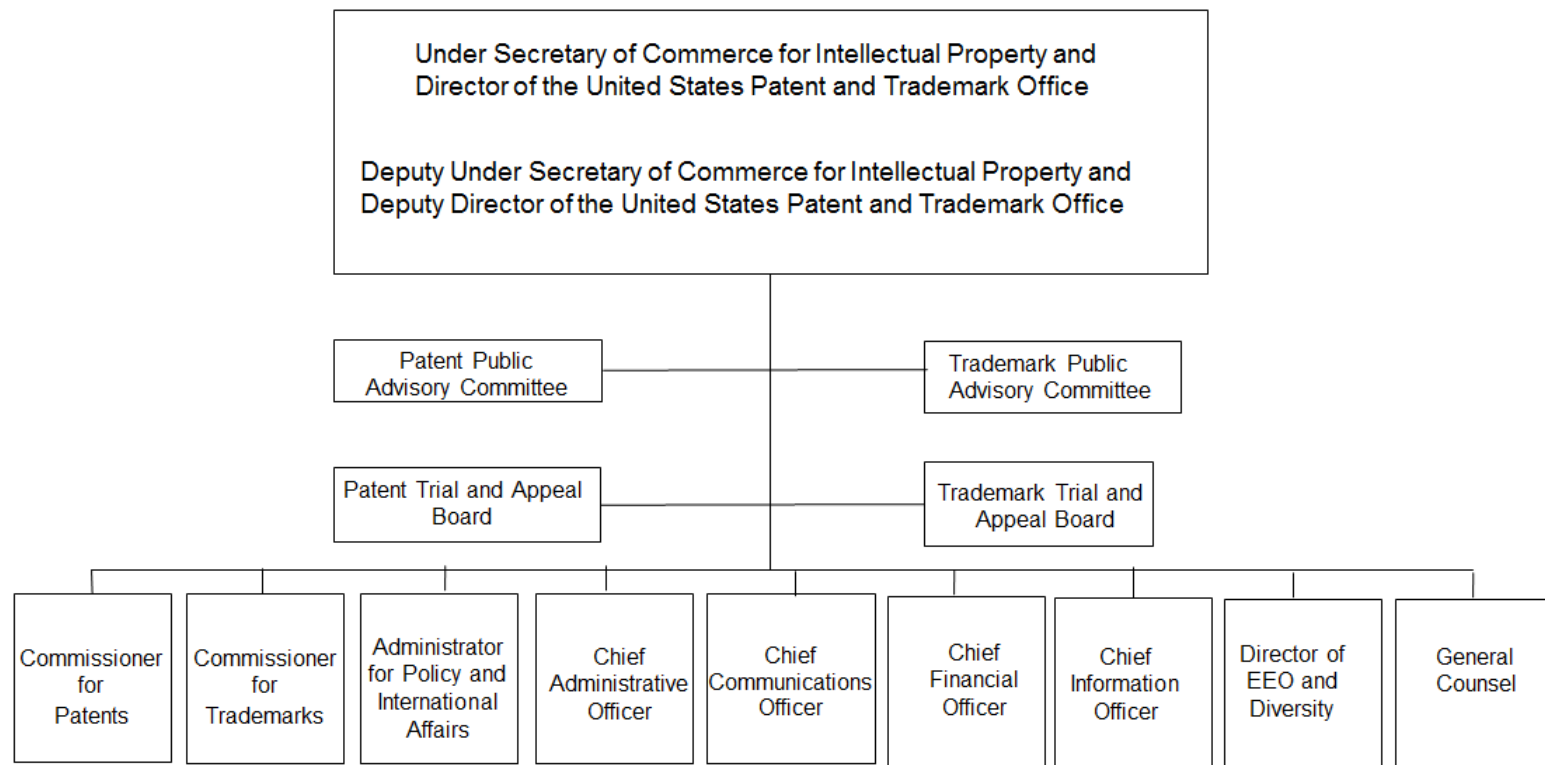
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INTRODUCTION

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Exhibit 2 – Organization Chart

UNITED STATES PATENT AND TRADEMARK OFFICE



Scope and Responsibilities

The United States Patent and Trademark Office (USPTO/Agency/Office) is an agency of the United States within the Department of Commerce. The Agency is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC) on office policies, goals, performance, budget, and user fees.

The USPTO has two major operating components: the Patent organization under the direction of the Commissioner for Patents, and the Trademark organization under the direction of the Commissioner for Trademarks. The Commissioners each enter into an annual performance agreement with the Secretary of Commerce, which outlines the measurable organizational goals for which each is responsible.

In FY 2014, the USPTO is expected to employ approximately 13,000 federal employees including patent examiners, trademark examining attorneys, computer scientists, attorneys, and administrative staff.

The USPTO serves inventors, entrepreneurs, businesses, and attorneys within the United States and around the world. Stakeholders include intellectual property organizations and international entities, such as the World Intellectual Property Organization (WIPO).

The USPTO is headquartered in Alexandria, Virginia, and also has two storage facilities located in Virginia and Pennsylvania. In FY 2012, the USPTO opened a satellite office in Detroit, Michigan, while progress also continues on the establishment of three more offices in Dallas, Texas, Denver, Colorado, and Silicon Valley, California. In Colorado, the USPTO began operations out of temporary space in January 2013, pending renovation of the permanent site.

The USPTO's legislative authorities are included in Exhibit 32 (page 148).

Exhibit 3 – Executive Summary

Innovation is a key driver of the U.S. economy, and intellectual property (IP) rights play an essential role in fostering innovation and enabling the deployment of goods and services to the marketplace. Innovations in science and technology, in particular, are crucial to economic growth and to maintaining America's global competitiveness.

The America Invents Act (AIA), enacted in 2011, coupled with significant operational progress, has provided strong momentum for building a 21st century patent and trademark office that is equipped to manage the demands of a globalized economy. Successful implementation of the AIA fosters a nimble and strong IP infrastructure for our country, allowing businesses to grow and technologies to flourish, by leveraging IP rights, which are the primary currency of innovation in the 21st century. This new law enables a better resourced USPTO to grant IP rights of greater quality with greater speed and clarity. It also advances the overall strategy of deploying American innovation to build businesses and create jobs. At the same time, the USPTO itself is a major employer of scientists, engineers, and attorneys (either directly or through its contracts) at no cost to the American taxpayer.

Promoting investments in innovation through effective IP rights is one of the building blocks to innovation for sustainable growth and quality jobs noted in *A Strategy for American Innovation: Securing Our Economic Growth and Prosperity*¹. The *USPTO 2010-2015 Strategic Plan*, coupled with implementation of AIA, and most notably the establishment of an interim increase to patent fees, has enabled the Agency to make significant progress in:

- reducing the backlog of unexamined patent applications and unacceptably long patent pendency periods (i.e., the Agency Priority Goal);
- ensuring that American businesses can protect their brands through our stellar trademark operations;
- deploying new, state-of-the-art technologies which are instrumental to optimizing the quality and timeliness of work and the efficiency with which user communities conduct business with the Office; and
- advancing the global patent law harmonization agenda that works toward greater efficiency and quality in patenting across multiple jurisdictions -- for example, by continuing productive engagement with partner agencies overseas on key projects such as the Patent Prosecution Highway (PPH).

The funds required for FY 2014 would be offset by user fee collections, including those from the new patent fee schedule that went into effect on March 19, 2013. As a result, the USPTO's appropriation will remain at the \$0 budget authority level.

¹ Published by the President's National Economic Council in February 2011.

The FY 2014 Budget Plan

FY 2014 Budget Highlights and Planning Assumptions

The FY 2014 Budget reflects the significant progress the USPTO has made since FY 2010 in achieving its priority goal and transitioning to a sustainable funding model. This progress is linked to successful implementation of the *USPTO 2010-2015 Strategic Plan*, and the on-going implementation of the fee provisions of the AIA.

The USPTO is modifying and accelerating its long-term Patent plans to recognize the progress it has made to date, revisiting FY 2013 hiring plans due to the uncertain environment, and taking advantage of recent trends in lower attrition and higher production. This includes reducing the total number of previously-planned new patent examiner hires in FY 2013 from 1,500 to as many as 1,000, and leveraging the nationwide workforce to facilitate hiring many examiners with significant prior IP-related experience. Hiring experienced former examiners and IP professionals will allow the Patent organization to reduce the time necessary for training and realize benefits that will enable the USPTO to achieve its performance targets of 10 months for average first action pendency and 20 months for average total patent pendency. This will meet stakeholder expectations and also allow the Office to begin taking actions to achieve greater effectiveness and contain costs; for example, to begin making a soft landing from the aggressive hiring efforts in FY 2011 through 2013 by gradually reducing end-of-year examiner staffing levels, while still maintaining pendency and an appropriate working inventory of applications at levels that facilitate effective and efficient operations. As a result, accomplishment of the priority goal to reduce average patent first action pendency to 10 months and average total pendency to 20 months is estimated to be achieved in FYs 2016 and 2017 respectively, and a three-month patent operating reserve is estimated to be fully funded by FY 2019. In turn, patent pendency targets in FY 2013 through FY 2015 have been adjusted to correspond to this. Further details about these changes are included under Patent Pendency and Backlog Reduction on page 9.

The FY 2014 Budget requests the authority to spend fee collections of \$3,071.4 million, which will fund daily operating requirements of \$3,038.4 million and 12,667 full-time equivalents (FTE), and a deposit of \$62.0 million in the Agency's operating reserve after adjusting for \$29 million in other income. This request is necessary to continue implementing the *USPTO 2010-2015 Strategic Plan*, which directly contributes to the Department of Commerce's (DOC) theme of Economic Growth.

The following factors and risks have an impact on how the USPTO is able to project its budgetary requirements for FY 2014 and beyond in order to deliver on its performance commitments:

- In FY 2014, the USPTO will continue to focus on its major priorities: patent pendency and backlog reduction; investments in information technology (IT); completing implementation of the AIA; and reaching an optimal operating reserve balance for sustainable funding.
- USPTO's multi-year planning requires in-depth understanding of the impacts associated with disruptions to the cost drivers and productivity models. Specifically, the production work completed by the USPTO's employees generates future revenue essential for the agency to operate effectively and meet the needs of the American people. External influences that affect the productivity of our workforce will have a significant impact on the Agency's ability to fulfill its mission.

- Accomplishment of the FY 2014 and long-term performance commitments is based on successful implementation of the new patent fee schedule that primarily went into effect on March 19, 2013, with additional fee changes effective on January 1, 2014.
- Budget estimates assume that USPTO will be appropriated its estimated fee collection levels; if USPTO's actual fee collections are more than the amount appropriated, those fee collections would be available through the Patent and Trademark Fee Reserve Fund reprogramming process.

Program Plans and Accomplishments

The following is a brief description of the USPTO's overall program plans, including the budget priorities, along with significant accomplishments to date in meeting critical performance commitments.

Patent Pendency and Backlog Reduction

Applicants and the U.S. economy depend on the issuance of timely and quality patents to protect new ideas and investments for businesses and job growth; extended pendency and a large patent application backlog hamper commerce. Optimizing patent quality and timely issuance of patents provides greater legal certainty. The longer it takes to review a patent application, the longer it takes for the benefit of the IP protection to accrue. Failure to complete the examination in a timely manner creates uncertainty regarding the scope and timing of any IP rights. This not only impacts the innovators, but it has a negative impact on other innovators and businesses in that field that are awaiting the outcome of the pending application.

As the IP environment becomes increasingly global, filing applications in multiple countries grows. Obtaining a first action at about 10 months from filing provides patent applicants with important information about the status of their application in order to determine whether to file in other countries before the expiration of the 12-month date to maintain priority. This leads to more strategic patent application filings, less user resources spent on unnecessary filings, and fewer resources expended in patent offices world-wide. Further, the patent term adjustment (PTA) provisions of the American Inventor's Protection Act of 1999 (AIPA) provide for patent term adjustment if the USPTO fails to initially act on an application within 14 months of its filing date. Ensuring first office action pendency of 10 months would eliminate the need for patent term adjustment.

The USPTO worked closely with stakeholders in establishing the targets of 10 months first action pendency and 20 months total pendency in the *USPTO 2010-2015 Strategic Plan*. The PPAC gave its support to these pendency timeframes in their 2009 Annual Report, which commended efforts to reduce average first action pendency to 10 months. The PPAC also committed to work with the Office and the innovation community to reduce total average patent pendency to 20 months as the ultimate goal, with reasonable intermediate targets and timelines.

The Office has a long-term plan to reduce the patent application backlog to a steady state inventory of about 350,000 applications, first action patent application pendency to 10 months and total patent application pendency to 20 months. Integral to this plan is achieving these goals with a "soft landing" or gradual resizing of the patent examination corps. As the patent application backlog and pendency decreases, it is important to ensure the right balance of application inventory and staff size. USPTO recently reevaluated its long-term staffing plan, recognizing the substantial progress and efficiencies made to date, taking into account historically low attrition rates and higher production levels, and ensuring that the continued

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backlog reduction progress does not result in inventory levels decreasing to a point where there is inadequate work on hand for some employees.

The result of this review is that the USPTO reduced the number of patent examiners it previously planned to hire in FY 2013 from 1,500 to as many as 1,000. The change substantially reduces the risk of excessively low inventory, but also increases the potential that it will take longer to reach ideal inventory and pendency levels. While continued improvements in efficiency may enable the USPTO to achieve an ideal inventory by 2015 and patent application pendency targets for first action and total pendency by 2015 and 2016, respectively, patent production modeling indicates conservatively that the reduction in hiring may cause ideal inventory levels to occur in 2016 and patent application pendency targets for first action and total by 2016 and 2017, respectively. While targets have been changed to reflect these dates, the USPTO recognizes that it will likely be within a few months (or may fully reach it) of its ideal inventory and pendency goals in 2015/2016, and that there is little risk of the far more problematic possibility of excessively low inventory.

Maintaining Trademark Pendency

Trademarks perform a valuable function by identifying the source of products and services and serve as an indicator of reliable quality to the consumer. By registering trademarks and providing notice of marks in use, the USPTO protects consumers and provides important benefits to American businesses by allowing them to strengthen and safeguard their brands and related investments.

The USPTO is consistently meeting and exceeding its pendency targets for first action and final disposition. With final pendency currently running at less than 11 months, a record low for the Office, a trademark is registered or an application is issued a notice of allowance on average in less than a year. This rapid processing allows applicants to act quickly on marketing strategies and business plans. The examiner's first action is issued approximately three months from the filing date, giving the applicant an important early indication of registrability. First action pendency has been consistently maintained between 2.5 and 3.5 months despite monthly variability in new application filings.

Increased use of electronic forms, particularly *Trademark Electronic Application System (TEAS) Plus*, has improved the efficiency and timeliness of examination. While 32 percent of new applications are TEAS Plus filings, these applications account for 49 percent of first action approvals. TEAS Plus requires more complete information at filing in return for the lowest cost, making this type of filing the fastest and most cost-effective method to apply for and register a trademark.

Intellectual Property Policy Protection & Enforcement

The USPTO is responsible for advising the President, through the Secretary of Commerce, and Federal agencies on national and international IP policy issues, including IP protection in other countries. In this way, the USPTO drives the development of domestic and international IP policy, recognizing that each informs the other. The USPTO develops and advances U.S. IP policy abroad to influence development of foreign IP systems, the goal being the harmonization of IP systems so that Americans can enjoy a predictable and level playing field when they do business worldwide. At the same time, information from foreign governments and industries is used to learn international best practices that assist in developing U.S. policy.

The USPTO carries out a broad array of programs that facilitate the development of domestic and international policy. This includes providing evidence on the economic impacts of IP protection (for example, the April 2012 release of *“Intellectual Property in the U.S. Economy: Industries in Focus”* co-authored by the USPTO and the Economics and Statistics Administration); monitoring and providing policy guidance on key IP issues, such as advising the Government on IP matters before the U.S. Supreme Court; and providing domestic education outreach and capacity building, such as IP educational opportunities to domestic small and medium-sized enterprises (SMEs), universities, foreign officials, and the public. In addition, the effectiveness of IP Attachés in key regions of the world is being increased by: 1) consulting with industry to define and prioritize IP-related business objectives in their country and region; 2) building a matrix of U.S. and foreign industry associations and companies, and their respective IP-related concerns; 3) identifying any existing bilateral agreements that support our business objectives; and 4) seeking to negotiate bilateral agreements, or informal work plans, and associated metrics with host governments.

With the enactment and implementation of the AIA, the USPTO is now able to pursue a 21st century globally harmonized patent system. The USPTO is the lead in realizing a vision of an IP world in which national and regional patent systems are coordinated to create an optimal environment for technological innovation and diffusion. U.S. patent reform has set the scene for further harmonization to simplify the process of seeking international patent protection, reduce the cost and time it takes to obtain patent rights, and speed the deployment of innovative goods and services to the marketplace – thus promoting growth and creating jobs.

Information Technology (IT)

IT is a mission-critical facilitator for every USPTO business function. The quality and efficiency of USPTO operations is directly correlated to the performance of the Agency's IT systems. In addition, because patent and trademark applicants target the important U.S. market for IP protection, the continuous growth in application filings has resulted in increased demand for USPTO services. As such, patent databases are among the world's largest, and they continue to grow at multiple terabytes per year. This has put considerable strain on IT infrastructure, which can jeopardize the USPTO's ability to provide timely and quality patents and trademark registrations.

In addition, the USPTO is committed to building a high-quality, efficient, cost-effective, end-to-end electronic IT process that provides examiners with the tools needed to efficiently and effectively perform their jobs, and applicants and the user community with access to information and data. In fulfilling this commitment, the USPTO is adhering to sound business practices, most notably by planning for routine capital improvements.

A full description of USPTO IT activities and the related budget activities can be found in the “USPTO Information Technology Portfolio” section of the Introduction. References to IT projects/funding are included in each of the four Program sections of the FY 2014 Budget.

AIA Implementation/Sustainable Funding

Completing the implementation of the AIA, and establishing a sustainable funding model that improved with enactment of the AIA by allowing the Agency to manage fluctuations in filings and revenues while sustaining operations on a multi-year basis, continues to be a priority into

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FY 2014. The process of implementing the AIA began upon enactment on September 16, 2011 and is expected to be concluded by September 16, 2015.

The Office has issued proposed and final rules for various AIA provisions, including setting and adjusting patent fees. A list of provisions, studies and programs, their effective/due dates and a brief status is included as Appendix I. Details about the patent fee schedule and its implications for this Budget are included under Sustainable Funding on page 21.

Cost Containment

The FY 2014 Budget is based on a framework of continuous and comprehensive budget reviews designed to ensure that all operational and administrative costs are reviewed, and funds are reallocated when necessary to focus on high-priority and effective programs – primarily core mission activities. In addition, the USPTO operates similarly to a business in that there needs to be a determined effort to monitor costs and adjust costs in response to changes in workload, income, and operating reserve balances.

For example, in FY 2009, when the USPTO experienced a precipitous drop in fee collections, the Office took a hard look at its activities, and made nearly \$200 million in short and long-term reductions. As the economy rebounded in FY 2010, fee collections increased beyond the amount appropriated and a \$129 million supplemental appropriation was provided to allow the USPTO spending authority in alignment with fee collections. At the time, supplemental funding was requested to provide the USPTO additional spending authority in closer alignment with projected fee collections for the full fiscal year. In prior years, the spending authority provided to the USPTO was much like direct appropriated accounts, and the Agency would need to seek supplemental appropriations to access fee revenue in excess of the initial spending authority. Funds were used toward reducing the patent backlog by expanding the examiner workforce, and making that workforce more productive by improving processes, IT, and tools.

In FY 2011, the Federal government operated under a continuing resolution and the Full-Year Continuing Appropriations Act, which did not include the USPTO's request for a 15 percent temporary increase on patent fees. The USPTO operated at a funding level that was below requirements, and which necessitated approximately \$150 million of funding reallocations, deferments or reductions that included a freeze on hiring in virtually all levels of the USPTO, as well as changes to non-compensation requirements. These actions enabled the USPTO to operate within its FY 2011 appropriated level (note: adjustments had to be made to the *USPTO 2010-2015 Strategic Plan* as a result of these spending changes: see "Interim Adjustments to the *USPTO 2010-2015 Strategic Plan*" in the FY 2013 President's Budget).

During FY 2012 and in response to reduced fee collections estimates, the USPTO undertook two cost reduction efforts which resulted in a combined budget reduction totaling \$190 million, primarily from a more temperate hiring schedule, deferring IT support and improvement efforts, and temporarily scaling back external agreements.

Administrative Efficiency

The Administration is continuing its pursuit of an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative by improving efficiency of programs without reducing their effectiveness. Building on USPTO's administrative savings planned through FY 2013 (\$32.4 million), an additional \$1.6 million in savings is targeted for FY 2014, for a total savings in FY 2014 of \$34.0 million.

As mentioned above, the USPTO continually reviews its operating budgets and long-range plans in an effort to find efficiency savings that have minimal to no impact on accomplishment of performance goals, and redirects resources to high priority strategic initiatives.

For example, this includes: the USPTO launching a multi-year review of all USPTO operations to increase the quality of its services and decrease the cost of operations. Utilizing Six Sigma, Lean Six Sigma, Business Process Reengineering, and related program analysis methods, two discrete USPTO organizational components were evaluated in FY 2012. Over the period FY 2011-2012, aggregated resources of at least \$23 million have been identified through the implementation of 81 discrete recommendations, and these have been reinvested to meet the Agency's goals.

For FY 2014, this Budget assumes reprioritization of approximately \$22 million to other FY 2014 initiatives, as follows:

- The FY 2014 Budget is based on the assumption that the USPTO will be appropriated its request level or its total estimated fee collections for the year. Under this assumption, the USPTO anticipates meeting patent pendency and backlog reduction targets in FYs 2016 and 2017. As a result, this budget reflects a reduction in patent examiner hires compared to plan in FY 2013, and continues to show a reduction in such hires in FY 2014. This results in a negative net change in end-of-year examiner staffing by not replacing all attritions. Beginning in FY 2017, the USPTO anticipates negligible overtime hours per patent examiner.
- The Patent organization is re-engineering business processes so that the Patents End-to-End (PE2E) will be built independent of legacy systems, with no mandates to re-use those legacy systems or to build interim interfaces unless they cannot be avoided.
- The Patent organization also assessed the impact of the development and deployment of the PE2E system on operational activities. The out year estimates of the Workload Processing Contracts initiative have been reduced to reflect the impact of the end-to-end processing system on these contracts, as shown in the Patent section, under workload initiatives.
- Other anticipated redirections of resources over the out year estimates are the result of the completion of major development projects, such as PE2E, Trademark Next Generation (TMNG), dissemination projects, and the Fee Processing Next Generation (FPNG) system and their transition to the enhancement and maintenance phase; and actions such as implementation of energy conservation measures.

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USPTO FY 2014 Budget and Performance-at-a-Glance

The performance measures shown below are a combination of the USPTO's Government Performance and Results Act (GPRA) measures that are reported externally, and those used for internal management purposes. The latter include the performance measures that are outlined in the *USPTO 2010-2015 Strategic Plan*, which are tracked internally to manage initiatives and progress toward meeting strategic objectives. Additional information about funding by the Agency's two business lines is included below under Multi-Year Planning by Business Line.

<i>(Dollars in thousands)</i>	FY 2012 Actual	FY 2013 President's Budget	FY2013 Current Plan	FY 2014 President's Budget	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate	FY 2018 Estimate
USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS								
Amount	2,112,770	2,499,901	2,485,103	2,697,358	2,774,753	2,833,068	2,802,973	2,883,343
Full Time Equivalent (FTE)	9,519	11,099	10,950	11,508	11,414	11,265	11,083	10,863
Utility, Plant and Reissue (UPR) Applications Filed	533,308	565,300	558,900	586,800	616,200	647,000	679,300	713,300
Patent Quality Composite Rate	72.4	65-73	65-73	83-91	100	100	100	100
Average First Action Pendency/UPR (Months)	21.9	16.9	18.0	15.8	12.9	10.5	10.0	10.0
Average Total Pendency/UPR (Months)	32.4	30.1	30.1	26.1	23.7	21.0	18.8	18.8
Backlog	608,283	529,100	566,800	486,500	398,900	334,300	358,500	391,800
UPR Units of Production	545,069	620,600	596,200	655,200	691,300	698,500	641,300	665,400
USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS								
Amount	216,895	251,332	239,860	265,370	266,271	267,613	264,528	265,593
FTE	823	932	894	957	994	1,044	1,093	1,144
Applications Received (Includes Extra Classes)	415,026	428,000	433,000	456,000	493,000	540,000	592,000	643,000
Exceptional Office Action rate	26.1%	20.0%	23.0%	24.0%	25.0%	25.0%	26.0%	26.0%
First Action Compliance Rate	96.2%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate	97.1%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	3.2	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Average Total Pendency (Months) Excluding Suspended and Inter Partes Proceedings	10.2	12.0	12.0	12.0	12.0	12.0	12.0	12.0
Balanced Disposals	836,436	848,600	861,700	914,100	982,300	1,072,900	1,176,000	1,279,800
Office Disposals	383,291	433,000	432,200	457,600	492,600	538,500	590,200	642,000

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<i>(Dollars in thousands)</i>	FY 2012 Actual	FY 2013 President's Budget	FY2013 Current Plan	FY 2014 President's Budget	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate	FY 2018 Estimate
USPTO GOAL 3: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE								
Amount	45,089	68,335	67,272	73,626	75,018	76,448	77,672	78,835
FTE	127	181	174	201	204	205	206	206
Percentage of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing Intellectual property rights (IPR) 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Percentage of foreign officials trained who have initiated or implemented a positive change in the IP systems in their organization and/or countries	69.3%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Amounts not Supporting Goals*	1,000	2,000	1,000	2,000	2,000	2,000	2,000	2,000
USPTO Requirements	2,375,754	2,821,568	2,793,236	3,038,354	3,118,042	3,179,129	3,147,173	3,229,771
FTE	10,469	12,212	12,018	12,667	12,612	12,514	12,382	12,213
Fee Collections	2,406,826	2,953,241	2,745,873	3,071,375	3,144,075	3,221,027	3,222,066	3,506,270
Fee Collections – Unavailable	-	-	-	-	-	-	-	-
Other Income/Recoveries	29,096	23,000	29,000	29,000	29,000	29,000	29,000	29,000
Funding to(-) / from(+) Operating Reserve	(60,168)	(151,673)	18,363	(62,021)	(55,033)	(70,898)	(103,893)	(305,499)
TOTAL FUNDING	2,375,754	2,821,568	2,793,236	3,038,354	3,118,042	3,179,129	3,147,173	3,229,771
Operating Reserve: Patents	111,749	276,880	83,614	165,465	233,850	299,678	376,188	627,713
Operating Reserve: Trademarks	126,123	99,765	135,895	116,065	102,713	107,783	135,167	189,140

* Amounts transferred to the Department of Commerce Office of the Inspector General.

NOTE #1: Due to rounding, numbers presented in tables throughout this document may not add up precisely to the totals provided and percentages may not precisely reflect the absolute figures

NOTE #2: The USPTO presents the budget based on its three strategic goals. Therefore, budgetary requirements are allocated to each of the goals based on the results of the Agency's Activity Based Information (ABI) analysis and results. This is referred to as the Three-Way Split. Included as Appendix II is a report showing details on the Two-Way split between Patents and Trademarks, which helps form the basis for calculating and setting fees.

USPTO 2010-2015 Strategic Plan – Summary of Goals and Objectives

The *USPTO 2010-2015 Strategic Plan* became available to the Congress and the public in September 2010. The Plan formally documents the USPTO's priorities, and is aligned with the Department's themes, goals, and objectives as follows:

DOC Themes	DOC Goal	DOC Objectives	USPTO Goals
Economic Growth	Innovation and Entrepreneurship Goal: Develop the tools, systems, policies and technologies critical to transforming our economy, fostering U.S. competitiveness, and driving the development of new businesses.	Facilitate intellectual property protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks.	Optimize Patent Quality and Timeliness Optimize Trademark Quality and Timeliness
		Expand international markets for U.S. firms and inventors by improving the protection and enforcement of intellectual property rights.	Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide
Customer Service	Create a culture of outstanding communication and services to our internal and external customers.		Achieve Organizational Excellence
Organizational Excellence	Create a high performing organization with integrated, efficient and effective service delivery.		
Workforce Excellence	Develop and support a diverse, highly qualified workforce with the right skills in the right job to carry out the mission.		

The USPTO Strategic Framework, including the mission statement, vision statement, goals, objectives and initiatives is shown on the following pages.

The USPTO has made significant progress toward implementing its strategic plan, as well as some minor changes that reflect the current financial, legislative, and administrative environment in which the USPTO is working. An Interim Adjustment Document was included in the FY 2013 President's Budget.

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United States Patent and Trademark Office Strategic Framework



Mission

Fostering innovation, competitiveness and economic growth, domestically and abroad by delivering high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.

Vision

Leading the Nation and the World in Intellectual Property Protection and Policy

Strategic Goals

Goal I: *Optimize Patent Quality and Timeliness*

Goal II: *Optimize Trademark Quality and Timeliness*

Goal III: *Provide Domestic and Global Leadership to Improve Intellectual Property (IP) Policy, Protection and Enforcement Worldwide*

MANAGEMENT GOAL: *Achieve Organizational Excellence*

GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS

Objective 1: Re-Engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness	Objective 2: Increase Patent Application Examination Capacity	Objective 3: Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing	Objective 4: Measure and Improve Patent Quality	Objective 5: Improve Appeal and Post-Grant Processes	Objective 6: Develop and Implement the Patent End-to-End Processing System
<ul style="list-style-type: none"> Re-engineer the Patent Examiner Production (Count) System Prioritize Work: Green Technology Acceleration, Project Exchange, Multi-Track Customized Examination Institutionalize Compact Prosecution Initiatives Re-engineer the Patent Classification System Re-engineer the Manual of Patent Examining Procedure (MPEP) Re-engineer the Patent Examination Process 	<ul style="list-style-type: none"> Hire an Optimum Patent Examining Workforce to Meet Backlog and Pendency Targets Use a Hiring Model that Focuses on Experienced IP Professionals Target Overtime to High Backlog Technology Areas Develop and Implement a Nationwide Workforce Reduce Attrition by Developing Mentoring, Best Practices, and Retention Strategies Contract for Patent Cooperation Treaty (PCT) Searching 	<ul style="list-style-type: none"> Make More Effective Use of the PCT Increase Use of the Patent Prosecution Highway (PPH) Explore Strategic Handling of Applications for Rapid Examination (SHARE) Work with Trilateral Offices and the Five IP Offices (IP5) to Create New Efficiencies 	<ul style="list-style-type: none"> Initiate 21st Century Analysis, Measurement and Tracking of Patent Quality Improve and Provide More Effective Training Reformulate Performance Appraisal Plans (PAPs) Implement and Monitor Revisions to Patent Examiner Production (Count) System 	<ul style="list-style-type: none"> Develop and Implement Process Efficiency Recommendations Streamline the Appeal Process and Reduce Appeal Pendency Review the Board of Patent Appeals and Interferences (BPAI) Rules to Amend, Simplify and Optimize Process Increase BPAI Capacity through Additional Hires and Optimization of Organizational Structure Maintain High Quality BPAI Decisions 	<ul style="list-style-type: none"> Develop and Implement eXtensible Markup Language (XML) for all Data from Application to Publication Build Infrastructure for Patents' End-to-End Processing System Redesign and Re-architect Patent Information Technology (IT) Systems to Provide End-to-End Electronic Processing

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Continued on back

NOTE: The Board of Patent Appeals and Interferences (BPAI) was renamed The Patent Trial and Appeal (PTAB) on September 16, 2012.

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GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS					
Objective 1: Maintain Trademark First Action Pendency on Average between 2.5 – 3.5 Months with 12 Months Final Pendency	Objective 2: Continuously Monitor and Improve Trademark Quality	Objective 3: Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations	Objective 4: Enhance Operations of Trademark Trial and Appeal Board (TTAB)	Objective 5: Modernize IT System by Developing and Implementing the Trademark Next Generation IT System	Objective 6: Develop a New Generation of Trademark Leaders
<ul style="list-style-type: none">● Align Examination Capacity with Incoming Workloads	<ul style="list-style-type: none">● Enhance Examination Quality by Establishing a New Quality Measure	<ul style="list-style-type: none">● Determine What Actions, if any, are Needed to Ensure Accuracy of Identified Goods and Services	<ul style="list-style-type: none">● Maintain TTAB Workload and Pendency Metrics Within Acceptable Limits● Develop Additional Accelerated Case Resolution (ACR) and Other Streamlining Options for <i>Inter Partes</i> Cases● Improve TTAB Involvement in Parties' Settlement Negotiations● Maintain Quality of Orders and Opinions● Develop Law through Issuance of Precedential Decisions	<ul style="list-style-type: none">● Address Trademark Business Needs with a Re-Architected, Virtualized and Service-Driven Solution● Separate Trademark Computer Based-Resources (CBRs) from Other USPTO CBRs● Move to Cloud Computing Based on a Sound Business Case● Add Functionality to Meet the Needs of Users	<ul style="list-style-type: none">● Improve and Provide Effective Training● Revamp PAPs to Include Leadership Skills Development● Develop an Effective Human Capital Succession Plan
GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE					
Objective 1: Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy			Objective 2: Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights		
<ul style="list-style-type: none">● Provide Policy Formulation in All Fields of IP Protection and Enforcement● Provide Ongoing Policy Guidance on Key IP Issues● Provide Domestic Education Outreach, Knowledge Enhancement and Capacity Building● Engage other U.S. Government Agencies and Congress on Legislation that Improves the IP System			<ul style="list-style-type: none">● Lead Efforts at the World Intellectual Property Organization (WIPO) and Other International Fora to Improve IP Protection and Enforcement● Prioritize Countries of Interest for Purposes of Improved IP Protection and Enforcement, Capacity Building, Legislative Reform, Including Creation of Country/Region Strategic Plans and Specific Action Plans● Improve Efficiency and Cooperation in Global IP System● Provide International IP Policy Advice and Expertise to Other U.S. Government Agencies● Provide Technical Expertise in the Negotiation and Implementation of Bilateral and Multilateral Agreements that Improve IP Rights Protection and Enforcement● Create USPTO and Attaché Integrated Action Plans that Focus on Country-Specific Needs and Interagency Cooperation		
MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE					
Objective 1: Improve IT Infrastructure and Tools	Objective 2: Implement a Sustainable Funding Model for Operations		Objective 3: Improve Employee and Stakeholder Relations		
<ul style="list-style-type: none">● Establish Cost-Effective, Transparent Operations and Processes● Improve the User Experience● Upgrade IT Infrastructure● Develop and Implement the Next Generation Fee Processing System (FPNG)	<ul style="list-style-type: none">● Obtain and Implement Interim Funding Authority● Obtain and Implement Fee Setting Authority● Reformulate the Fee Structure● Obtain and Implement Private Sector Business Tools● Present Requirements-Based Budgets● Strengthen Financial and Non-Financial Internal Controls		<ul style="list-style-type: none">● Recruit, Develop, Train, and Retain a Highly-Skilled, Diverse Workforce● Enhance Current and Future Agency Leadership by Focusing on Leadership Development, Accountability, and Succession Planning● Optimize Effectiveness of Patents Ombudsman Program● Enhance the Independent Inventors Program● Provide Information and Communication Channels for Employees and the Public● Ensure Transparency of USPTO Information and Materials by Increasing the Availability of Public Information● Strengthen Relationships with Department of Commerce (DOC), Office of Management and Budget (OMB), and Congress		

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Sustainable Funding

Multi-Year Planning and Budgeting by Business Line

The USPTO has been conducting multi-year planning for many years, both at the strategic and operational levels. Multi-year planning and budgeting helps identify long-term trends, develop long-term operational goals supported by long-term financial strategies, and address long-term issues. The process reinforces the commitment to financial stability by looking beyond the one-year time horizon in funding operating programs and capital improvements, and promotes more orderly spending patterns, which are a critical component for successful achievement of performance targets and fee setting.

Multi-year planning and budgeting requires an in-depth understanding of the USPTO's financial position, including cost drivers and revenue, unfunded liabilities, and political and economic realities as demonstrated by strategic plans, the Patent Production Model, the Trademark Production Model, and the Fee Projection Model. These plans and models all look out over a five-year period. Specifically, the production work completed by the USPTO's employees generates future revenue essential for the Agency to operate effectively and meet the needs of the American people. External influences that affect the productivity of our workforce will have a significant impact on the Agency's ability to fulfill its mission.

The USPTO also provides five-year requirements and funding estimates in annual budget documents. Over the past few years, the USPTO has taken steps to establish and maintain an operating reserve to facilitate execution of multi-year plans. With fee setting authority, the USPTO continues to refine its multi-year planning and budgeting.

This planning framework is itself built upon several subsidiary frameworks:

- The FY 2014 Budget is based on the *USPTO 2010-2015 Strategic Plan*, and continues the long-term initiatives that were first identified in prior year budgets. In fact, many of the core mission-related program increases in the FY 2014 Budget are continuations of initiatives from prior years.
- The USPTO operating structure is similar to a business in that it receives requests for services (e.g., applications for patents and trademark registrations) and charges fees projected to cover the cost of performing all of the services it provides. Unlike a business, fees set for the initial application filing do not cover the cost of the services performed as many of the costs are incurred either before or after all the fees have been paid. Therefore, it is critical that USPTO take a long view in projecting its budgetary requirements, which takes into consideration both the projected out year workload and the costs associated with processing that workload.
- In anticipation of authority to set fees by regulation, the USPTO took steps to begin developing a new patent fee structure based on ABI cost models; historical cost analyses of activities supporting fees; conducting fee analyses, such as cost-obligation-revenue comparisons and economic and elasticity analyses; and developing ad hoc fee/cost calculations and business case studies. The USPTO is committed to transparency, fulfilling requirements for comprehensive regulatory analyses (e.g., impact on small businesses), and engagement with the PPAC, and stakeholders. This was accomplished via participation in

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PPAC public hearings, publication of notices in the Federal Register and Official Gazette for public consideration, and solicitation of a review by the Congress.

Operating Reserve

To continue promoting confidence in the U.S. IP system, the USPTO is gradually building patent and trademark operating reserves, which are necessary to absorb and respond to temporary changes in the economy and USPTO's operating and financial environments. Research has found that large fee-funded, business-like agencies without an operating reserve are at risk of cash flow stress, like that which the USPTO experienced in FY 2009 due to the economic recession, and FY 2010 due to the delay in the authorization of spending authority for the fees collected from patent applicants.

A sufficient operating reserve for each of the patent and trademark business lines will provide the USPTO with time to continue at an adequate operating tempo during temporary periods of significant revenue disruption; for example, to maintaining long-term operational goals versus short-term crisis-based spending changes that could delay delivering on USPTO's performance commitments, particularly reducing the patent application backlog and pendency, and maintaining trademark pendencies.

An existing healthy reserve for the Trademarks business has been helpful by ensuring that normal fluctuations in fee collections, obligations, and timing of annual Congressional spending authority have not disrupted operations. The reserve allowed the Trademark line of business to plan and execute on a longer timeframe despite short term funding uncertainties or shortfalls.

Operating reserves also enable the USPTO to continue to support unplanned near-term stakeholder needs such as growth in application filings (the fees collected at application filing are designed to be less than the amount to examine applications).

In summary, operating reserves provide sufficient capital to operate the growing Patent line of business when revenue stream and availability are uncertain; supplement annual patent and trademark fee collections when they fall short of estimates to preserve the planned operational capacity necessary to deliver on patent performance goals; or provide additional resources when patent or trademark production requirements grow due to unexpected increases in application filings.

The USPTO recognizes that the optimal operating reserve sizes may change over time as economic volatility and external and internal enterprise risk changes. Therefore, the USPTO will regularly reevaluate the optimal operating sizes of each reserve. Likewise, a comprehensive review of the operating reserve balances, including updated projection estimates, will be completed every year while formulating the annual budget.

Business Lines

The USPTO has two lines of business: the Patent Business Line, which is funded from patent fee collections, and the Trademark Business Line, which is funded from trademark fee collections. Since 1982, there has been a legal fence around the use of trademark fees; i.e., they could be used only for trademark purposes. The AIA has established a comparable fence around patent fees.

To be successful, both business lines rely upon USPTO policy, legal, administrative, and IT operations that are funded from an allocated share of patent and trademark fee collections. The tables shown in Figures #3 and #6 below compare estimated patent fee collections against patent business budgetary requirements, and estimated trademark fee collections against trademark business budgetary requirements.

Patent Business: Five-Year Horizon

As the following graphic (Figure #1) demonstrates, the USPTO projects that its patent workload will continue to increase over the next five years. Once significant new patent examiner hiring is completed in FY 2013, the USPTO anticipates it will scale down hiring efforts during FY 2014 and focus on the replacement of a limited number of attritions. At this point in time, the Agency will begin to focus on maintaining an optimal examination capacity and end-of-year patent examiner staffing levels will begin to decrease. Concurrently, the Patent backlog of unexamined cases will continue decreasing from the end of FY 2010 level of 708,535 through FY 2016, and pendency targets are estimated to be met in FYs 2016 and 2017. Over the longer-term, the USPTO expects to maintain an optimal working inventory. This framework has been the key driver in setting the fee levels within the FY 2013 patent fee rule.

Figure #1

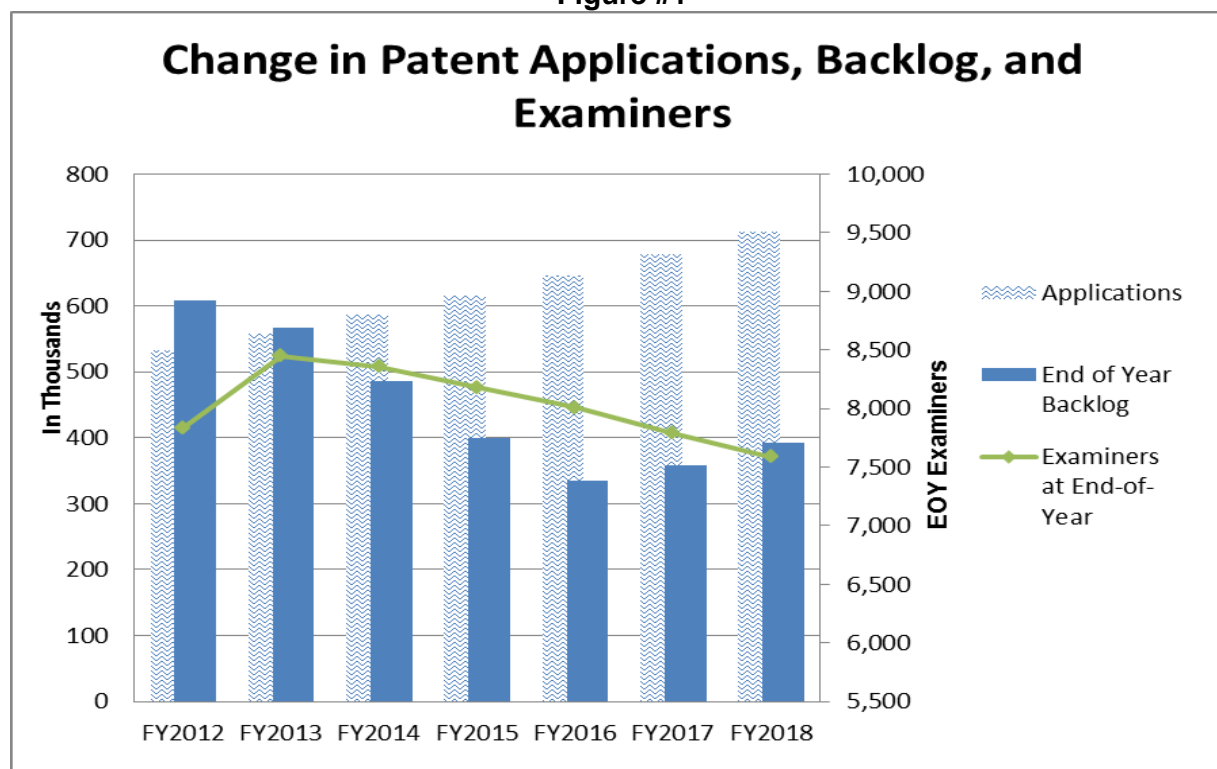


Figure #2

Utility, Plant and Reissue	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Applications	533,308	558,900	586,800	616,200	647,000	679,300	713,300
Growth Rate	5.2%	4.8%	5.0%	5.0%	5.0%	5.0%	5.0%
Production Units	545,069	596,200	655,200	691,300	698,500	641,300	665,400
End of Year Backlog	608,283	566,800	486,500	398,900	334,300	358,500	391,900
Performance Measures							
Avg. First Action Pendency (Months)	21.9	18.0	15.8	12.9	10.5	10.0	10.0
Avg. Total Pendency (Months)	32.4	30.1	26.1	23.7	21.0	18.8	18.8
Examiners at End-of-Year	7,831	8,450	8,360	8,180	8,010	7,790	7,590

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To achieve the performance commitments shown in Figure #2 above, the USPTO has developed its budgetary requirements, projected its patent fee collections, and identified an appropriate operating reserve for the five year period FY 2014-2018 as shown in the Figure #3 below.

Figure #3

Patent Budgetary Resources vs. Budgetary Requirements							
(Dollars in Millions)							
Projected Fee Collections	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Low Fee Estimate*	2,180	2,317	2,632	2,675	2,753	2,622	2,848
Working Fee Estimate*	2,180	2,502	2,829	2,894	2,951	2,932	3,188
High Fee Estimate*	2,180	2,630	2,985	3,027	3,116	3,195	3,488
Budgetary Requirements	2,143	2,530	2,747	2,826	2,885	2,856	2,937
Funding To (+) and From (-) the Operating Reserve							
Low Fee Estimate	37	(213)	(115)	(151)	(132)	(234)	(89)
Working Fee Estimate	37	(28)	82	68	66	77	252
High Fee Estimate	37	100	238	201	231	339	551
Operating Reserve Balance							
Working Fee Estimate Ending Balance	112	84	165	234	300	376	628
Operating Reserve Target - 3 Months	536	632	687	706	721	714	734
Over/(Under) 3 Month Target Balance	(424)	(549)	(521)	(473)	(422)	(338)	(106)

*Each of the above fee estimates includes other income collected such as reimbursable agreements and recoveries in the amounts of approximately \$21-23M each year.

**The USPTO anticipates reaching a three month operating reserve target (discussed further below) beyond 2018, which is after the timeframe that the USPTO anticipates meeting its patent application backlog and pendency targets.

Note: Included as Appendix II is a report showing the Patent and Trademark Split per Two Way Business Line for FYs 2012 through 2018.

Figure #3 compares the estimated fee collections and other income at three levels (high, working, and low) against the budgetary requirements for each fiscal year (which represents the annual estimated operating requirements, excluding deposits in the operating reserve). For the short-term (i.e., FY 2013 and FY 2014), the ranges reflect the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, including the effects of adjusting the patent fee schedule, and developing workload and fee collection estimates from assumptions of these elements. For the longer-term (i.e., FY 2015 and beyond), the value of the ranges is less significant because the USPTO continually modifies its assumptions as new information becomes known or as current-year trends dictate. Therefore, the cumulative funding operating reserve balance is shown only for the working level fee estimate.

The Patent budgetary requirements increase by 8.6 percent in FY 2014 over FY 2013, and then slow to 2.9 percent and 2.1 percent growth in FY 2015 and FY 2016, respectively. Budget growth primarily reflects the costs associated with increased patent examiner capacity production continuing through FY 2015 as the USPTO invests in the achievement of its pendency and backlog reduction goal.

Patent Operating Reserve

For Patents, the USPTO is gradually building an operating reserve equal to three months of operating expenses (budgetary requirements). The improved fee structure that was implemented March 2013 and January 2014 will not only provide the USPTO with the resources necessary to execute on the performance goals and plans, it will also continue funding the

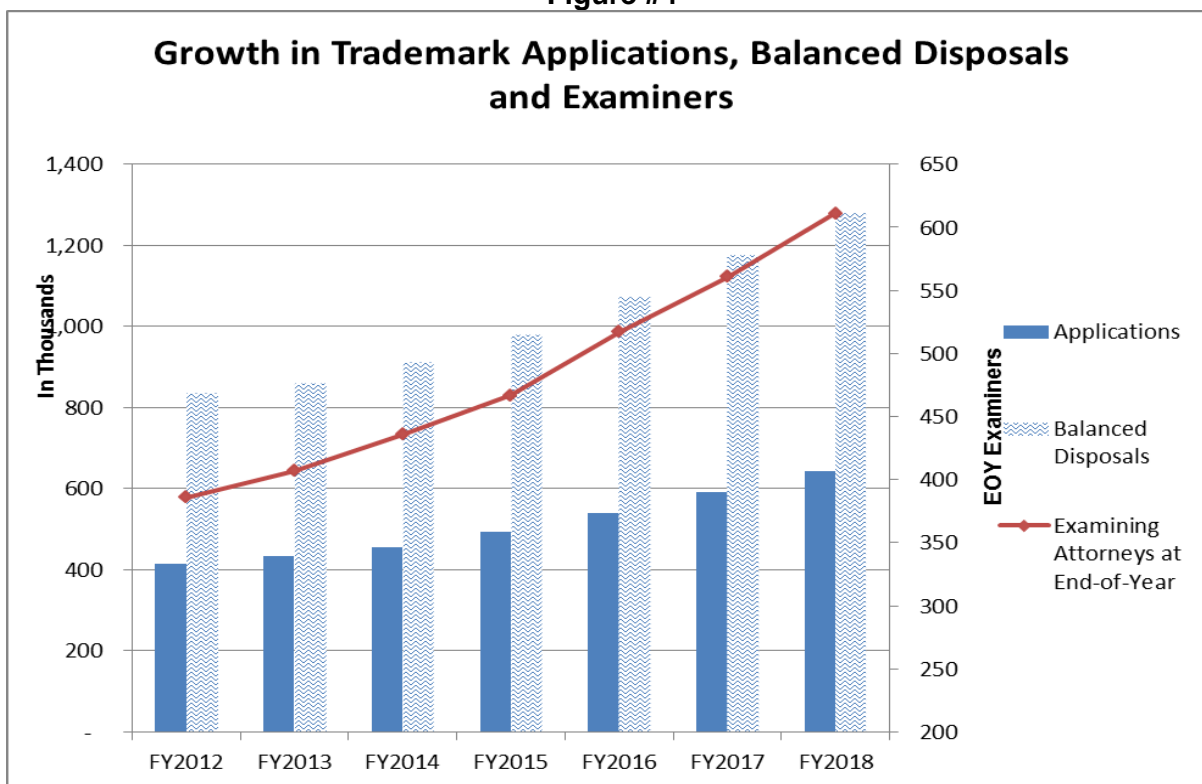
requirement for a patent operating reserve. The Budget estimates that achieving the three month operating reserve will take about five years.

The timeframe for achieving this target was changed in response to stakeholder feedback during the fee setting process to grow the reserve at a slower pace. The USPTO expects to review patent fees on at least a biennial basis after the initial fee adjustments. As the USPTO continues to make progress during FYs 2013 and 2014 in meeting its pendency performance and operating reserve targets, the results of future fee reviews may lead to regulatory actions to reduce fees to a level that would sustain desired levels for the long term.

Trademark Business: Five-Year Horizon

For Trademarks, the USPTO has committed to maintaining an average first action pendency of 2.5 to 3.5 months and an average final total pendency of 12 months. As shown in Figure #4 below, trademark applications are expected to grow at an average rate of about eight percent over the five-year planning horizon. Given this continued growth in applications, Trademarks will need to continue increasing its Trademark attorney staffing levels to maintain its pendency targets.

Figure #4



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Figure #5

Trademarks	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Applications	415,026	433,000	456,000	493,000	540,000	592,000	643,000
Growth Rate	4.1%	4.3%	5.3%	8.1%	9.5%	9.6%	8.6%
Balanced Disposals	836,436	861,700	914,100	982,300	1,072,900	1,176,000	1,279,800
Performance Measures							
Avg. First Action Pendency (Months)	3.2	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Avg. Total Pendency (Months)	10.2	12.5	12.0	12.0	12.0	12.0	12.0
Examining Attorneys at End-of-Year	386	407	436	467	517	561	611

This five-year framework to achieve these performance targets requires the trademark budgetary resources, projected fee collections, and operating reserve shown in Figure #6 below.

Figure #6

Trademark Budgetary Resources vs. Budgetary Requirements

(Dollars in Millions)							
Projected Fee Collections	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Low Fee Estimate*	255	262	248	248	266	286	315
Working Fee Estimate*	255	273	271	279	299	319	347
High Fee Estimate*	255	275	281	300	331	359	396
Budgetary Requirements	233	263	291	292	294	292	293
Funding To (+) and From (-) the Operating Reserve							
Low Fee Estimate	23	(1)	(43)	(44)	(29)	(6)	22
Working Fee Estimate	23	10	(20)	(13)	5	27	54
High Fee Estimate	23	12	(10)	7	36	68	103
Operating Reserve Balance							
Working Fee Estimate Ending Balance **	126	136	116	103	108	135	189
Operating Reserve Target - 4 / 6 Months	78 / 116	88 / 132	97 / 146	97 / 146	98 / 147	97 / 146	98 / 147
Over/(Under) 4 / 6 Month Target Balance	49 / 10	48 / 4	19 / (30)	5 / (43)	10 / (39)	38 / (11)	91 / 43

*Each of the above fee estimates includes other income collected such as reimbursable agreements and recoveries in the amounts of approximately \$6-8M each year

**See discussion about operating reserve below

Note: Included as Appendix II is a report showing the Patent and Trademark Split per Two Way Business Line for FYs 2012 through 2018.

Figure #6 above compares the estimated fee collections and other income at three levels (high, working, and low) against the budgetary requirements for each fiscal year. For the short-term (i.e., FY 2013 and FY 2014), the ranges reflect the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, and developing workload and fee collection estimates from assumptions of these elements. For the longer-term (i.e., FY 2015 and beyond), the value of the ranges is less significant because the USPTO continually modifies its assumptions as new information becomes known or as current-year trends dictate. Therefore, the cumulative funding operating reserve balance is shown only for the working level fee estimate.

As shown in Figure #6, the total Trademark budgetary requirements increase by \$30 million through FY 2018 compared to the FY 2013 level, primarily due to increased investment in trademark information systems and workload, and incoming trademark applications requiring

the need to hire additional Trademark examining attorneys. With a sustained economic recovery, new application filings are expected to approach their historical growth patterns and increase by more than 210,000 classes by FY 2018 compared to FY 2013. To process the incremental workloads, the Trademark organization needs a larger pool of examining attorneys, especially after several years of attrition, and it needs to upgrade its business processes and systems to further enhance automation and efficiency gains.

Trademark Operating Reserve

For Trademarks, the operating reserve is projected to range between four to six months of operating expenses. The USPTO estimates that the financial risk associated with the Trademark business is higher than that of the Patent business. This greater risk is due to situations such as the (a) the speed in which the sensitivity and volatility related to economic fluctuations impacts trademark operations and (b) a greater percentage of fees are collected from application and related filings. For example, in the past, sporadic large magnitude increases of more than 27 percent have been followed by declines of more than 10 to 20 percent in filings reducing revenues.

The USPTO will continue to evaluate revenue and spending risks to define the optimal operating reserve target. The USPTO also expects to review trademark fees on at least a biennial basis, in conjunction with maintaining its pendency performance and operating reserve targets to determine if additional adjustments are warranted in the out years.

USPTO Fee Collection Estimates/Ranges

As a fee-funded Agency, the USPTO relies on user fee collections, which may fluctuate based on income streams, to fund operations. Due to inherent variability in estimating future year fee collections, the USPTO presents a range of aggregate fee collections.

Economic and Market Outlook

Requests for USPTO services and products are dependent upon many factors, including economic activity in the United States and around the world. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads (requests for services and products). Major factors include the overall condition of the U.S. and global economies, spending on technological innovation activities, and investments leading to the commercialization of new products and services. The three relevant indicators used by the USPTO are Real Gross Domestic Product (RGDP), Research and Development (R&D) expenditures, and Venture Capital (VC) investments. These indicators are correlated with USPTO patent and/or trademark application filings, which are the key drivers of patent and trademark workloads. These indicators also provide insight into market conditions and the management of IP portfolios, which influence process requests for the year, and post-issuance decisions to maintain patent protection.

RGDP, the broadest measure of economic activity, is anticipated to grow less than 3.0 percent for FY 2013 based on Administration and Congressional Budget Office (CBO) estimates. Considerable uncertainty remains regarding the current and near-future prospects for growth. This uncertainty affects anticipated USPTO workloads and fee collection estimates.

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Developing Workload and Fee Collection Estimates

Economic activity is an important consideration when developing workload forecasts, primarily patent and trademark application filings. In addition to economic factors, the USPTO considers overseas activity, policies and legislation, process efficiencies, and anticipated applicant behavior when preparing estimates. Estimates of incoming workload are developed after researching and modeling these elements.

Estimates of workload production and examination and process requests are developed incorporating the realization of efforts of the *USPTO 2010-2015 Strategic Plan*, identifying and implementing the efficiencies, tools, and policies necessary to increase examination capacity and improve efficiency. Estimates factor in the resources available to complete the work. Certain process actions are mandatory while others may be considered discretionary, such as when applicants purchase an extended response timeframe within which to respond to USPTO actions. Discretionary actions are affected by current economic and market conditions.

Forecasts of post allowance activities, maintenance of patents in force, and/or renewal of trademark registrations are developed using the same assumptions on the economic environment as incoming work. Decisions on continuation of exclusivity of post allowance rights are determined with careful management of IP portfolios incorporating current economic and market conditions. All workload estimates are consistently compared to past and current workloads, and projection models are regularly adjusted with additional data, knowledge, and experience. Workload estimates are then transformed into individual estimates for each of the over 300 fee codes on the USPTO fee schedule. Individual estimates, multiplied by the accompanying fee amounts, become the fee collections estimate. The FY 2014 estimates include assumptions of payment behavior changes in advance of an adjusted fee schedule and estimates of elasticity (a measurement of how sensitive patentees are to fee amounts or changes).

Considering the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, including the effects of adjusting the patent fee schedule, and developing workload and fee collection estimates from assumptions of these elements, the USPTO prepares a high-to-low range of fee collection estimates. A range estimate facilitates operational flexibilities necessary to efficiently manage within an acceptable level of uncertainty.

Patent Fee Collections

Patent fees cover patent related services and products occurring at different intervals within the patent application examination process and over the life of the pending patent application and granted patent. FY 2014 estimated patent fee collections include amounts expected to be received for applications filed in FY 2014, as well as work processed in FY 2014 (e.g., issues), examination and process requests for the year, and post-issuance decisions to maintain patent protection. More than half of all patent fee collections are from issue and maintenance fees. Changes in application filing levels have an immediate impact on current year fee collections because fewer patent application filings mean fewer fees collected in the current year that are devoted to production-related costs, such as new examining staff and overtime. The resulting reduction in production activities, in turn, creates an out year impact because less production output in one year results in fewer issue and maintenance fee payments in future years.

Patent fee collections are estimated to be between \$2,609 and \$2,962 million for FY 2014 excluding \$23 million in other income. These projections are based on assumptions that patent filings will increase between 2 and 6 percent, issues will reflect strengthened examination capacity and efficiencies, and patent maintenance fee payments will continue to be strong.

Trademark Fee Collections

Trademark fees are paid in advance of actions taken by the USPTO. Estimated trademark fee collections include amounts expected to be paid for applications filed each year, as well as affidavit and renewal fees paid on registrations being renewed at ten-year intervals. Collection estimates also reflect fee reductions expected to be implemented through rulemaking during FY 2014. More than half of all fees collected for Trademark related services and products are from trademark filings, which are correlated to the strength of the economy and individual businesses.

Trademark fee collections are estimated to be between \$248 and \$281 million for FY 2014 excluding \$6 million in other income, based on the economic outlook and the expectations of the growth of trademark application filings that can vary depending on the forecast scenario.

Fee Rate Assumptions

During FY 2013, the USPTO adjusted the patent fee structure by regulation to better align fees with the cost of providing services using the fee setting authority provided in the AIA. Most fees in the improved patent fee schedule designed to provide the USPTO with sufficient financial resources to facilitate the effective administration of the U.S. IP system, and developed with a rigorous and transparent review process, went into effect in March 2013. The remaining fees will become effective in January 2014. The improved fee schedule includes a 75 percent discount to fees for filing, searching, examining, issuing, appealing, and maintaining patent applications for entities meeting the micro-entity definition provided for in the AIA and will continue the 50 percent discount to the fees for entities meeting the small entity definition.

For Trademarks, the FY 2014 fee collection estimates are based on the current fee schedule adjusted by changes that will be proposed via a Federal Register notice of proposed rulemaking in the near future. While the details have not been finalized, the estimated fee collections have been adjusted to reflect the anticipated changes beginning in FY 2014.

Continued Assessment of Estimates

The USPTO monitors the economic environment carefully by following economic indicators and trends in international IP offices, and holding discussions with domestic filers of patent and trademark applications, as well as with the PPAC and the TPAC. The USPTO analyzes workloads and fees collected on a continual basis to assess current and future year estimates and identify trends and behaviors.

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The USPTO Information Technology Portfolio

As a production-oriented entity, information technology (IT) is a mission-critical enabler for every USPTO business function. The quality, efficiency and productivity of patent and trademark operations are directly correlated to the performance of its IT systems, which are in need of modernization. To accomplish its performance-based strategies, the USPTO continuously engages in multi-year efforts to upgrade its business systems, and the IT infrastructure supporting those systems.

The USPTO has produced an overview of its Information Technology Plan, which contains additional information for the initiatives and systems described below. The overview can be found at http://www.uspto.gov/about/offices/cio/ITP_Overview.pdf.

The IT Portfolio Budget

The USPTO requires \$524.4 million in FY 2014 for its IT portfolio, which will address the following priorities in support of the Office's four programs: Patents; Trademarks; IP Policy, Protection and Enforcement (IP PP&E); and Management (including IT infrastructure and IT support services). This represents a five percent increase over FY 2013.

There is no such thing as an 'IT' project. There are only business projects with an IT component.

*June Drewry, CIO of
Chubb Corp.*

Operations and Maintenance (O&M) funds are required to sustain the current level of functionality, performance and in accordance with Federal laws, regulations, and directives. Funds in this category are used for compensation for all Office of the Chief Information Officer (OCIO) and all Office of the Chief Financial Officer/Financial Management Systems (OCFO/OFMS) government employees, contractor services, hardware maintenance and routine service agreements, software license renewal and purchase, telecommunications, and IT support for the nationwide workforce program, in addition to compensation for other USPTO staff who have a technology focus.

IT Project Funds. The USPTO Capital Improvement Funds (CIF) were created in 2008 to recognize that future success for the USPTO core mission depends upon a transparent and consistent level of funding for IT improvements from year to year. CIF resources are administered in accordance with USPTO's Capital Planning and Investment Control (CPIC) process. The USPTO manages these resources to ensure a consistent level of funding for IT capital improvements from year-to-year as projects are initiated and completed, new projects are approved, and as adjustments are warranted by other factors, such as staffing levels. The CIF consists of the following three components:

- Business Project funds for development and enhancement projects for the IT components of business improvement projects.
- Enterprise Infrastructure Project funds to maintain the USPTO's IT infrastructure at a level that will support the USPTO's 21st century strategic objectives.
- Capital Hardware Replacement Program (CHIRP) funds to replace IT equipment on a regular cycle in order to keep operations and maintenance costs stable and low, to take advantage of vendor releases for new Commercial Off-The-Shelf (COTS) products, and to manage capital hardware-replacement projects that will improve business capabilities.

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New Hires & Telework Equipment includes the funds required to purchase new end-user equipment for new hires (e.g., universal laptops, monitors, printers, etc.), and new teleworker equipment, such as docking stations, monitors, printers, routers, etc.

Total USPTO IT Portfolio by Program

The following table shows how the IT funds are allocated by investor in FY 2012 through FY 2018.

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Patent Information Resources (IR)	104,237	111,972	98,904	102,241	101,632	102,176	102,926
Trademark IR	33,966	48,262	55,362	50,795	43,185	31,799	23,860
IP PP&E IR	297	716	412	406	418	429	422
Management IR	32,451	44,052	47,479	39,671	41,016	41,880	42,657
Management - IT Infrastructure and IT Support Services	220,537	273,827	322,277	332,173	337,980	342,629	347,115
TOTAL	391,488	478,830	524,434	525,286	524,231	518,913	516,980

PATENT PROGRAM

A key objective in the USPTO Strategic Plan is to modernize IT systems by developing and implementing the Patent End-to-End (PE2E) IT capability. The Patent organization proposes to transition the patent application process to one in which the majority of applications are submitted, handled, and prosecuted electronically. The IT architecture and systems currently in place are inadequate and unable to evolve to meet the demands of the future. Further, databases containing patent data are some of the world's largest, and continue to grow at multiple terabytes per year. Continued dependency on inefficient and outdated automation will lead to an inability to support the USPTO mission of granting IP rights and disseminating information contained in those patents.

Results of the PE2E effort will be redesigned, re-architected and/or replaced legacy patent IT systems in order to provide end-to-end electronic patent processing, which will reduce the current need for Patent employees or contractors to perform labor-intensive and manual business processes.

The following three strategies are central to PE2E:

- 1) Convert existing images of patent data into "intelligent" text (i.e., eXtensible Markup Language -- XML);
- 2) Deploy new scalable technologies to support text-based systems for use by Patent employees and contractors.
- 3) Enhance current systems to provide XML versions of key patent case documents, specifications, and abstracts in preparation for future use by new capabilities while benefiting the users of the current systems.

In 2011, the USPTO introduced and deployed industry-leading technologies that offer the following benefits to Patent employees:

- Scalable infrastructure that will meet the needs of a growing, geographically dispersed Patent Examining Corps;
- Stable technology that will minimize service outages;
- Well-supported tools that provide large support communities; and
- New technologies supporting text based (XML) functionality.

In FY 2012, the USPTO's PE2E development continued to provide releases of new functionality to its designated pilot audiences. Additionally, the Patent Business was able to deploy text based XML versions of key patent case documents to the entire Patent Examining Corps.

In FY 2013, the USPTO will incrementally expand the user base of PE2E capability and functionality to include successively larger segments of the Patent Examining Corps. In addition, the Patent Business will deploy initial capability to harmonize patent classification with other major international offices.

In FY 2014 the Patent Business will continue to expand upon these capabilities, however, at a lesser rate of investment. The efforts launched in FY 2014 will begin to:

- Expand upon initial end-to-end processing capability;
- Expand the amount and use of intelligent data, and
- Retire specific legacy systems.

The Patent organization currently relies on over 40 legacy systems that support nearly every aspect of patent business operations. These applications are grouped into patent capture and processing systems that focus on initial processing and examination support, and patent search systems that focus on primary search and retrieval as well as specialized search and retrieval.

The Patent Trial and Appeal Board (PTAB) is a business unit within the USPTO that decides appeals, conducts trials, and decides some petitions in patent-related cases. The AIA calls for many changes for the USPTO. The PTAB is implementing new COTS case management software to handle the four new trial proceedings called for by the AIA, and the appeal process. There are two releases of the Patent Review Processing System (PRPS) that will increase operational capability: one deployment, which occurred in September 2012, and another deployment which occurred in March 2013. Enhanced capabilities and integration with other office automated information systems are planned for FY 2014.

Patent Dissemination: Dissemination systems, most of which are accessible via the public web site (www.uspto.gov) are used to disseminate data about patents, such as patent grants, published patent applications, PTAB decisions, and patent classification information. The USPTO also provides Google with existing bulk electronic files, which Google hosts using their infrastructure and offers their search capabilities to the public free-of-charge.

TRADEMARK PROGRAM

This Budget supports the acceleration of the Trademark Next Generation (TMNG) portfolio in the FY 2013 and 2014 time period, with a focus on delivering systems to meet the business needs expressed in the Trademark Business Architecture and providing externally-facing systems for use by Trademark stakeholders and customers. The TMNG effort has two major components: platform services and technical/functional services. Platform changes address system availability and flexibility through separation and virtualization, cloud computing, and infrastructure enhancements.

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Users have benefitted from a more uniform presentation of data along with updated status information since the release the Trademark Status and Data Retrieval (TSDR) system. TSDR is the primary way that the USPTO communicates with applicants on the processing and examination of their application – the first system to operate in a virtual environment. Improvements have been made to expand document formats and incorporate international standards for data dissemination. Platform changes are already underway for several systems – all of which are expected to be completed in FY 2013 with the exception of a legacy system known as the Trademark Reporting and Monitoring (TRAM) system.

Technical/functional services provide the integrated, end-to-end IT systems that meet the Trademark business needs and the externally-facing systems that Trademark customers and stakeholders need. Business functionality addresses access and ease of use through a common user interface, web and business services, data access, and program enhancements. As an example, changes to TSDR have incorporated Trademark Trial and Appeal Board (TTAB) and assignment information providing centralized access to trademark information.

Development of the integrated Trademark and TTAB business systems, using a Business Architecture (BA) approach, are based on trademark priorities that focus on leveraging case management COTS product, developing web and business services and improving systems that support the core business examination functions in FY 2013 and FY 2014 with the completion of end-to-end processing and replacement of internal systems by FY 2017.

Combined with the deployment of new systems that enhance access for external TM customers and stakeholders, these operational gains will strengthen the IP system, allow for a broader public base to apply for and register trademarks and continue to invest and reap the benefits of strong brands, thus benefiting the American consumers and sustaining economic activities.

In FY 2014, the USPTO plans to continue:

- Migration from TRAM to Trademarks Records Management;
- Deployment of User Interface solution for TMNG system;
- Development of Web and Business Services for TMNG systems; and
- Development of new web-based application filing systems for TM customers and stakeholders

The Trademark organization currently relies on 27 existing legacy systems that support all areas of Trademark business operations. These “legacy” systems are categorized under six different groupings that focus on e-government, internal operations, records management, trademark search, trademark reference, and other operational aspects.

Trademark Dissemination systems, most of which are accessible via www.uspto.gov, are used to disseminate data about trademarks, such as trademark applications and registered marks, decisions of the TTAB, and trademark assignment data. In addition, the USPTO agreement with Google makes the electronic trademark public data available on-line to the public.

IP POLICY, PROTECTION AND ENFORCEMENT PROGRAM

The Office of Policy and International Affairs (OPIA) is responsible for IP policy, protection and enforcement and relies on the Office of Legislative and International Affairs Document Management System, which contains files for over 200 separate countries, legislative files, subject files, Federal Register notices, public hearings and comments, and treaties and agreements. This system is fully text searchable and also provides the capability to distribute documents via the USPTO Intranet, USPTO web site and on a CD-ROM.

MANAGEMENT PROGRAM

The five management offices are the Office of the Under Secretary and Director, Office of General Counsel (OGC), Office of the Chief Financial Officer (OCFO), Office of the Chief Administrative Officer (OCAO), and Office of Equal Employment Opportunity and Diversity (OEE&D). There are two priorities for the Management Program:

- The Fee Processing Next Generation (FPNG) capability will enable USPTO's customers to: (1) move from ordering goods and services through PE2E and TMNG to paying for their order using FPNG, (2) make and manage payments online, (3) receive notifications when fees are due or when refunds have been issued, (4) electronically request refunds, and (5) tailor their on-line notifications and queries to receive financial information to which they are authorized.
- The *Human Resources Management System* (HRMS) solution is being procured through an OPM-approved Shared Service Center (SSC), which is managed by the U.S. Department of Treasury's HR Connect solution via the Department of Commerce. Shared service centers incorporate existing federal human resource practices and use leading business practices to enhance human resources services. By sharing the fixed costs of participating agencies across the federal government, the USPTO will realize cost savings, and increased efficiency.

Additional existing automated information systems support other functions within the Management Program.

IT Infrastructure Portfolio

As a production-oriented entity, the USPTO relies heavily upon a sophisticated IT infrastructure. In FY 2012, the USPTO completed a major five-year infrastructure transformation effort (i.e., the Transformation Roadmap), which addressed two key infrastructure problems:

- Many systems and servers past end-of-life and no longer under warranty or supported by the vendor, and
- A 20th century infrastructure that was insufficient to support the needs of USPTO's 21st century modernization efforts (including PE2E, TMNG, FPNG, and Universal Laptop).

The USPTO is building on the completion of this five-year investment to improve its IT infrastructure by continuing with regular improvement and modernization projects, including:

- Replacing the aging servers and other IT infrastructure with expandable, reliable, secure technologies;
- Leveraging data centers and storage capabilities;
- Enhancing the data and telecommunications network;
- Expanding Business Continuity and Disaster Recovery (BC/DR) capability; and
- Improving cyber-security.

Program Changes

Specific IT program changes can be found in the Program Change narrative for the Information Resources (IR) Sub-Programs found in each of the four Program sections, plus the IT Infrastructure and Support Services Sub-Program found in the Management Program. The following table shows the total program change amounts for FY 2014 and the out years for each of these sub-programs.

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	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Patent IR	(16,638)	(15,076)	(17,533)	(18,730)	(19,840)
Trademark IR	4,961	(373)	(8,762)	(20,941)	(29,683)
IP PP&E IR	(317)	(334)	(336)	(337)	(357)
Management IR	2,105	(6,447)	(5,857)	(5,762)	(5,766)
Management - IT Infrastructure and IT Support Services	35,195	40,719	42,084	42,222	42,124
TOTAL	25,306	18,489	9,596	(3,548)	(13,523)

Details about the above program changes can be found as follows:

- Patent Program, Sub-Program #3 – Patent Information Resources
- Trademark Program, Sub-Program #3 – Trademark Information Resources
- IP PP&E Program, Sub-Program #5 – IP PP&E Information Resources
- Management Program, Sub-Program #5 – Management Information Resources
- Management Program, Sub-Program #6 – IT Infrastructure and IT Support Services

FY 2014 Annual Performance Plan and Exhibits 3A

The USPTO is a user fee-funded, performance based organization. The annual budget justification relies heavily on the goals, objectives, initiatives and performance results documented in the *USPTO 2010-2015 Strategic Plan*. As a result, the entire annual budget essentially serves as the USPTO's Annual Performance Plan (APP).

The purpose of this section is to point the reader to the components of an APP that, for the USPTO, are located throughout this Budget document.

Agency Information -- An overview of the USPTO is included in Exhibit 3, the Executive Summary, which includes a discussion of the Agency's opportunities and problems. Organizational information is included in Exhibit 2 (pages 5 and 6).

Cross-Agency Priority Goals -- The USPTO is not a leader of or a participant in any Cross-Agency Priority Goals.

Corresponding Department of Commerce Strategic Themes and Goals, and USPTO Strategic Objectives -- This information is contained on pages 17 through 20. In addition, strategies and major management challenges are identified in the Executive Summary under Program Plans and Accomplishments, as well as in each Program section of the Budget.

The USPTO's strategic goals also address the following Department of Commerce – Office of the Inspector General – Management Challenges:

#1 – Effectively promote exports, stimulate economic growth, and create jobs. The USPTO's efforts to reduce the patent backlog, improve processing times, and implement patent reform are addressed in the Program Plans and Accomplishments section of the Executive Summary, and the Patent Program Section of this Budget.

The USPTO also works with the business community and other government agencies to secure improved international protection of IP rights, including the use of bilateral relationships to encourage improvements in the laws and policies of other countries as well as in the implementation of effective enforcement regimes; and to strengthen multilateral arrangements regarding IP rights. The USPTO also leverages its relationships in international fora to strengthen international IP systems and protection to create efficiencies in the patent and trademark areas. Further details are included in the IP PP&E Program section of this Budget.

#2 – Reduce costs and improve operations to optimize resources for a decade of constrained budgets. The USPTO's efforts in addressing this challenge are included in the Cost Containment section of the Executive Summary.

#3 – Strengthen Department-wide information security to protect critical information systems and data. The USPTO's commitment to improving cyber-security is incorporated in its IT Infrastructure Portfolio (refer to page 31).

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#4 – Manage acquisition and contract operations more effectively to obtain quality goods and services in a manner most beneficial to taxpayers – The USPTO addresses this challenge through its strategic objective to improve employee and stakeholder relations, and its commitment to the Administrative Efficiency Initiative (see Cost Containment section in the Executive Summary).

Performance Goals (Exhibits 3A) -- These can be found on pages 39 through 50. The Department's FY 2012 Performance and Accountability Report includes in the Secretary's statement an assessment of the reliability and completeness of the Department's performance data.

Resource Requirements Table -- Refer to the USPTO FY 2014 Budget and Performance-at-a-Glance on pages 15 and 16.

Agency Priority Goal -- The Agency Priority Goal is discussed in the Patent Program section beginning on page 65 in conjunction with the discussion of the USPTO's strategic goal to optimize patent quality and timeliness.

Other Information -- The USPTO has published the *FY 2011-2015 Human Capital Plan* which includes an objective to: Improve the performance management and reward system to strengthen and clarify performance expectations aligning with organizational goals, and ensure more results oriented measures are incorporated into Senior Executive Service (SES) performance plans.

In FY 2012, USPTO received Office of Personnel Management (OPM) approval for its Performance Management System, which allows USPTO to use a separate process from the DOC. This approval is recognition by OPM that the USPTO performance system successfully achieves organizational goals and objectives through its results-oriented performance culture. In FY 2013, the USPTO will be implementing the new Government-wide SES performance management system. USPTO plans to participate in the Performance Appraisal Assessment Tool (PAAT) in FY 2014.

Exhibit 13

Objective 1: REDUCE THE TIME TO FIRST OFFICE ACTION ON THE MERITS TO 10 MONTHS FOR PATENT APPLICATIONS BY 2016								
Measure: Patent First Action Pendency (months)			<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Actual</u>	<u>FY 2013 Target</u>	<u>FY 2014 Target</u>
			25.8	25.7	28.0	21.9	18.0	15.8
Description: This measure indicates the average time from the UPR application filing date to the date of mailing the First Office action. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent organization’s processing time.								
Comments on Changes to Targets: Reducing patent pendency and backlog is an Agency Priority Goal. Action and the resources provided by the FY 2014 Budget are crucial to address the current challenges at the USPTO.								
<u>Relevant Program Change(s):</u>	<u>Title:</u>						<u>Exhibit 13 Page No.</u>	
	Sub-Program #1: Patent Examining						73	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Patent Application Location Monitoring (PALM) system	Daily input, monthly reporting	PALM, automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.				None	None

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Objective 2: REDUCE THE TOTAL PENDENCY TIME TO 20 MONTHS FOR PATENT APPLICATIONS BY 2017								
Measure: Patent Total Pendency (months)			FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	F 2014 Target
			34.6	35.3	33.7	32.4	30.1	26.1
Description: Patent total pendency is the average time in months for a complete review of a UPR patent application, from the filing date to issue or abandonment of the application. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent organization's processing time.								
Comments on Changes to Targets: Reducing patent pendency and backlog is an Agency Priority Goal. Action and the resources provided by the FY 2014 Budget are crucial to address the current challenges at the USPTO.								
Relevant Program Change(s):	Title:						Exhibit 13 Page No.	
	Sub-Program #1: Patent Examining						73	
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures				Data Limitations	Actions To Be Taken
PALM system	Daily input, monthly reporting	PALM, automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.				None	None

Objective 3: MEASURE AND IMPROVE PATENT QUALITY						
Measure: Patent Quality Composite Rate	<u>FY 2009</u> <u>Actual</u>	<u>FY 2010</u> <u>Actual</u>	<u>FY 2011</u> <u>Actual</u>	<u>FY 2012</u> <u>Actual</u>	<u>FY 2013</u> <u>Target</u>	<u>FY 2014</u> <u>Target</u>
	N/A	N/A	30.7	72.4	65-73	83-91
<i>Item 1: Final Disposition Compliance Rate (Percent)</i>	94.4	96.3	95.4	96.6	95.6--96.7	95.6—97.0
<i>Item 2: In-Process Compliance Rate (Percent)</i>	93.6	94.9	95.2	95.9	94.6--96.3	94.6—97.0
<i>Item 3: Pre FAOM Search Review</i>	N/A	N/A	94.6	97.2	94.6—95.8	94.6—96.4
<i>Item 4: Complete FAOM Search Review (Percent)</i>	N/A	N/A	90.9	91.2	90.9—93.0	90.9—94.0
<i>Item 5: Quality Index Report (Percent)</i>	N/A	N/A	89.5	89.8	88.3—92.4	88.3—94.0
<i>Item 6: External Quality Survey (Response Ratio – Positive to Negative)</i>	N/A	N/A	3.0:1	5.2	3.1—4.6:1	3.1—5.1
<i>Item 7: Internal Quality Survey (Response Ratio – Positive to Negative)</i>	N/A	N/A	4.3:1	9.4	4.3—5.2:1	4.3—5.6:1
Description: These metrics are measures of the propriety of the final disposition of individual applications, i.e., allowance or final rejection; the propriety of the actions taken during the course of examination in individual applications, i.e., first and subsequent actions on the merits by examiners; the degree to which the initial search performed by the examiner and the FAOM conforms with the best practices of the USPTO; the degree to which patent examiner behaviors in the prosecution of all patent applications reveals trends indicative of quality concerns; the degree to which the experience of examiners reveals trends and issues indicative of quality concerns. The overall Quality Composite is a weighted combination of these seven components.						
Comments on Changes to Targets: Action and the resources provided by the FY 2014 Budget are crucial to address the current challenges at the USPTO.						
Relevant Program	<u>Title:</u>				<u>Exhibit 13 Page No.</u>	
<u>Change(s):</u>	Sub-Program #1: Patent Examining				73	
<u>Validation and Verification</u>						
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>		<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Office of Patent Quality Assurance (OPQA) Database System, PALM and Quality Index Report database and Collected Surveys	Daily input, semi-annual, and quarterly reporting	OPQA database, automated systems, reports	The statistician runs quality control checks in which certain dependent data fields are checked against each other; and data validation and audits per contract specifications		Since the measure is based on a sample, there is sampling error associated with the metric.	None

* Along with the PPAC, the USPTO has engaged its stakeholders in roundtables in order to establish new metrics

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Objective 4: DEVELOP AND IMPLEMENT THE PATENT END-TO-END PROCESSING SYSTEM								
Measure: Patent Applications Filed Electronically (Percent)			<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Actual</u>	<u>FY 2013 Target</u>	<u>FY 2014 Target</u>
			82.4	89.5	93.1	97.0	98.0	98.0
Description: The measure indicates USPTO’s support of and applicants’ willingness to operate in an e-government environment and identifies the percent of patent applications filed electronically.								
Comments on Changes to Targets: The USPTO expects to meet or exceed annual targets as improvements to workflow and patents systems are finalized.								
Relevant Program Change(s):	<u>Title:</u>						<u>Exhibit 13 Page No.</u>	
	Sub-Program #3: Patent Information Resources						80	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
PALM	Daily input, monthly reporting	PALM, automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.				None	None

Objective 5: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5 – 3.5 MONTHS								
Measure: Trademark Average First Action Pendency (months)			FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
			2.7	3.0	3.1	3.2	2.5 – 3.5	2.5 – 3.5
Description: This measure reflects the timeliness of the first office action as measured from the date of application filing (or notification date for 66(a) filings) to the first office action in months.								
Comments on Changes to Targets: Trademark applicants have requested first action pendency within 2.5 to 3.5 months as optimal for meeting their needs.								
Relevant Program Change(s):	Title:						Exhibit 13 Page No.	
	Sub-Program #1: Trademark Examining						97	
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures				Data Limitations	Actions To Be Taken
TRAM database	Daily input, monthly reporting	TRAM automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark management, supervisors, and program management analysts.				None	None

FY 2014 President's Budget

Objective 6: MAINTAIN TRADEMARK FINAL PENDENCY ON AVERAGE AT 12.0 MONTHS OR LESS								
Measure: Trademark Average Total Pendency (months)			FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
			11.2	10.5	10.5	10.2	12.0	12.0
Description: This measure reflects the timeliness of the disposal of a trademark application. It is measured from the date of filing to date of registration, abandonment or issuance of a notice of allowance, excluding applications that are suspended, awaiting further action, or involved in <i>inter partes</i> proceedings.								
Comments on Changes to Targets: Trademark applicants have requested 12.0 months or less total pendency as optimal for meeting their needs.								
Relevant Program Change(s):	Title:						Exhibit 13 Page No.	
	Sub-Program #1: Trademark Examining						97	
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures				Data Limitations	Actions To Be Taken
TRAM database	Daily input, monthly reporting	TRAM automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark management, supervisors, and program management analysts.				None	None

Objective 7: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY								
Measure: Trademark First Action Compliance Rate (Percent)			FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
			96.4	96.6	96.5	96.2	95.5	95.5
Description: This measure is the percentage of applications reviewed meeting the criteria for decision making conducted on random sample of applications including first office actions to determine the soundness of decision-making under the Trademark Act.								
Comments on Changes to Targets: Trademark’s management has decided that 95.5 percent first action compliance is an optimal level to operate. A new more rigorous measure of quality has been introduced to expand the criteria for evaluating quality of the examiner’s decision and writing.								
Relevant Program Change(s):		Title:					Exhibit 13 Page No.	
		Sub-Program #1: Trademark Examining					97	
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures				Data Limitations	Actions To Be Taken
Office of Trademark Quality Review and Training (OTQRT) Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.				None	None

FY 2014 President's Budget

Objective 8: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY								
Measure: Trademark Final Compliance Rate (Percent)			<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY2012 Actual</u>	<u>FY 2013 Target</u>	<u>FY 2014 Target</u>
			97.6	96.8	97.0	97.1	97.0	97.0
Description: This measure is the percentage of evaluations meeting the criteria for decision making conducted on a random sample of applications that received a final decision regarding registrability under the Trademark Act either by approval or final refusal.								
Comments on Changes to Targets: Trademark’s management has decided that 97.0 percent final action compliance is an optimal level to operate. A new more rigorous measure of quality has been introduced to expand the criteria for evaluating quality of the examiner’s decision and writing.								
<u>Relevant Program Change(s):</u>	<u>Title:</u>						<u>Exhibit 13 Page No.</u>	
	Sub-Program #1: Trademark Examining						97	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
OTQRT Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.				None	None

Objective 9: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY								
Measure: Trademark Exceptional Office Action (Percent)			<u>FY 2009</u> <u>Actual</u>	<u>FY 2010</u> <u>Actual</u>	<u>FY 2011</u> <u>Actual</u>	<u>FY2012</u> <u>Actual</u>	<u>FY 2013</u> <u>Target</u>	<u>FY 2014</u> <u>Target</u>
			N/A	N/A	23.6%	26.1%	23%	24%
Description: This measure is the percentage of evaluations exceeding the statutory requirement decision making conducted on a random sample of applications that received a first office action regarding registrability under the Trademark Act.								
Comments on Changes to Targets: Trademark’s management has decided that 23 percent is an optimal level considering the impact of new hires in the examining corps. This is a new more rigorous measure of quality to expand the criteria for evaluating quality of the examiner’s decision making, search strategy and writing.								
<u>Relevant Program Change(s):</u>	<u>Title:</u>						<u>Exhibit 13 Page No.</u>	
	Sub-Program #1: Trademark Examining						97	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
OTQRT Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.				None	None

FY 2014 President's Budget

Objective 10: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5 – 3.5 MONTHS AND FINAL PENDENCY ON AVERAGE AT 12.0 MONTHS OR LESS								
Measure: Trademark Applications Processed Electronically (Percent)			FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2014 Target
			62.0	68.1	73.0	77.0	76.0	78.0
Description: This measure tracks the percentage of trademark applications disposed that were received, processed, and examined using electronic communications, records and systems. The results demonstrate the extent that filing, workflow, processing and communications can be and are handled without paper or manual processes.								
Comments on Changes to Targets: Trademark’s management considered filing types and trends in the development, modernization, adoption, and usage of electronic processes and forms to set the target at 78 percent.								
Relevant Program Change(s):	Title:						Exhibit 13 Page No.	
	Sub-Program #3: Trademark Information Resources						99	
Validation and Verification								
Data Source	Frequency	Data Storage	Internal Control Procedures				Data Limitations	Actions To Be Taken
TRAM system	Daily input, monthly reporting	TRAM	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.				None	None

Objective 11: PROVIDE LEADERSHIP ON INTERNATIONAL POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF IP RIGHTS								
Measure: Percentage of prioritized countries for which country teams have implemented at least 75 percent of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing IPR 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms			<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Actual</u>	<u>FY 2013 Target</u>	<u>FY 2014 Target</u>
			N/A	75.0	100.0	75.0	75.0	75.0
Description: Tracks the USPTO's efforts in relation to prioritizing countries of interest for purposes of improved IP protection and enforcement, capacity building, legislative reform, including creation of country/region strategic plans and specific action plans.								
Comments on Changes to Targets:								
<u>Relevant Program Change(s):</u>	<u>Title:</u>						<u>Exhibit 13 Page No.</u>	
	Sub-Program #1: Policy and Administrative Support						115	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Policy and External Affairs' reports and databases	Monthly input and reporting	Reports	Manual reports and analysis.				None	None

FY 2014 President's Budget

Objective 12: PROVIDE LEADERSHIP ON INTERNATIONAL POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF IP RIGHTS								
Measure: Percent of foreign officials trained who have initiated or implemented a positive change in the IP systems in their organization and/or countries.			<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Actual</u>	<u>FY 2013 Target</u>	<u>FY 2014 Target</u>
			N/A	N/A	79.0	69.3	75.0	75.0
Description: The Global Intellectual Property Academy (GIPA) offers training programs on protection, utilization and enforcement of IP rights, patents, trademarks, and copyrights. It is through the GIPA training programs that the USPTO is instrumental in achieving its objectives of advancing IP right policies and halting IP theft. The USPTO is developing survey tools to evaluate the effectiveness and impact of these training programs. These evaluation and measurement survey tools provide methodologically rigorous data collection and analyses in place of more subjective, ad hoc, non-standardized anecdotal materials. The survey questions are approved by the Office of Management and Budget (OMB). The tools will include pre-program, post-program and alumni surveys. The use of the three surveys will allow the USPTO to collect data spanning the life of the GIPA training cycle.								
Comments on Changes to Targets:								
<u>Relevant Program Change(s):</u>	<u>Title:</u>						<u>Exhibit 13 Page No.</u>	
	Sub-Program #3: Global Intellectual Property Academy (GIPA)						107	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Three GIPA Surveys (pre, post and alumni)	At beginning, end and one year after each training program	Survey Tool and data stored with the Federal Consulting Group (FCG)	Surveys will be administered by an independent contractor, along with data analysis on the survey results. OMB has approved the survey questions.				None	None

TOTAL BUDGET AND FINANCING

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Exhibit 5 – Summary of Resource Requirements

SUMMARY OF RESOURCE REQUIREMENTS
(Dollar amounts in thousands)

	Positions	FTE	Total Obligations
FY 2013 Current Plan	12,734	12,018	2,792,236
FY 2014 Adjustments to base:	0	627	158,898
FY 2014 Base	12,734	12,645	2,951,134
Administrative Savings 1)			(34,034)
Administrative Savings [amount reinvested]			34,034
plus: 2014 Program changes	18	21	85,220
FY 2014 Estimate	12,752	12,667	3,036,354

		FY 2012 Actual		FY 2013 Current Plan		FY 2014 Base		FY 2014 Estimate		Increase/(Decrease over 2014 Base	
Comparison by activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	10,530	2,112,770	11,583	2,485,103	11,583	2,629,015	11,557	2,697,358	(26)	68,342
	FTE	9,519		10,950		11,516		11,508		(8)	
Trademarks	Pos./Obl.	852	216,895	947	239,860	947	250,699	985	265,370	38	14,671
	FTE	823		894		932		957		25	
IP Policy Protection and Enforcement	Pos./Obl.	149	45,089	204	67,272	204	71,420	210	73,626	6	2,207
	FTE	127		174		197		201		4	
Total Obligations	Pos./Obl.	11,531	2,374,754	12,734	2,792,236	12,734	2,951,134	12,752	3,036,354	18	85,220
	FTE	10,469		12,018		12,645		12,667		21	
Adjustments for:											
Offsetting Fee Collections			(2,406,826)		(2,745,873)		(3,071,375)		(3,071,375)		0
Other Income / Recoveries			(29,096)		(29,000)		(29,000)		(29,000)		0
Operating Reserve, start of year			(177,705)		(237,872)		(219,509)		(219,509)		0
Operating Reserve, end of year			237,872		219,509		366,750		281,530		(85,220)
Total Budget Authority			(1,000)		(1,000)		(2,000)		(2,000)		0
Financing from transfers / other:											
Amounts Unavailable for Spending			0		0						
Transfer to other accounts (+)			1,000		1,000		2,000		2,000		
Total Net Appropriation			0		0		0		0		0

1) Building on USPTO's administrative savings in FY 2012 (\$31.2 million) and planned in FY 2013 (\$32.4 million), FY 2014 savings are targeted to be \$34.0 million.

FY 2014 President's Budget

Department of Commerce U.S. Patent and Trademark Office

SUMMARY OF RESOURCE REQUIREMENTS (Dollar amounts in thousands)

Comparison by activity:		2014 Estimate		2015 Estimate		2016 Estimate		2017 Estimate		2018 Estimate	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	11,557	2,697,358	11,404	2,774,753	11,257	2,833,068	11,043	2,802,973	10,819	2,883,343
	FTE	11,508		11,414		11,265		11,083		10,863	
Trademarks	Pos./Obl.	985	265,370	1,021	266,271	1,077	267,613	1,124	264,528	1,177	265,593
	FTE	957		994		1,044		1,093		1,144	
IP Policy Protection and Enforcement	Pos./Obl.	210	73,626	211	75,018	213	76,448	213	77,672	213	78,835
	FTE	201		204		205		206		206	
Total	Pos./Obl.	12,752	3,036,354	12,636	3,116,042	12,547	3,177,129	12,380	3,145,173	12,209	3,227,771
	FTE	12,667		12,612		12,514		12,382		12,213	
Adjustments for:											
Offsetting Fee Collections			(3,071,375)		(3,144,075)		(3,221,027)		(3,222,066)		(3,506,270)
Other Income / Recoveries			(29,000)		(29,000)		(29,000)		(29,000)		(29,000)
Operating Reserve, start of year			(219,509)		(281,530)		(336,563)		(407,461)		(511,354)
Operating Reserve, end of year			<u>281,530</u>		<u>336,563</u>		<u>407,461</u>		<u>511,354</u>		<u>816,853</u>
Total Budget Authority			(2,000)		(2,000)		(2,000)		(2,000)		(2,000)
Financing from transfers / other:											
Amounts Unavailable for Spending											
Transfer to other accounts (+)			2,000		2,000		2,000		2,000		2,000
Total Net Appropriation			0		0		0		0		0

Exhibit 6 – Summary of Reimbursable Obligations

Department of Commerce
U.S. Patent and Trademark Office
SUMMARY OF REIMBURSABLE OBLIGATIONS
(Dollar amounts in thousands)

	2012 Actual		2013 Current Plan		2014 Base Program		2014 Estimate		Increase/ (Decrease)	
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Reimbursable Obligations	0	6,070	0	6,000	0	6,000	0	6,000	0	0
Total Reimbursable Obligations	0	6,070	0	6,000	0	6,000	0	6,000	0	0
Adjustments to Reimbursable Obligations:										
Other Income	-	(6,070)	-	(6,000)	-	(6,000)	-	(6,000)	-	-
Total Budget Authority	0	0	0	0	0	0	0	0	0	0
Financing from Transfers and Other:										
Net Appropriation	0	0	0	0	0	0	0	0	0	0

Exhibit 7 – Summary of Financing

Department of Commerce
U.S. Patent and Trademark Office
SUMMARY OF FINANCING
(Dollar amounts in thousands)

	FY 2012 Actual	FY 2013 Current Plan	FY 2014 Base	FY 2014 Estimate	Increase/ Decrease/ over 2014 Base
Total Direct Obligations	2,368,684	2,786,236	2,945,134	3,030,354	85,220
Reimbursable Obligations	6,070	6,000	6,000	6,000	-
Total Obligations	2,374,754	2,792,236	2,951,134	3,036,354	85,220
Offsetting collections from:					
Non-Federal sources / User Fee Collections	(2,406,826)	(2,745,873)	(3,071,375)	(3,071,375)	0
Other Income	(6,070)	(6,000)	(6,000)	(6,000)	0
Adjustments for:					
Recoveries	(23,026)	(23,000)	(23,000)	(23,000)	0
Unobligated balance, start of year	(177,705)	(237,872)	(219,509)	(219,509)	0
Unobligated balance, end of year	237,872	219,509	366,750	281,530	(85,220)
Total Budget Authority	(1,000)	(1,000)	(2,000)	(2,000)	0
Financing:					
Amounts Unavailable for Spending	0				
Transfer to other accounts (+)	1,000	1,000	2,000	2,000	
Net Appropriation	0	0	0	0	0

Exhibit 8 – Adjustments to Base

Department of Commerce
U.S. Patent and Trademark Office
ADJUSTMENTS TO BASE
(Dollar amounts in thousands)

Adjustments to Base:	<u>FTE</u>	<u>Amount</u>
2013 Pay raise		1,515
2014 Pay raise		9,504
Full-year cost in 2014 of positions financed for part-year in 2013	627	69,296
Other Compensation Adjustments		48,125
Civil Service Retirement System (CSRS)		(2,306)
Federal Employees Retirement System (FERS)		6,384
Thrift Savings Plan		659
Federal Insurance Contribution Act (FICA) - OASDI		1,804
Health insurance		2,724
Post-Retirement Benefits to OPM		5,691
Rental payments to GSA		1,634
Printing and reproduction		2,001
Working Capital Fund		822
Personal Identity Verification (PIV)		571
General Pricing Level Adjustment		10,475
		<hr/>
Total, adjustments to base	627	158,898

Exhibit 9 – Justification of Adjustments to Base

Department of Commerce
U.S. Patent and Trademark Office
JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollar amounts in thousands)

Other Changes:

Pay Raises

Full-year cost of 2013 pay increase and related costs:

The 2014 President's budget assumes a general pay raise of 0.5% to be effective March 28, 2013.

Total cost in 2014 of 2013 pay increase

Less amount funded in 2013

Amount requested in 2014 to provide full-year cost of 2013 pay increase

2014 pay increase and related costs:

A general pay raise of 1% is assumed to be effective January 1, 2014.

Total cost in 2014 of pay increase

Payment to Working Capital Fund

Total, adjustment for 2014 pay increase

FTE Amount \$000 FTE Amount \$000

1,515

6,058

(4,544)

1,515

9,504

9,504

0

9,504

Full-year cost in 2014 of positions financed for part-year in 2013

627 69,296

An increase of \$69,296k is required to fund the full-year cost in 2014 of positions financed for part-year in 2013. The computation follows:

Full-year cost of personnel compensation

Less personnel compensation included in the 2013 budget

Subtotal, personnel compensation

Adjustment for 2014 pay raise for 3/4 of year

Add'l amount required for personnel compensation

Benefits

Total adjustment-to-base

1,203 102,255

(576) (48,937)

627 53,318

400

627 53,718

0 15,578

627 69,296

Department of Commerce
U.S. Patent and Trademark Office
JUSTIFICATION OF ADJUSTMENTS TO BASE
(Dollar amounts in thousands)

Other Compensation Adjustments

48,125

This adjustment reflects the net difference between USPTO detailed Compensation Model and the prescribed formulation. As a result of increased hires, WIGI, and accelerated promotions for Patent hires, USPTO has a higher requirement than could be absorbed through the formulation process. The Compensation Model calculates on an individual basis compensation including factoring in WIGI, promotions, hires, attritions, and lapses.

Civil Service Retirement System (CSRS)

(2,306)

The number of employees covered by the Civil Service Retirement System (CSRS) continues to drop as positions become vacant and are filled by employees who are covered by the Federal Employees Retirement System (FERS). The estimated percentage of payroll for employees covered by CSRS will drop from 2.8% in 2013 to 0.2% in 2014. Contribution rates will remain at 7%.

Regular:

2014 \$1,267,209,069 x .002 x .07

177

2013 \$1,267,209,069 x .028x .07

2,484

(2,306)

Total adjustment-to-base

(2,306)

Federal Employee Retirement System (FERS)

6,384

The number of employees covered by FERS continues to rise as employees covered by CSRS leave and are replaced by employees covered by FERS. The estimated percentage of payroll for employees covered by FERS will rise from 97.2% in 2013 to 99.8% in 2014. The contribution rate for regular employees will go from 11.70% to 11.90%.

Regular:

2014 \$1,267,209,069 x .998 x .119

150,496

2013 \$1,267,209,069 x .972 x .117

144,112

6,384

Total adjustment-to-base

6,384

FY 2014 President's Budget

**Department of Commerce
U.S. Patent and Trademark Office
JUSTIFICATION OF ADJUSTMENTS TO BASE**
(Dollar amounts in thousands)

Thrift Savings Plan

659

The cost of agency contributions to the Thrift Savings Plan will also rise as FERS participation increases. The contribution rate is expected to remain 2%.

Regular:

2014 \$1,267,209,069 x .998 x .02	25,293
2013 \$1,267,209,069 x .972 x .02	24,635
	659

Total adjustment-to-base

659

Federal Insurance Contribution Act (FICA)

1,804

As the percentage of payroll covered by FERS rises, the cost of OASDI contributions will increase. In addition, the maximum salary subject to OASDI tax will increase from \$114,000 in 2013 to \$119,100 in 2014. The OASDI tax rate will remain at 6.2% in both 2013 and FY 2014.

2014 \$1,267,209,069 x .998x .8833 x .062	69,259
2013 \$1,267,209,069 x .972 x .8833 x .062	67,455
	1,804

Total adjustment-to-base

1,804

Health Insurance

2,724

Effective January 2012, this bureau's contribution to Federal employees' health insurance premiums increased by 4.64%. Applied against the 2013 estimate of \$58,700,000, the additional amount required is \$2,724k.

Post-Retirement Benefits to OPM

5,691

The USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Program (FEHB), Federal Employees Group Life Insurance and the Civil Service Retirement System (CSRS) and Federal Employees Retirement System pension liabilities. Funds for this purpose are transferred to the Office of Personnel Management. The required increase reflects the increase in retiree medical costs along with the increase in number of employees.

Rental Payments to GSA

1,634

GSA rates are projected to increase 1.7% in 2014. This percentage was applied to the 2013 estimate to arrive at an increase of \$1,634k.

**Department of Commerce
U.S. Patent and Trademark Office
JUSTIFICATION OF ADJUSTMENTS TO BASE**
(Dollar amounts in thousands)

<u>GPO / Non GPO Printing</u>		2,001
GPO has provided an estimated rate increase of 1.7%. This percentage was applied to the 2013 estimate to arrive at an increase of \$2,001k.		
<u>Working Capital Fund</u>		822
<u>Personal Identity Verification (PIV)</u>		571
"A \$XXX,XXX increase is required to fund accelerated planning, implementation, training and oversight of the Department-wide efforts to meet 75 percent PIV compliance by the end of FY 2014. This effort will be executed via the Departmental Management's Advances and Reimbursements Fund."		
<u>General Pricing Level Adjustment</u>		10,475
This request applies OMB economic assumptions for FY 2014 to object classes where the prices the government pays are established through the market system. Inflation Factors at an average of 1.7% were applied to travel, transportation of things, rental payments to others, communications, utilities and miscellaneous charges; other contractual services; supplies and materials and equipment.		
<hr/>		
Subtotal, Other Changes		
Total, Adjustments to Base	627	158,898

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PATENT PROGRAM

Exhibit 10 – Program Performance: Total Obligations

Department of Commerce
U.S. Patent and Trademark Office
PATENT PROGRAM
PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS
(Dollar amounts in thousands)

Activity:		Patent Program									
		FY 2012 Actual		FY 2013 Current Plan		FY 2014 Base		FY 2014 Estimate		Increase/ (Decrease)	
Sub-Activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patent Examining	Pos./Obl	9,481	1,526,017	10,235	1,770,516	10,235	1,880,877	10,142	1,908,775	(93)	27,898
	FTE	8,569	-	9,754	-	10,180	-	10,133	-	(47)	-
Patent Trial and Appeals	Pos./Obl	228	36,301	331	57,968	331	63,999	384	70,037	53	6,038
	FTE	199		300		331		357		26	-
Patent Information Resources	Pos./Obl	154	104,237	162	111,972	162	115,542	162	98,904	-	(16,638)
	FTE	154		162		162		162		-	-
Subtotal Direct	Pos./Obl	9,863	1,666,555	10,728	1,940,456	10,728	2,060,417	10,688	2,077,715	(40)	17,298
	FTE	8,922	0	10,216	0	10,673	0	10,652	0	(21)	0
Management Goal - Allocated	Pos./Obl	667	446,215	855	544,647	855	568,598	869	619,643	14	51,045
	FTE	597		734		843		856		13	
Total	Pos./Obl	10,530	2,112,770	11,583	2,485,103	11,583	2,629,015	11,557	2,697,358	(26)	68,342
	FTE	9,519		10,950		11,516		11,508		(8)	

Exhibit 12 – Justification of Patent Program and Performance

BUDGET PROGRAM: Patent Program

For FY 2014, the USPTO requires an increase of \$68.0 million and decrease of 8 FTE from the FY 2014 base for a total of \$2,697.4 million and 11,508 FTE for the Patent Program.

PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub-Program	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Patent Examining	\$1,526,017	\$1,770,516	\$1,908,775	\$1,970,000	\$2,007,546	\$1,962,920	\$2,029,864
Patent Trial and Appeals	\$36,301	\$57,968	\$70,037	\$79,446	\$87,604	\$92,941	\$95,383
Patent Information Resources	\$104,237	\$111,972	\$98,904	\$102,241	\$101,632	\$102,176	\$102,926
Management Goal -- Allocated	\$446,215	\$544,647	\$619,643	\$623,066	\$636,286	\$644,937	\$655,170

Patent Program Overview:

The USPTO's Patent Program is dedicated to carrying out the Agency's mission to deliver "...high quality and timely examination of patent ... applications..." in accordance with laws, regulations and practices, and consistent with the strategies and objectives in the *USPTO 2010-2015 Strategic Plan*. The Patent Program, through its strategic goal to optimize patent quality and timeliness, supports the Department's strategic objective to "facilitate intellectual property protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks."

The Patent Program also supports the Agency Priority Goal to Advance Commercialization of New Technologies by Reducing Patent Application Pendency and Backlog as follows:

By September 30, 2013, the Department will reduce patent pendency for first action and for final actions from the end of FY 2011 levels of 28.0 and 33.7 months to 16.9 months and 30.1 months, as well as the patent backlog of 670,000 applications to 529,000 applications.

The USPTO is modifying and accelerating its long-term Patent plans to recognize the progress it has made to date, revisiting FY 2013 hiring plans due to the uncertain environment and to take advantage of recent trends in terms of lower attrition and higher production. This includes reducing the total number of previously-planned new patent examiner hires in FY 2013 from 1,500 to as many as 1,000, and leveraging the nationwide workforce to facilitate hiring many

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with significant prior IP-related experience. Hiring experienced former examiners and IP professionals will allow the Patent organization to reduce the time necessary for training and realize benefits that will enable the USPTO to still achieve its performance targets of 10 months for first action pendency and 20 months for total patent pendency. This will meet stakeholder expectations and also allow the Office to begin taking actions to achieve greater effectiveness and contain costs; for example, to begin making a soft landing from the aggressive hiring efforts in FY 2011 through 2013 by gradually reducing end-of-year examiner staffing levels, while still maintaining pendency and an appropriate working inventory of applications at levels that facilitate effective and efficient operations. As a result, accomplishment of the priority goal to reduce patent first action pendency to 10 months and total pendency to 20 months will be achieved in FYs 2016 and 2017 respectively, and a three-month patent operating reserve will be fully funded by FY 2018. In turn, our patent pendency targets in FY 2013 through FY 2015 have been adjusted to correspond to this.

These goals will be met by achieving the following objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

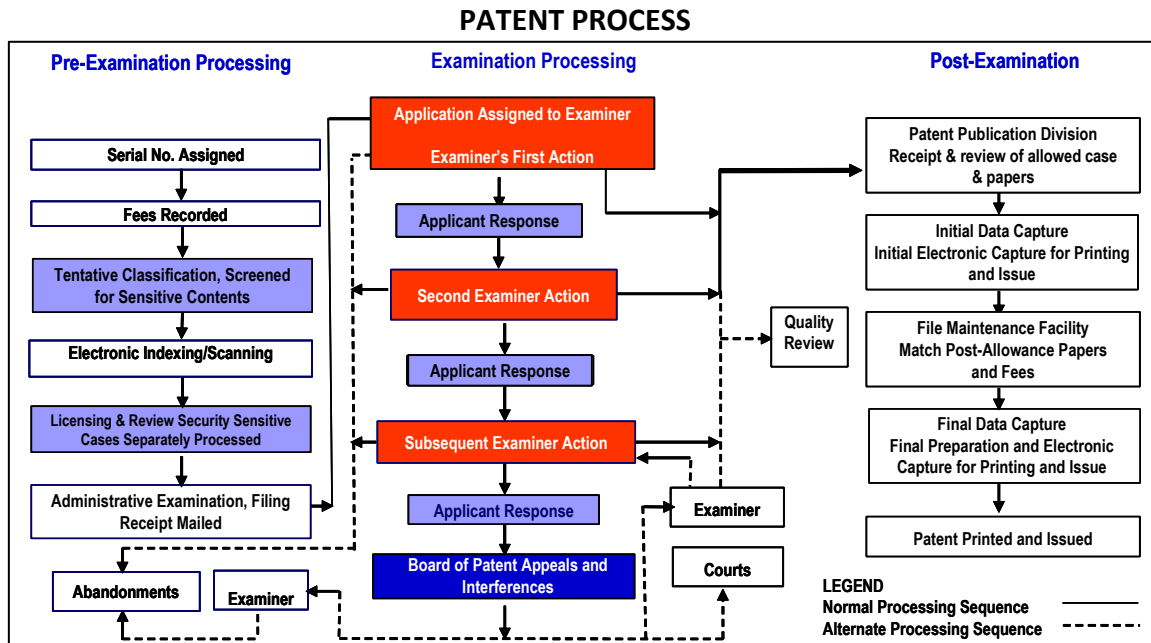
- Increase Patent Application Examination Capacity
- Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing
- Measure and Improve Patent Quality
- Improve Appeal and Post-Grant Processes
- Develop and Implement the Patent End-to-End Processing System
- Improve Employee and Stakeholder Relations

The Patent Program goals support the *Strategy for American Innovation* – an Administration initiative that recognizes innovation as the foundation of American economic growth and national competitiveness. Economic growth in advanced economies like the United States' is driven by creating new and better ways of producing goods and services, a process that triggers new and productive investments, which is the cornerstone of economic growth. The *Strategy for American Innovation* depends, in part, on the USPTO's success in reducing the excess inventory of patent applications awaiting first office action, maintaining an appropriate patent application working level inventory and pendency (the time it takes to have a patent application examined) – both of which affect the delivery of innovative goods and services to market and the related economic growth and creation of high-paying jobs.

Achieving the *Strategy for American Innovation* also depends on raising awareness about the importance of innovation and IP as reflected in the USPTO's initiative to provide domestic education outreach, knowledge enhancement and capacity building. In FY 2012, the Office established and funded an Innovation Development and Inventor Outreach Program focused on promoting innovation and technology creation in the United States. Examples of programs include support for Camp Invention for young inventors, regional conferences for independent inventors and women's entrepreneurship, and the Steve Jobs exhibit at USPTO headquarters. During FY 2013, the USPTO collaborated with the Smithsonian Institution for the use of its Arts and Industries Building to bring public awareness and focus on innovation programs. Base funds for the education outreach programs were reprioritized to focus on efforts that would reach the broadest audience, coupled with high visibility of the importance of innovation and IP to the American economy.

Base Justification:

The patent process consists of the activities shown on the following schematic and major functions, as described below, with budget estimates for sub-programs allocated according to processing functions.



Sub-Program #1: Patent Examining (\$1,880.9 million and 10,177 FTE)

Patent Pre-Examination Processing - \$133.8 million and 161 FTE

When a patent application is received at the USPTO, the Office conducts an administrative review to determine compliance with requirements for form, content, adequacy, and payment of appropriate fees. Currently, approximately 97 percent of patent applications are filed electronically. If the application is filed in paper form, it is converted to an electronic image, and from this point forward, the application is managed electronically, including assignment of the official filing date and patent application tracking number, and inputting the patent bibliographic data (e.g., filing date, priority date, abstract) in the PALM system.

Most applications are subject to the pre-grant publication process, whereby the patent application is published 18 months after the earliest effective filing date, as is the norm in most patent examining countries. Where an applicant certifies that he/she has not and will not file a counterpart application in a country that provides for 18-month publication, the USPTO will not publish the application unless and until a patent is granted (currently, about 6 percent of applicants opt out). Where the applicant does not make such a certification, the USPTO publishes the application at 18 months from its filing date to provide an English language publication for those applications whose counterpart applications are already being published abroad (generally in languages other than English).

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Patent Examination Processing - \$1,663.9 million and 9,988 FTE

In this stage, the application is placed on the docket of one of the 7,831 UPR or 104 Design patent examiners working in one of the nine technology centers. During the examination process, the patent examiner compares the application's subject matter to a large body of technological information to determine the patentability of the claimed invention, whether or not the invention is new, useful, non-obvious, adequately described or enabled, and claimed in definite terms that are clearly understood by individuals knowledgeable in that subject matter.

During the search and patentability review, the patent examiner generally performs a first and possibly second office action on the merits, which can include any of the following actions: office action of rejection, final rejection, abandonment or notice of allowance. Patent Information Management activities are carried out within the Patent organization and provide patent scientific, technical, search support, and classification services. A patent classification system is necessary to address the effective assignment of applications for examination, and to improve the system used for locating prior art relevant to determining patentability. Patent Information Management also provides examiners with access to over one thousand commercial databases containing non-patent technical literature documents.

Quality and Training are integral parts of the entire examination process, and the resources required for a quality examination and quality patent are integrated with the total examination costs. This includes the quality assurance program whereby a random sample of patent examiners' work products are reviewed to provide timely, reliable and meaningful indicators of examination quality. This sub-activity also provides the resources for carrying out the new initiatives identified in the *USPTO 2010-2015 Strategic Plan* and in this Budget.

Additionally, the USPTO provides its patent examiners detailed training in efficient interview techniques and in compact prosecution. These are all targeted to streamline the examination process by working with the applicants to identify and resolve issues early in the process, thereby reducing patent application backlogs and overall pendency.

Policy and Legal also are critical components of the patent examination process. These components include establishing patent examination and documentation policy standards; serving as the authority on patent laws, rules, and examining practices and procedures; implementing Court decisions; publishing rules for public comment and then publishing final rules; and maintaining the Manual of Patent Examining Procedure. Policy and legal activities include processing petitions and Patent Cooperation Treaty (PCT) legal advisory activities.

Patent Post-Examination Processing - \$83.1 million and 28 FTE

Patent issuance occurs after the examiner has allowed the application, and the issue fee has been paid. The application is then prepared for issue, printing, and publication in a weekly edition of the electronic *Official Gazette* for dissemination to the public. Post-issue activities also include processing withdrawals and assignments.

Sub-Program #2: Patent Trial and Appeals (\$64.0 million and 331 FTE)

When an applicant does not agree with a final rejection notice, the applicant has the option to file a notice of appeal. A streamlined review procedure has been instituted for all briefs filed in appeals in patent applications, as well as appeals in both *ex parte* and *inter partes* reexamination proceedings. The Patent Trial and Appeal Board (PTAB) has the sole responsibility for determining whether appeal briefs comply with the formality requirements governing the content of these briefs. Under the streamlined procedure, only the PTAB conducts a compliance review of appeal briefs when the appeal brief is filed.

If the applicant has received two actions from the examiner and disagrees with the position of the examiner, the applicant can appeal the examiner's decision by filing a notice of appeal and an appeal brief. The examiner may file an examiner's answer to the appeal brief. The PTAB will make a decision based upon the record. The PTAB will continue to determine priority and patentability of inventions in interferences in appropriate cases

Under the AIA, the PTAB will conduct inter partes reviews, post grant reviews, the transitional program for covered business method patents, and in derivation proceedings.

Sub-Program #3: Patent Information Resources (\$115.5 million and 162 FTE)

This sub-program provides program and user requirements for automated systems relating to domestic and international IT systems. The patent process relies heavily on IT systems and this function focuses on developing user requirements and providing user testing and evaluation for a patent end-to-end electronic system, including pre-examination and publication functions.

Operating, maintaining, and making capital improvements to Patent business systems are the responsibility of the OCIO, and are fully described in the Introduction (the USPTO IT Portfolio). The Patent Program's share of both the direct and the indirect costs are allocated to this sub-program.

Sub-Program #4: Management Goal – Allocated (\$568.6 million and 843 FTE)

This sub-program represents all of the management activities that support the accomplishment of the Patent goal. These can be specifically Patent-related, such as Office of Human Resources activities dedicated to recruitment of patent examiners, or cross-cutting management functions that are dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management Goal while the costs are allocated to Patents based on the Agency's ABI analysis and results.

Program Gap Assessment:

Fostering innovation is a crucial driver of job creation, economic recovery, and prosperity. Reducing patent pendency and the backlog of patent applications awaiting examiner action is an Administration priority and promotes fostering innovation. The USPTO has committed to achieving an average first action patent pendency of 10 months and an average total patent pendency of 20 months by 2016 and 2017, respectively. Meeting this commitment assumes efficiency improvements brought about by reengineering many USPTO management and operational processes and systems; and hiring about 2,500 patent examiners in the two-year period FY 2012 and FY 2013. This level of hiring is necessary to continue reducing the end of FY 2010 accumulated backlog of unexamined applications (708,535) by more than 50 percent to about 334,000 at the end of FY 2016, and achieving pendency targets.

Significant Adjustments to Base (ATBs):

The USPTO requires a net increase of 566 FTE and \$143.9 million to fund adjustments to current programs for the Patent Program activities. This increase will provide the annualization of the FTE increase and inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the General Services Administration (GSA).

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Patent Program Performance Goals and Measurement Data								
	FY 2012 Actual	FY 2013 President's Budget	FY 2013 Current Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate	FY 2018 Estimate
UPR Units of Production	545,069	620,600	596,200	655,200	691,300	698,500	641,300	665,400
UPR Applications Filed	533,308	565,300	558,900	586,800	616,200	647,000	679,300	713,300
UPR Applications Filed Percent Change Over Previous FY	5.2%	6.0%	4.8%	5.0%	5.0%	5.0%	5.0%	5.0%
UPR Disposals	548,056	620,600	596,200	655,200	691,300	698,500	641,300	665,400
UPR Issues	248,305	302,000	279,400	313,700	335,500	339,800	308,800	305,900
UPR First Actions	542,081	620,600	596,200	655,200	691,300	698,500	641,300	665,400
UPR Examiners On-Board at End-of-Year	7,831	8,700	8,450	8,360	8,180	8,010	7,790	7,590
Applications Awaiting First Office Action	608,283	529,100	566,800	486,500	398,900	334,300	358,500	391,800
Total Cost Per Patent Production Unit	\$3,617	\$3,915	\$3,925	\$4,065	\$3,951	\$3,990	\$4,300	\$4,518
Patent Quality Composite Rate	72.4	65 - 73	65 - 73	83 - 91	100	100	100	100
Without funding increase		65 - 73	65 - 73	83 - 91	100	100	100	100
Average First Action Pendency/UPR (Months)	21.9	16.9	18.0	15.8	12.9	10.5	10.0	10.0
Without funding increase		16.9	18.0	16.4	14.2	12.6	12.8	13.5
Average Total Pendency/UPR (Months)	32.4	30.1	30.1	26.1	23.7	21.0	18.8	18.8
Without funding increase		30.1	30.1	26.1	24.5	22.4	21.0	22.0
Applications Filed Electronically (Percent)	97.1	98.0	98.0	98.0	98.0	98.0	98.0	98.0
Without funding increase		98.0	98.0	98.0	98.0	98.0	98.0	98.0

Exhibit 13 – 15: Patent Program Changes by Sub-Program

Exhibit 13

Department of Commerce
U.S. Patent and Trademark Office

INCREASES FOR 2014
(Dollar amounts in thousands)

		2014 Base		2014 Estimate		(Decrease)		
		Personnel	Amount	Personnel	Amount	Personnel	Amount	
Direct Total, Patent Program		Pos./Obl.	10,728	2,060,417	10,688	2,077,715	(40)	17,298
		FTE	10,673		10,652		(21)	
Patent Examining		Pos./Obl.	10,235	1,880,877	10,142	1,908,775	(93)	27,898
		FTE	10,180		10,133		(47)	
Workload								
Patent Examiner New Hires	Pos./Obl.					(93)	(4,610)	
	FTE					(47)		
Overtime	Pos./Obl.					-	2,272	
	FTE					-		
Nationwide Workforce and Space	Pos./Obl.					-	3,253	
	FTE					-		
PCT Searching Contract	Pos./Obl.					-	715	
	FTE					-		
Workload Processing Contracts	Pos./Obl.					-	22,120	
	FTE					-		
Quality								
Pendency Award	Pos./Obl.					-	4,147	
	FTE					-		
Patent Trial and Appeals		Pos./Obl.	331	63,999	384	70,037	53	6,038
		FTE	331		357		26	-
PTAB Production and AIA Workload	Pos./Obl.					53	6,038	
	FTE					26		
Patent Information Resources		Pos./Obl.	162	115,542	162	98,904	-	(16,638)
		FTE	162		162		-	
Patent Information Resources	Pos./Obl.					-	(16,638)	
	FTE					-		

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Department of Commerce U.S. Patent and Trademark Office

INCREASES FOR 2014 – 2018

(Dollar amounts in thousands)

		FY 2014 Increase (Decrease)		FY 2015 Increase (Decrease)		FY 2016 Increase (Decrease)		FY 2017 Increase (Decrease)		FY 2018 Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Patent Program	Pos./Obl.	(40)	17,298	(195)	27,402	(350)	(329)	(568)	(89,166)	(792)	(74,269)
	FTE	(21)		(118)		(274)		(460)		(680)	
Patent Examining	Pos./Obl.	(93)	27,898	(288)	27,685	(476)	(5,085)	(707)	(97,393)	(931)	(83,155)
	FTE	(47)		(191)		(383)		(592)		(819)	
Workload											
Patent Examiner New Hires	Pos./Obl.	(93)	(4,610)	(288)	(21,481)	(476)	(44,453)	(707)	(71,396)	(931)	(100,700)
	FTE	(47)		(191)		(383)		(592)		(819)	
Overtime	Pos./Obl.	-	2,272	-	1,352	-	(1,875)	-	(57,331)	-	(32,573)
	FTE	-		-		-		-		-	
Nationwide Workforce and Space	Pos./Obl.	-	3,253	-	3,140	-	3,150	-	3,056	-	3,041
	FTE	-		-		-		-		-	
PCT Searching Contract	Pos./Obl.	-	715	-	1,568	-	2,348	-	3,257	-	4,246
	FTE	-		-		-		-		-	
Workload Processing Contracts	Pos./Obl.	-	22,120	-	36,885	-	28,231	-	16,762	-	34,270
	FTE	-		-		-		-		-	
Quality											
Pendency Award	Pos./Obl.	-	4,147	-	6,222	-	7,514	-	8,259	-	8,562
	FTE	-		-		-		-		-	
Patent Trial and Appeals	Pos./Obl.	53	6,038	93	14,792	126	22,289	139	26,958	139	28,725
	FTE	26	-	73	-	109	-	132	-	139	-
PTAB Production and AIA Workload	Pos./Obl.	53	6,038	93	14,792	126	22,289	139	26,958	139	28,725
	FTE	26		73		109		132		139	
Patent Information Resources	Pos./Obl.	-	(16,638)	-	(15,076)	-	(17,533)	-	(18,730)	-	(19,840)
	FTE	-	-	-	-	-	-	-	-	-	-
Patent Information Resources	Pos./Obl.	-	(16,638)	-	(15,076)	-	(17,533)	-	(18,730)	-	(19,840)
	FTE	-		-		-		-		-	

Sub-Program: Patent Examining

The Patent Examining sub-program contributes to the accomplishment of the strategic goal to optimize patent quality and timeliness and the Agency Priority Goal through the following objectives and initiatives for which funds are required in FY 2014:

- Increase Patent Application Examination Capacity
- Measure and Improve Patent Quality
- Develop and Implement the Patent End-to-End Processing System

Significant progress has been made since the release of the *USPTO 2010-2015 Strategic Plan* in September 2010, which is supported by annual budget requests, in terms of reducing pendency and the backlog. Compared to end of FY 2010 actuals, end of FY 2012 first action pendency is 21.9 months, down from 25.7 months in FY 2010; total pendency is 32.4 months, down from 35.3 months; and backlog of unexamined applications is at 608,823, down from 708,535, while increasing examiner staffing to 7,800 from 6,128.

Historical and projected metrics are included in the Patent Program Performance Goals and Measurement Data table on page 70.

Program Change:

Patent Examining (-47 FTE and \$27.9 million): The USPTO requires an increase of \$27.9 million and a decrease of 47 FTE for a total of \$1,908.8 million and 10,133 FTE to process incoming work for which fees have been paid, and which are focused on accomplishment of the goals and objectives identified above. This requirement supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services, and products. Patent Examining consists of the following three components that are described in the Patent Program section above: Pre-Examination, Examination, and Post-Examination.

This program change consists of several initiatives that are necessary to accomplish the pendency and backlog reductions that are a critical part of the Department's innovation and entrepreneurship goal for transforming our economy, fostering U.S. competitiveness, and driving the development of new businesses.

Failure to invest in patent pendency and backlog reduction puts the USPTO and the Department at risk of not achieving its strategic goals and fulfilling the Agency Priority Goal. American innovators and businesses rely on the legal rights associated with a patent in order to reap the benefits of their innovations. The longer it takes for the USPTO to review a patent application, the longer it will take for an applicant to receive the patent rights that ultimately may be granted for the invention.

Proposed Actions:

The Patent Examining program change encompasses the patent workload and quality objectives that are designed to provide quality and timely examination of patent applications. Along with base resources, this program change will enable the Patent Program to provide timely examination by processing incoming work, reducing the current backlog, and reducing pendency. It will also enhance the quality of patents thereby increasing the value of the patent to the inventor.

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This program change represents a number of inter-related initiatives that collectively will enable the Patent Program to:

- address the approximately 586,800 new applications that are projected to be filed in FY 2014,
- reduce the current backlog of unexamined patent applications to approximately 486,500 or about 31 percent below the end of FY 2010 level, as documented in the Patent Production Model,
- provide timely examination of patent applications by reducing the time to first office action to 10 months in 2016, and
- reduce average total pendency to 20 months in 2017.

These initiatives are necessary because the Office continually faces heavy workloads and a shift of applications from traditional arts to more complex technologies, which are categorized as follows:

Workload Initiatives. These are initiatives that are driven by the requirement to process incoming work for which applicants have paid fees. Such initiatives, more fully described below, increase examination capacity and include patent examiner staffing and overtime to ensure that there is adequate production support to complete the work carried out by the patent examiners.

Quality Initiatives. Quality and training are an integral part of the examination process, and include initiatives focused on pendency reduction based on revised performance plans.

Patent Workload-Driven Initiatives

Patent Examiner New Hires. In FY 2014, the USPTO will stop increasing the size of its examining staff in anticipation of meeting its pendency and backlog reduction targets in FYs 2016 and 2017. To do this, in FY 2014, the USPTO will replace only 250 of a projected 343 patent examiner attritions, resulting in a reduction of \$4.6 million and 47 FTE. The hiring of 2,500 examiners in FYs 2012 and 2013, and their increased annual productivity due to their seniority and mastery of the patent examination process, has enabled the USPTO to continue making progress on its patent pendency reduction plan to achieve an average first action pendency of 10 months and average total pendency of 20 months in FY 2016 and FY 2017 respectively. With the reduction to the patent application backlog, the USPTO will level off the number of patent examiners on board at the end of the planning period to approximately 7,800.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	(\$4,610)	(\$21,481)	(\$44,453)	(\$71,396)	(\$100,700)
FTE	(47)	(191)	(383)	(592)	(819)

Overtime. To achieve 10 months to average first office action pendency and 20 months to average total pendency, the USPTO will continue to provide for examiner overtime. Each overtime hour worked is directly tied to production output. As such, overtime has proven to be more efficient on a per-hour basis than equivalent regular-time hours, which must also incorporate the costs of training, employee leave, and other benefits. Funding the full amount of examiner overtime is essential to achievement of our pendency and backlog goals. Overtime's inherent flexibility allows the Patent organization to more easily expand its production capacity while maintaining optimal staffing levels. Contingent on funding availability, the Patent organization's strategy is to prioritize the use of overtime by targeting technology areas with the highest backlogs first.

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	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$2,272	\$1,352	(\$1,875)	(\$57,331)	(\$32,573)
FTE	-	-	-	-	-

Nationwide Workforce and Space. The USPTO recognized the need to broaden hiring practices to achieve its hiring targets and attract patent examiner expertise in locations across the country. Establishment of a nationwide workforce is a key USPTO priority.

This initiative provided for a USPTO presence in four metropolitan areas, with the first satellite office established in Detroit, Michigan in July 2012. Subsequent offices have been announced for Dallas, Texas; Denver, Colorado; and Silicon Valley, California. A nationwide workforce will directly aid the hiring of patent examiners by creating an awareness of the USPTO and its role in the U.S. economy, educating potential applicants about the job of patent examination, and serving as an outlet for IP education to inventors, law students, practitioners and the public education systems. While meeting Office's hiring needs and space demands, this initiative enables the expansion of the USPTO presence as a business and academic partner for innovation.

The USPTO requested funds in FY 2012 and FY 2013, and the first satellite office opened in Detroit in July 2012. During the initial phase, the USPTO will be evaluating the program based on customer, stakeholder, and employee input. The USPTO will be seeking to leverage opportunities for greater efficiency and flexibility arising from development of end-to-end electronic patent processing and other ongoing process improvement efforts. For example, the USPTO transitioned the examiners' workstations such that every examiner has a universal laptop, including collaboration tools, for use when working from home and on the work campus. Following the evaluation of the Detroit office, the USPTO plans to open other satellite offices in Dallas, Denver and Silicon Valley. Training at the satellite offices will be provided in a variety of formats to meet examiners' needs such as streaming classes, computer-based training, and physical and virtual libraries of topical selections. The USPTO is also examining how to leverage new telecommunications technologies and practices such as video teleconferencing to expand its geographic reach. This mode of training will allow the Office to continue to conduct its business throughout the country without compromising quality.

The net increase in FY 2014 funds represents a modification to the opening of the permanent offices at the three additional sites, as well as continued operational requirements, such as rent and travel, as the satellite program is carried out from temporary facilities. The nationwide workforce new hires are accounted for as part of the overall examiner staffing plan for FY 2014.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$3,253	\$3,140	\$3,150	\$3,056	\$3,041
FTE	-	-	-	-	-

Patent Cooperation Treaty (PCT) Searching Contract. The USPTO continues to contract for international search reports and written opinions for approximately 16,000 PCT Chapter I cases, roughly equal to the FY 2014 projected receipts. Investments in contracting enable the USPTO to meet its obligations as an International Searching Authority under PCT Chapter I; for example, the PCT time frames for issuance of the required reports, and enable the USPTO to focus its resources towards reducing the backlog of pending national applications. At the same time, the USPTO is placing greater emphasis on re-using results in corresponding national cases. In the complete absence of this program, PCT filings would have to be examined by examiners, resulting in fewer U.S. national applications being processed, which would equate to reduced production and fewer fee collections. Funds are required to continue contractor support for PCT Chapter I cases.

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	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$715	\$1,568	\$2,348	\$3,257	\$4,246
FTE	-	-	-	-	-

Workload Processing Contracts. Patent's largest contracts are driven by the growth, and the increasing experience and productivity of the examination workforce. Work due to increasing numbers of applications, examiner production, and output must be funded commensurately in order to continue processing work and issuing patents. Specifically funds will be used for:

- Front end processing, indexing, and scanning of newly filed applications and incoming/outgoing documents, and quality assurance of electronic filings – based on the increase in electronically-filed applications, as well as the number of pages per application.
- Data capture of applications subject to publication at 18 months as a pre-grant publication.
- Pre-grant publication and initial classification services whereby the contractor classifies all incoming applications once they have been through the initial security review.
- Patent publication, which includes the data capture of granted patents that generate both a text searchable file and an image file for paper printing and electronic dissemination on the Internet.
- Commercial data-base access for prior art searches; for example, Derwent, Dialog, Lexis-Nexis, Geneseq, etc.

Development and deployment of the PE2E system is projected to have the following impacts on these workload processing contracts:

- An increase in e-Office Actions from 30-40 percent to 70 percent in FY 2015.
- An improvement in e-Filing that will allow for a better document (patent application) and pre-examination in FY 2015.
- An improved applicant-to-Office interface will improve the ability to validate applications on line, which will reduce the burden of manual processing.
- There will be some level of manual processing of pre-examination and mailing of office actions until FY 2017, at which time these will be greatly reduced as a result of PE2E.

The savings resulting from deployment of PE2E, shown below as lower requirements in FYs 2015-2017, would be redirected to other strategic initiatives. There would be no impact on Patent performance metrics.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$22,120	\$36,885	\$28,231	\$16,762	\$34,270
FTE	-	-	-	-	-

Patent Quality Initiatives

Pendency Incentive. The USPTO established a task force to craft new performance appraisal plans (PAPs) for Supervisory Patent Examiners (SPEs) and patent examiners that would focus on enhanced examination quality, reduced application pendency and improved stakeholder responsiveness. A strong emphasis was placed on clearly defined objective measures that will be universally applied during the performance appraisal process. As a result, a new/revised Patent Examiner Pendency Incentive was introduced in FY 2012 to better align the examiners'

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expected processing times with the Agency's statutory processing time targets to encourage better response time to applicants.

The new incentive went into effect in FY 2012, and funds are required to continue to pay out the pendency incentives for additional eligible participants, based on the new PAPs.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$4,147	\$6,222	\$7,514	\$8,259	\$8,562
FTE	-	-	-	-	-

Statement of Need and Economic Benefit:

Timely and quality issuance of patents provides certainty in the market and allows businesses and innovators to make informed and timely decisions on product and service development. The quality of application review is critical to ensure the value of an issued patent. Without well-defined claims, for example, the value of a patent is uncertain. Uncertainty means there is a risk that a patent is invalid, does not cover the patentee's product, or that a competitor infringes the patent but cannot determine its scope. Such patents exact a high cost by decreasing public confidence in the IP system. On the other hand, the economic value of a patent increases when its metes and bounds are clearly defined and consistently interpreted under the law. Clarity leads to certainty, which enables efficient and confident determination of value. This in turn creates high value for high quality patents and bolsters public confidence.

Schedules/Milestones/Deliverables for the strategic objectives to re-engineer the patent process to increase efficiencies and strengthen effectiveness, and to measure and improve patent quality can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

Sub-Program: Patent Trial and Appeals

The Patent Trial and Appeals sub-program contributes to the accomplishment of the strategic goal to optimize patent quality and timeliness through the following objective for which funds are required in FY 2014:

- Improve Appeal and Post-Grant Processes

Program Change:

Improve Appeal and Post-Grant Processes (+ \$6.0 million and 26 FTE): The USPTO requires an increase of \$6.0 million and 26 FTE for a total of \$70.0 million and 357 FTE to provide the PTAB with additional positions to address the workload coming from the Patent Examining Corps (i.e., appeals), and AIA implementation.

This program change supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and rewards new ideas, technologies, services, and products. Delaying decisions on appeals to the PTAB has an adverse impact on America's economy. When patents are developed commercially, they create jobs for the companies that are marketing the products, and for their suppliers, distributors and retailers. Proper and promptly-issued patents are vital to the growth of the economy.

Proposed Actions:

The PTAB is an administrative tribunal that consists of Administrative Patent Judges (APJs) who review appeals cases and decide to affirm, reverse, or affirm in part a rejection in a patent application under appeal. APJs also review claims of interferences with existing patents and patent applications during the filing stage of a patent application. The PTAB will ultimately decide whom, if anyone is entitled to the right of the patent in question. The PTAB tracks information on each patent appeals case, *inter partes* case, and interference. The average number of cases under review at any given time is approximately 1,500, some of which can take more than a year to resolve. This requirement outlines a consolidated effort to increase PTAB capacity, increase PTAB productivity and quality, and optimize workflow.

PTAB Production and AIA Workload. Funds are required to address the results of historic growth in workload, due in part to Patents' hiring. In addition, the recently enacted AIA patent reform legislation creates new programs to be administered by the USPTO, and changes some program activities that are currently being carried out. Under the AIA, the PTAB is required to conduct four new or different trial proceedings: *Inter partes* reviews, derivation proceedings, and a transitional program for covered business methods patents (all effective September 16, 2012), and post grant reviews (only applicable for patents that are subject to first to file provisions which provisions went into effect on March 16, 2013).

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Docketed ex parte appeals	15,468	12,538	13,740	13,200	11,700	11,400
Appeal pendency (months)	5	12	17	23	25	25

Funds were requested in FY 2012 and FY 2013 for 91 new positions to more effectively manage the spike in inventory and stem an unacceptable pendency level. With resources provided through FY 2014, and a filing level of approximately 12,000 cases per year, by FY 2018 the PTAB will achieve a steady state of approximately 15,400 decisions per year and an appeal pendency level of approximately 12 months.

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Without the FY 2014 requested resources the PTAB will be unable to provide the timely and quality review and adjudication of appealed applications called for by stakeholders, and meet specific objectives outlined in the *USPTO 2010-2015 Strategic Plan*. Delaying decisions on these appeals has a negative impact on America's economy, particularly job creation.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$6,038	\$14,792	\$22,289	\$26,958	\$28,725
FTE	26	73	109	132	139

Statement of Need and Economic Benefit:

Decisions made by the PTAB on appeals involve some of the most important applications pending in the Office. When these decisions are delayed, it can and will continue to have an adverse impact on America's economy. When patents are developed commercially, they create jobs for the companies that are marketing products and for their suppliers, distributors, and retailers. The PTAB may have any one such patent in its inventory awaiting decision. Proper and promptly-issued patents are vital to the growth of the economy. Additionally, any one appeal may hold a scientific, engineering, or technological breakthrough in any number of fields, such as medicine, materials, electronics, or energy. A lack of adequate resources to review and decide on appeals can unnecessarily delay such breakthrough from reaching the market.

Schedules/Milestones/Deliverables for the strategic objective to improve appeal and post-grant processes can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

Sub-Program: Patent Information Resources

The Patent Information Resources sub-program contributes to the accomplishment of the strategic goal to optimize patent quality and timeliness through the following objective for which funds are required in FY 2014:

- Develop and Implement the Patent End-to-End Processing System (PE2E)

Program Change:

Patent Information Resources (-\$16.6 million): The USPTO requires a decrease of \$16.6 million for a total of \$98.9 million and 162 FTE for the IT Project Funds. Detailed information about the IT Project Funds and PE2E can be found in the Executive Summary – The USPTO IT Portfolio documentation.

Proposed Actions:

Patent Business Projects. In FY 2014, the reduction of over \$16 million that is required for Patent Business Projects is the result of changes in three areas: IT equipment for new hires, continued PE2E improvements, and patent legacy systems.

A significant aspect of the reduction is related to the need to purchase less IT equipment for new Patent hires – 1,000 planned new hires in FY 2013 versus 250 planned new hires in FY 2014.

In FY 2014, the Patent line of business will continue to expand upon and improve the capabilities delivered by the three-year IT investment started in FY 2011, however, at a lesser rate of investment. The efforts launched in FY 2014 will begin to:

- expand upon initial end-to-end processing capability to include “specialized” processing, required for the Patent line of business to phase-out legacy systems and existing IT capability;
- expand the amount and use of intelligent data to include greater cooperation and participation by applicants and international patent offices; and
- retire specific legacy systems, by ensuring initial and additional end-to-end processing capabilities deliver the data and workflows necessary for comprehensive patent application processing.

The third aspect of the reduction comes from the need for less investment in patent legacy systems, due to the deployment of initial end-to-end processing capability, intelligent application submissions, and the plans for retiring certain legacy systems.

Additional information about the overall USPTO IT activities can be found in the “USPTO Information Technology Portfolio” section of the Introduction.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	(\$16,638)	(\$15,076)	(\$17,533)	(\$18,730)	(\$19,840)
FTE	-	-	-	-	-

Statement of Need and Economic Benefit:

This program change would improve IT infrastructure and tools. The USPTO's CPIC process governs how USPTO manages the selection, control, and evaluation of major IT investments. The CPIC process complies with and supports Federal legislation and guidance, and requires quantifiable measurements for determining the net benefits and risks of a proposed investment.

Schedules/Milestones/Deliverables for the strategic objectives to improve patent pendency and quality by increasing work sharing, and developing and implementing PE2E processing system can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

PROGRAM CHANGE PERSONNEL DETAIL
(Dollar amount in thousands)

Activity: Patents

Subactivity:

Org	Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
15	Patent Examiner	Alexandria, VA	GS 5	3	54,555	163,665
15	Patent Examiner	Alexandria, VA	GS 7	24	67,573	1,621,759
15	Patent Examiner	Alexandria, VA	GS 9	21	73,496	1,543,421
15	Patent Examiner	Alexandria, VA	GS 11	195	81,473	15,887,299
15	Patent Examiner	Alexandria, VA	GS 12	5	88,180	440,900
15	Patent Examiner	Alexandria, VA	GS 13	2	123,923	247,846
	Patent Examiner Attritions	Alexandria, VA	Avg GS 9	(343)	78,322	(26,864,400)
115	Administrative Patent Judges	Alexandria, VA	GS SES	40	165,300	6,612,000
115	Supv Paralegal	Alexandria, VA	GS 12	1	84,855	84,855
115	Paralegal Specialist	Alexandria, VA	GS 11	8	70,794	566,352
	Administrative Management Specialist		GS 14	2	119,238	238,476
115	Patents Program & Resources Administrator	Alexandria, VA	GS 15	2	140,259	280,518
	Total			(40)		822,691
	Less Average Lapse		52%	(19)		428,039
	Total full-time permanent (FTE)			(21)		394,652
	2013 Pay Adjustment	0.5%				1,973
	2014 Pay Adjustment	1.0%				3,966
	TOTAL					400,592
Personnel Data				Number		
Full-Time Equivalent Employment						
Full-time permanent				(21)		
Other than full-time permanent				-		
Total				(21)		
Authorized Positions:						
Full-time permanent				(40)		
Other than full-time permanent				0		
Total				(40)		

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: **Patents**

Subactivity:

	Object Class	2014 Increase
11	Personnel compensation	
11.1	Full-time permanent	401
11.3	Other than full-time permanent	
11.5	Other personnel compensation	6,455
11.8	Special personnel services payments	
11.9	Total personnel compensation	6,856
12	Civilian personnel benefits	(76)
13	Benefits for former personnel	
21	Travel and transportation of persons	2,988
22	Transportation of things	151
23.1	Rental payments to GSA	2,944
23.2	Rental payments to others	(123)
23.3	Communications, utilities and miscellaneous charges	279
24	Printing and reproduction	12,894
25.1	Advisory and assistance services	(20,970)
25.2	Other services	24,001
25.3	Purchases of goods & services from Gov't accounts	(741)
25.4	Operation and maintenance of facilities	
25.5	Research and development contracts	
25.6	Medical care	
25.7	Operation and maintenance of equipment	
25.8	Subsistence and support of persons	
26	Supplies and materials	1,320
31	Equipment	(12,188)
32	Lands and structures	
33	Investments and loans	
41	Grants, subsidies and contributions	
42	Insurance claims and indemnities	
43	Interest and dividends	(37)
44	Refunds	
99	Total obligations	17,298

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TRADEMARK PROGRAM

Exhibit 10 – Program Performance: Total Obligations

Department of Commerce
U.S. Patent and Trademark Office
TRADEMARK PROGRAM
PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS
(Dollar amounts in thousands)

Activity: Trademark Program

Sub-Activity:		FY 2012 Actual		FY 2013 Current Plan		FY 2014 Base		FY 2014 Estimate		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Trademark Examining	Pos./Obl	616	97,836	648	101,872	648	105,605	683	107,460	35	1,854
	FTE	604		626		637		659		22	-
Trademark Appeals and <i>Inter Partes</i> Proceedings	Pos./Obl	60	9,714	73	11,672	73	11,791	73	11,791	-	-
	FTE	59		72		72		72		-	-
Trademark Information Resources	Pos./Obl	68	33,966	78	48,262	61	50,401	63	55,362	2	4,961
	FTE	68		75		61		62		1	-
Subtotal Direct	Pos./Obl	744	141,516	799	161,806	782	167,798	819	174,613	37	6,815
	FTE	730		773		769		793		24	
Management Goal - Allocated	Pos./Obl	108	75,380	148	78,054	165	82,901	166	90,757	1	7,856
	FTE	93		121		163		164		1	
Total	Pos./Obl	852	216,895	947	239,860	947	250,699	985	265,370	38	14,671
	FTE	823		894		932		957		25	

Exhibit 12 – Justification of Trademark Program and Performance

BUDGET PROGRAM: Trademark Program

For FY 2014, the USPTO requires an increase of \$14.7 million and 25 FTE over the FY 2014 base program for a total of \$265.4 million and 957 FTE for the Trademark Program.

PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub-Program	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Trademark Examining	\$97,836	\$101,872	\$107,460	\$113,222	\$120,876	\$128,241	\$135,848
Trademark Appeals and Inter Partes Proceedings	\$9,714	\$11,672	\$11,791	\$11,911	\$12,033	\$12,156	\$12,280
Trademark Information Resources	\$33,966	\$48,262	\$55,362	\$50,645	\$42,572	\$30,893	\$22,857
Management Goal -- Allocated	\$75,380	\$78,054	\$90,757	\$90,492	\$92,132	\$93,239	\$94,608

Trademark Program Overview:

The USPTO's Trademark Program is dedicated to carrying out the Agency's mission to deliver "high quality and timely examination of ... trademark applications" in accordance with laws, regulations and practices, consistent with the strategies and objectives in the *USPTO 2010-2015 Strategic Plan*. The Trademark Program, through its strategic goal to optimize trademark quality and timeliness, supports the Department's strategic objective to "facilitate IP protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks."

These goals will be met by achieving the following objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 12.0 Months or Less Final Pendency
- Continuously Monitor and Improve Trademark Quality
- Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations

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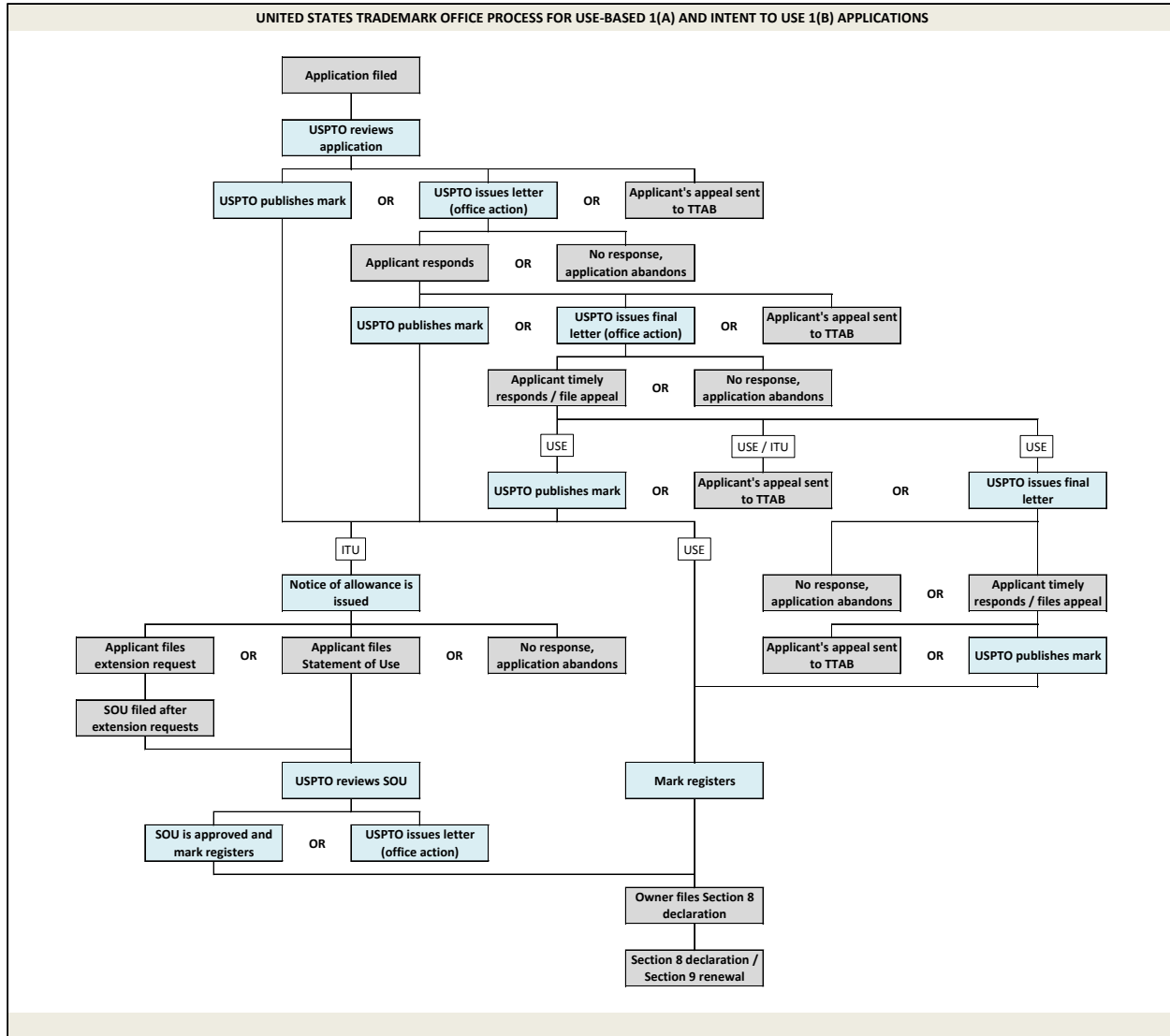
- Enhance Operations of Trademark Trial and Appeal Board (TTAB)
- Modernize IT System by Developing and Implementing the Trademark Next Generation IT System
- Develop a New Generation of Trademark Leaders

The Trademark Program performs a valuable function by identifying the source of products and services and serving as an indicator of reliable quality to the consumer. By registering trademarks, the USPTO has a significant role in protecting consumers, as well as providing important benefits to American businesses by allowing them to strengthen and safeguard their brands and related investments. Over the last seven years, the Trademark organization has met and exceeded its performance targets as it continues to reap the benefits of its significant investments in human capital and in automation and process reengineering.

Base Justification:

The trademark process begins when a customer desires information on trademarks or becomes interested in registering a trademark and proceeds to submit a trademark application based on a mark currently used, or intended for use, in commerce. During the examination process, trademark examining attorneys evaluate applications for compliance with current trademark laws, regulations, and policies. At this time, the applicant may submit amendments and the examining attorney may enter amendments or refuse registration unless certain requirements are met. Upon completion of the examination process, including any possible appeal from a refusal, a trademark application is published in the *Official Gazette*. Trademarks or marks are published prior to registration to permit interested parties to file an opposition within a 30-day time period if they believe that they may be harmed by the registration. Those marks that pass through the opposition period without challenge, or survive any opposition, move along to issuance of either a trademark registration for an application based on use, or a notice of allowance for an application based on intent to use.

The examination of trademark applications consists of the activities shown on the following schematic and major functions as described below.



Sub-Program #1: Trademark Examining (\$105.6 million and 637 FTE)

The USPTO plays a critical role in providing notice of marks in use, or for which there is an intention to use, through its on-line resources of registered and pending trademarks. Prior to filing an application for registration, or establishing or investing in a mark, a business owner would be able to survey existing marks in use or proposed for use by utilizing on-line resources and support services available for customers to prepare and file their applications with the Office. This support consists of the public search rooms located at the USPTO's facilities in Alexandria VA, support for the Patent and Trademark Depository Resource Centers (formerly Depository Libraries) located across the country, the USPTO on-line information trademark basics "how-to videos", frequently asked questions (FAQs manuals, search systems, electronic filing, and a customer service call center operated by the Trademark Assistance Center).

Input Processing - \$9.1 million and 63 FTE

More than 99 percent of trademark applications for registration of a mark are currently filed electronically, and 77 percent are processed electronically from receipt to final disposition.

FY 2014 President's Budget

When an application is received at the USPTO, it is subject to a quality review process. In that process the electronically tagged application data is reviewed to add the international classification and design search codes that facilitate searching and examination. The tagged data in a trademark application is transferred automatically to the appropriate data fields in trademark electronic automated systems. Trademark automated systems are the source for application data that is used in the processing, examination, and maintenance of registered trademarks; and the information that is made available to the public through www.uspto.gov. The automated systems are also the source of the *Official Gazette*, which provides notice of marks approved by examiners, those in use and maintained by registrants, and those available to the public. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.

Examination Processing - \$93.9 million and 551 FTE

One of the approximately 400 Trademark examining attorneys will determine if the mark in each newly filed application is entitled to registration under the provisions of the Trademark Act of 1946, as amended. As part of the process, the examining attorney conducts a search of prior filed and registered marks to evaluate if a conflict exists between the mark in the application and a previously filed application or registration. Examining attorneys evaluate many types of marks, such as trademarks, service marks, certification marks, and collective membership marks against the criteria for registrability set out in the Trademark Act of 1946, as amended, and make a determination to approve or deny an application for registration. The examining attorney searches a database of more than 1.8 million registered marks and 600,000 pending marks in order to determine if the mark in the subject application is confusingly similar to an existing mark.

An approved application is published prior to registration to provide notice to interested parties who may file an opposition to registration. Marks based on use in commerce that are unopposed, or survive any filed opposition, are registered. Marks filed based on intent to use receive a notice of allowance following the opposition period, if they are unopposed or survive any filed opposition, with registration occurring following issuance of a Notice of Allowance by the Office and subsequent filing and acceptance of a Statement of Use from the applicant.

Quality and Training are important components of the examination process. The resources required for the quality aspect of examination and registration of trademark applications are integrated with the total examination costs.

Under the quality assurance program the results of an examiner's first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Agency has targeted both electronic and traditional training initiatives addressing specific problem areas. This program also provides prompt feedback to examining attorneys when their work products are reviewed. Specific comments on any work product found to be either "excellent" or "deficient," are sent to the appropriate examining attorney and supervisor. As a result, training takes place on the micro level, with specific feedback, as well as on the macro level, with training modules that address trends, targeting topics that warrant improvement. As part of the USPTO's commitment to improving the quality of examination is the need to ensure that all examiners possess the knowledge, skills, and abilities necessary to perform their jobs. For example examiners have the opportunity to take a series of self-paced e-learning tutorials; and new e-learning modules are implemented throughout the year based on topics that are identified through quality review evaluations.

The Trademark organization continues its efforts to improve quality in a cost-effective manner. To raise the bar, the Trademark organization has instituted what is known as an Exceptional Office Action emphasizing comprehensive excellence in office actions, which expands upon the existing first and final action standards for correct decision-making. An Exceptional Office Action is one that reflects correct decision-making, includes excellent evidentiary support, and is exceptionally well-written.

A critical component of the trademark examination process is its policy and legal function. This consists of establishing trademark examination policy standards; serving as the authority on trademark laws, rules, and examining practices and procedures; implementing treaty obligations; implementing judicial and TTAB decisions; publishing rules for public comment and then publishing final rules; and maintaining the Trademark Manual of Examining Procedure. The costs of performing these functions are included in the cost of examination.

Trademark-Post Registration Processing - \$2.6 million and 22 FTE

Trademark registrations can be maintained indefinitely, for as long as the registered mark is in use under the Trademark Act. Registrations require periodic renewal – every 10 years for marks on the Principal and Supplemental registers. In order to maintain rights to a mark, the owner must first file an affidavit between the fifth and sixth years from the date of registration. To renew a Trademark registration, the owner must file an acceptable affidavit and an application for renewal within one year before the end of every ten-year registration period. Owners of marks on the Principal Register can also make a claim of incontestability to claim exclusive rights after the mark has been in continuous use in commerce for a period of five consecutive years after the date of registration. The owner can also file requests to correct or amend a Trademark registration.

Filings are examined for completeness and compliance with statutory requirements. Failure to file the required affidavit and proof of use results in cancellation of the registration. These requirements serve to remove trademarks from the register when the marks are no longer in use.

Sub-Program #2: Trademark Appeals and Inter Partes Proceedings (\$11.8 million and 72 FTE)

Administrative Trademark Judges on the TTAB review adverse registrability determinations by examining attorneys at the applicant's request, conduct opposition hearings where an interested party believes that it will be harmed by the registration of a published mark, and conduct other proceedings involving registrations where a third party wishes to challenge the validity of a registration.

Sub-Program #3: Trademark Information Resources (\$50.4 million and 61 FTE)

Trademark Information activities coordinate the modernization, development, and management of the trademark IT systems. This also includes trademark support personnel who serve as business process experts in working with the IT technical experts by providing technical expertise and project management in the development of trademark program systems supporting electronic filing, and trademark business operations.

Operating, maintaining and making capital improvements to Trademark business systems are the responsibility of the OCIO, and include base level resources for modernizing Trademark IT by developing and implementing the TMNG IT system.

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Resources are also used for operating and maintaining the automated information systems that directly support the trademark process and make information available to the public. These activities are fully described in the "USPTO Information Technology Portfolio" section of the Introduction.

Sub-Program #4: Management Goal – Allocated (\$82.9 million and 163 FTE)

This sub-program represents all of the Management activities that support the accomplishment of the Trademark goal. These can be specifically Trademark-related or cross-cutting management functions that are dedicated to supporting overall USPTO activities, such as financial management systems. These activities are further described under the Management goal. The costs are allocated to Trademarks and funded from trademark fee collections based on the Agency's ABI analysis and results.

Program Gap Assessment:

For the last several years, the Trademark organization has met or exceeded its performance targets. The challenge is to continue to maintain the timeliness and quality standards that users of the U.S. trademark system have come to expect. For example, maintaining pendency at current levels requires a balance between forecasted new filings and workloads, existing inventories, and examination capacity. Achieving this balance calls for dynamic resource allocation, appropriate staffing, and enhanced management tools.

Significant Adjustments to Base (ATBs):

The USPTO requires a net increase of 38 FTEs and \$10.8 million to fund adjustments to current programs for the Trademark Program activities. This increase will provide the annualization of the FTE increase and will also provide inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.

FY 2014 President's Budget

Trademark Program Performance Goals and Measurement Data								
<i>(Dollars in thousands)</i>	FY 2012 Actual	FY 2013 President's Budget	FY 2013 Current Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate	FY 2018 Estimate
Total Balanced Disposals	836,436	848,600	861,700	914,100	982,300	1,072,900	1,176,000	1,279,800
Total Office Disposals	383,291	433,000	432,200	457,600	492,600	538,500	590,200	642,000
Applications Received – (Includes Additional Classes)	415,026	428,000	433,000	456,000	493,000	540,000	592,000	643,000
Applications Filed Percent Change Over Previous FY	4.1%	3.1%	4.3%	5.3%	8.1%	9.5%	9.6%	8.6%
Examining Attorneys On-Board at End-of-Year	386	414	407	436	467	517	561	611
Exceptional Office Action rate	26.1%	20.0%	23.0%	24.0%	25.0%	25.0%	26.0%	26.0%
Total Cost Per Trademark Office Disposal	\$560	\$634	\$619	\$580	\$555	\$545	\$531	\$531
First Action Compliance Rate (Percent)	96.2	95.5	95.5	95.5	95.5	95.5	95.5	95.5
Without funding increase		95.5	95.5	95.5	95.5	95.5	95.5	95.5
Final Compliance Rate (Percent)	97.1	97.0	97.0	97.0	97.0	97.0	97.0	97.0
Without funding increase		97.0	97.0	97.0	97.0	97.0	97.0	97.0
Average First Action Pendency (Months)	3.2	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 – 3.5	2.5 - 3.5	2.5 - 3.5
Without funding increase		2.5 – 3.5	2.5 – 3.5	3.5 - 4.5	3.5 - 4.5	3.5 - 4.5	4.5 – 5.5	4.5 – 5.5
Average Total Pendency (Months) Excluding Suspended <i>and Inter Partes</i> Proceedings	10.2	12.0	12.0	12.0	12.0	12.0	12.0	12.0
Without funding increase		12.0	12.5	12.5	13.0	13.0	13.5	14
Applications Processed Electronically (Percent)	77	70	76	78	80	80	80	80
Without funding increase		70	70	68	66	64	64	64

Exhibit 13 – 15: Trademark Program Changes by Sub-Program

Exhibit 13

Department of Commerce
U.S. Patent and Trademark Office

INCREASES FOR 2014
(Dollar amounts in thousands)

		2014 Base		2014 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	<i>Pos./Obl.</i>	782	167,798	819	174,613	37	6,815
	<i>FTE</i>	769		793		24	
Trademark Examining	<i>Pos./Obl.</i>	648	105,605	683	107,460	35	1,854
	<i>FTE</i>	637		659		22	
Workload-related Increase	<i>Pos./Obl.</i>					35	1,854
	<i>FTE</i>					22	
Trademark Information Resources	<i>Pos./Obl.</i>	61	50,401	63	55,362	2	4,961
	<i>FTE</i>	61		62		1	
Trademark Information Resources	<i>Pos./Obl.</i>					2	4,961
	<i>FTE</i>					1	

Exhibit 13 Continued

**Department of Commerce
U.S. Patent and Trademark Office**

INCREASES FOR 2014 - 2018
(Dollar amounts in thousands)

		FY 2014 Increase (Decrease)		FY 2015 Increase (Decrease)		FY 2016 Increase (Decrease)		FY 2017 Increase (Decrease)		FY 2018 Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	Pos./Obl. FTE	37 24	6,815	72 60	6,000	128 110	3,697	175 159	(2,526)	228 209	(4,888)
Trademark Examining	Pos./Obl. FTE	35 22	1,854	70 58	6,373	122 105	12,459	169 153	18,415	222 203	24,796
Workload-related Increase	Pos./Obl. FTE	35 22	1,854	70 58	6,373	122 105	12,459	169 153	18,415	222 203	24,796
Trademark Information Resources	Pos./Obl. FTE	2 1	4,961	2 2	(373)	6 5	(8,762)	6 6	(20,941)	6 6	(29,683)
Trademark Information Resources	Pos./Obl. FTE	2 1	4,961	2 2	(373)	6 5	(8,762)	6 6	(20,941)	6 6	(29,683)

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Sub-Program: Trademark Examining

The Trademark Examining sub-program contributes to the accomplishment of the strategic goal to optimize trademark quality and timeliness through the following objective for which funds are required in FY 2014:

- Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months with 12.0 Months or Less Final Pendency

Historical and projected metrics are included in the Trademark Program Performance Goals and Measurement Data table on page 91.

Program Change:

Trademark Examining (22 FTE and \$1.9 million): The USPTO requires an increase of \$1.9 million and 22 FTE for a total of \$107.5 million and 659 FTE to adjust trademark application examination capacity with the revised estimated workloads. This will enable the Trademark organization to process incoming work in a timely manner. Since the 2009 contraction, filings of new trademark applications have shown sustained year to year growth rates. The positive momentum in new application filings is expected to continue to increase once the economic recovery takes hold.

The projected increase in trademark application filings requires an increase in examination capacity to continue to meet pendency and quality performance goals. The Office plans to continue hiring examining attorneys to increase staffing relative to projected increases in filings.

Filings of new applications are expected to increase on average by about eight percent year over year. To handle the expected increase in workloads, the Office plans to increase examination staff by a net total of 29 new examining attorney positions. Offsetting the incremental costs, the Office expects to manage overtime usage due to timely hiring and by setting appropriate levels of production incentives.

The Trademark organization is making good use of its electronic systems and is successfully motivating applicants to conduct correspondence electronically. About 99 percent of all new applications and the majority of post registration affidavits are filed electronically. With higher end-to-end electronic processing, the Office will realize cost reductions that partially offset the incremental cost of the new hires in FY 2014.

This program change is one of several that are necessary to accomplish the strategic goal to optimize trademark quality and timeliness that is a critical part of the Department's innovation and entrepreneurship goal for transforming the Nation's economy, fostering U.S. competitiveness, and driving the development of new businesses. The *USPTO 2010-2015 Strategic Plan*, released in September 2010, noted the challenge for the Trademark organization to continue to maintain the timeliness and quality standards that users of the U.S. trademark system have come to expect.

Proposed Actions:

The Trademark Examining program change will enable the USPTO to maintain trademark pendency at the current levels, particularly first action pendency, by addressing the need to

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balance forecasted new filings and workload (application classes are projected to increase more than five percent per year in FY 2014 and 8 to 9 percent each year beyond FY 2014), existing inventories, and examination capacity.

This request supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and rewards new ideas, technologies, services and products.

Trademark Workload. The Trademark organization requires an increase of \$1.9 million and 22 FTE for a total of \$107.5 million and 659 FTE to adjust trademark application examination capacity with the revised estimated workloads. This will enable the Trademark organization to process incoming work in a timely manner. The positive momentum in new application filings is expected to continue being influenced by the economic recovery that is still underway. The projected increase in trademark application filings requires an increase in examination capacity to continue to meet pendency and quality performance goals. With electronic filings and higher end to end electronic processing, the office continues to realize offsetting cost reductions in contract services that support manual paper based processes.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$1,854	\$6,373	\$12,459	\$18,415	\$24,796
FTE	22	58	105	153	203

Statement of Need and Economic Benefit:

The Trademark Program performs a valuable function by identifying the source of products and services, as well as being an indicator of reliable quality to the consumer. A mark registered with the USPTO serves as *prima facie* evidence of ownership and the right to use the mark, which can provide access to the Federal court system. When registered with U.S. Customs and Border Protection, the registered mark can be used to stop the importation of infringing goods. Timely indication of the viability of a trademark application enables businesses to develop their financial and marketing plans.

Schedules/Milestones/Deliverables for the strategic objective to maintain trademark first action pendency on average between 2.5-3.5 months with 12.0 months or less final pendency can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

Sub-Program: Trademark Information Resources

The Trademark Information Resources sub-program contributes to the accomplishment of the strategic goal to optimize trademark quality and timeliness through the following objective for which funds are required in FY 2014:

- Modernize IT system by developing and implementing the Trademark Next Generation (TMNG) IT system

Program Change:

Trademark Information Resources (\$5.0 million and 1 FTE): The USPTO requires an increase of \$5.0 million and an increase of 1 FTE for a total of \$55.4 million and 62 FTE for its CIF. Detailed information about the CIF and the TMNG can be found in the Executive Summary – The USPTO IT Portfolio documentation.

Proposed Actions:

This program change includes the initiative to continue establishing the TMNG IT capability. The IT architecture and systems currently in place are inadequate and unable to evolve to meet the demands of the future. The continued dependency on inefficient and outdated automation will lead to an inability to support the USPTO's mission and goals.

Trademark Business Projects. In FY 2014, the Trademark Program requires an increase of \$5.0 million for its business projects for the following primary reasons:

- Two TMNG projects will be added in FY 2014 to develop externally-facing systems: a new electronic filing system for trademark applications, and an application that produces an electronic trademark certificate.
- The purchase of most of the needed perpetual licenses for the case management COTS product to provide an end-to-end integrated case management and business capability solution.
- TMNG will require an investment in business continuity and disaster recovery (BC/DR) hardware and software.

FY 2014 will be the peak year for TMNG primarily due to the one-time costs to purchase the majority of the cost management licenses and BC/DR hardware and software. The efficiency gain in agile development for the user interface, Web and business services and trademark records management programs is expected to result in year-over-year cost savings in FYs 2015-2018.

Additional information about the overall USPTO IT activities can be found in the "USPTO Information Technology Portfolio" section of the Introduction.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$4,961	(\$373)	(\$8,762)	(\$20,941)	(\$29,683)
FTE	1	2	5	6	6

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Statement of Need and Economic Benefit:

This program change continues to improve Trademark operations and facilitate accomplishment of the Trademark goal to optimize trademark quality and timeliness. The USPTO's CPIC process governs how USPTO manages the selection, control, and evaluation of major investments. The CPIC process complies with and supports Federal legislation and guidance, and requires quantifiable measurements for determining the net benefits and risks of a proposed investment.

Schedules/Milestones/Deliverables for the strategic objectives to modernize IT systems by developing and implementing the TMNG IT system can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

PROGRAM CHANGE PERSONNEL DETAIL

(Dollar amount in thousands)

Activity: Trademarks

Subactivity:

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
TM Examiner Attorney	Alexandria, VA	GS 11	37	68,712	2,542,344
TM Senior Attorney	Alexandria, VA	GS 15	2	136,134	272,268
TM Staff Attorney	Alexandria, VA	GS 15	2	136,134	272,268
TM Examiner Attorney Attritions Management/Program	Alexandria, VA	Avg GS 14	-8	115,731	(925,848)
Analyst	Alexandria, VA	GS 12	2	82,359	164,718
TM Business Operations Specialist	Alexandria, VA	GS 13	2	97,936	195,872
Total			37		2,521,622
less Lapse		35%	13		896,192
Total full-time permanent (FTE)			24		1,625,430
2013 Pay Adjustment	0.5%				8,127
2014 Pay Adjustment	1.0%				16,336
TOTAL					1,649,893

Personnel Data

	Number
Full-Time Equivalent Employment	
Full-time permanent	24
Other than full-time permanent	0
Total	24

Authorized Positions:

Full-time permanent	37
Other than full-time permanent	0
Total	37

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: **Trademarks**

Subactivity:

Object Class		2014 Increase
11	Personnel compensation	
11.1	Full-time permanent	1,650
11.3	Other than full-time permanent	
11.5	Other personnel compensation	-
11.8	Special personnel services payments	
11.9	Total personnel compensation	1,650
12	Civilian personnel benefits	462
13	Benefits for former personnel	
21	Travel and transportation of persons	6
22	Transportation of things	5
23.1	Rental payments to GSA	-
23.2	Rental payments to others	(1)
23.3	Communications, utilities and miscellaneous charges	(0)
24	Printing and reproduction	(1)
25.1	Advisory and assistance services	-
25.2	Other services	(616)
25.3	Purchases of goods & services from Gov't accounts	-
25.4	Operation and maintenance of facilities	
25.5	Research and development contracts	
25.6	Medical care	
25.7	Operation and maintenance of equipment	
25.8	Subsistence and support of persons	
26	Supplies and materials	1
31	Equipment	5,310
32	Lands and structures	
33	Investments and loans	
41	Grants, subsidies and contributions	
42	Insurance claims and indemnities	
43	Interest and dividends	(2)
44	Refunds	
99	Total obligations	6,815

**INTELLECTUAL
PROPERTY POLICY,
PROTECTION AND
ENFORCEMENT
PROGRAM**

Exhibit 10 – Program Performance: Total Obligations

Department of Commerce
U.S. Patent and Trademark Office
Intellectual Property Policy Protection and Enforcement Program
PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS
(Dollar amounts in thousands)

Activity: Intellectual Property Policy

		FY 2012 Actual		FY 2013 Current Plan		FY 2014 Base		FY 2014 Estimate		Increase/ (Decrease)	
Sub-Activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Policy and Administrative Support	Pos./Obl	67	14,207	94	24,159	94	26,136	95	26,474	1	338
	FTE	56		81		93		94		1	
Governmental Affairs	Pos./Obl	7	1,371	11	1,681	11	2,031	11	2,031	-	-
	FTE	7		9		11		11		-	
Global Intellectual Property Academy (GIPA)	Pos./Obl	18	4,702	23	7,842	23	8,194	23	8,194	-	-
	FTE	17		21		23		23		-	
IPR Attaché Program	Pos./Obl	2	7,429	4	10,643	4	10,887	6	12,038	2	1,152
	FTE	2		4		4		6		2	
IP PP&E Information Resources	Pos./Obl	-	297	-	716	-	728	-	412	-	(317)
	FTE	-		-		-		-		-	
Subtotal Direct	Pos./Obl	94	28,006	132	45,042	132	47,976	135	49,149	3	1,173
	FTE	82		114		131		134		3	
Management Goal - Allocated	Pos./Obl	55	17,083	72	22,231	72	23,443	75	24,477	3	1,034
	FTE	45		60		66		68		2	
Total	Pos./Obl	149	45,089	204	67,272	204	71,420	210	73,626	6	2,207
	FTE	127		174		197		201		4	

Exhibit 12 – Justification of IP Policy, Protection and Enforcement Program and Performance

BUDGET PROGRAM: Intellectual Property Policy, Protection and Enforcement (IP PP&E) Program

For FY 2014, the USPTO requires an increase of \$2.2 million and 4 FTE from the FY 2014 base for a total of \$71.5 million and 198 FTE for the IP PP&E Program.

PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub-Program	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Policy and Administrative Services	\$14,207	\$24,159	\$26,474	\$26,814	\$27,159	\$27,508	\$27,862
Governmental Affairs (GA)	\$1,371	\$1,681	\$2,031	\$2,053	\$2,075	\$2,097	\$2,120
Global Intellectual Property Academy (GIPA)	\$4,702	\$7,842	\$8,194	\$8,311	\$8,431	\$8,552	\$8,675
IP Rights Attaché Program	\$7,429	\$10,643	\$12,038	\$12,273	\$12,513	\$12,758	\$13,013
IP PP&E Information Resources	\$297	\$716	\$412	\$406	\$418	\$429	\$422
Management Goal -- Allocated	\$17,083	\$22,231	\$24,477	\$25,160	\$25,853	\$26,328	\$26,744

IP PP&E Program Overview:

The USPTO's IP PP&E Program, through its strategic goal to provide domestic and global leadership to improve IP policy, protection and enforcement worldwide, supports the Department's strategic objective to "expand international markets for U.S. firms and inventors by improving the protection and enforcement of intellectual property rights."

These goals will be met by achieving the following objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy

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- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

The USPTO promotes the protection and enforcement of IP of American innovators and creators on both the domestic and international levels. The USPTO advises the President, through the Secretary of Commerce, and all Federal agencies, on national and international IP policy issues including IP protection in other countries. The USPTO is also authorized to provide guidance, conduct programs and studies, and otherwise interact with foreign IP offices and international intergovernmental organizations on matters involving the protection of IP.

Base Justification:

Sub-Program #1: Policy and Administrative Support (\$26.1 million and 93 FTE)

The Administrator for OPIA is the principal advisor to the Under Secretary on public policy matters relating to IP protection including proposed legislation and international activities of the United States. OPIA includes attorneys in various subject matter fields (trade, enforcement, patents, copyright, and trademarks) who perform the policy and representation work, and representation travel, as well as program analysts and a number of administrative support specialists who support the entire office.

Intellectual Property Policy

OPIA plays a critical role in the U.S. Government's (USG) efforts and obligations to provide IP technical assistance throughout the world, which includes providing policy advice, and defining a course or method of action that is intended to guide and determine present and future decisions on IP.

OPIA participates in the World Intellectual Property Organization (WIPO), a specialized agency of the United Nations (UN) devoted to IP matters. WIPO has standing committees devoted to IP law. OPIA initiates, crafts, coordinates, negotiates, and represents the USG position. The OPIA also participates in the World Trade Organization (WTO), which is an international forum for liberalizing trade. The United States is a WTO member and has worked to include a substantial IP component known as the Trade-Related Aspects of IP (TRIPS) agreement. The OPIA provides technical expertise in IP dispute-settlement cases before the WTO, in support of and at the request of the office of the U.S. Trade Representative (USTR). The OPIA has been the USG's IP technical representative in several cases, most recently in the USG's successful copyright challenge to certain aspects of China's IP regime. OPIA also participates at the World Health Organization (WHO), which is the directing and coordinating authority for health within the UN system. IP issues surround access to medicines for influenza pandemics, among others.

OPIA's statutory obligation to provide IP guidance and advice to the Administration with respect to international IP policy and protection includes bilateral, regional, and multilateral IP discussions, and IP-Office cooperation leading directly to patent work sharing. These efforts benefit the USG and U.S. interests by ensuring the availability and enforceability of IP rights, thereby leveling the playing field for U.S. IP-based trade. Some of these initiatives include supporting Free Trade Agreement (FTA), Trilateral, and IP5 cooperative activities, and working to simplify and harmonize administrative and technical processing of patent and trademark applications.

OPIA also coordinates patent cooperative activities with the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean IP Office, and the State IP Office of the People's

Republic of China (PRC), collectively known as the IP5, which lead to work-sharing and PPH projects that will help address the patent backlog.

Chief Economist

The Chief Economist (CE) is the primary advisor to the Under Secretary regarding all economic issues at the USPTO. The CE undertakes research that influences and guides USPTO regulatory initiatives and policy recommendations with respect to the broader functioning of IP systems. This involves long-term research and policy planning on an ongoing basis. The CE assists the USPTO and other USG agencies by evaluating market data and trends to assist in targeting examination, enforcement, and outreach resources. The CE also conducts research into the causes and consequences of significant developments in U.S. markets, prevailing practices among users and producers of IP, and U.S. IP policy.

Sub-Program #2: Governmental Affairs (GA) (\$2.0 million and 11 FTE)

GA formulates legislative and policy proposals, prepares supporting documentation to carry out the USPTO proposals. Staff also reviews and prepares analyses of legislative proposals concerning IP matters that originated in other executive agencies or that were proposed by members of the Congress. GA prepares congressional testimony on IP for the Under Secretary and other USPTO and Departmental officials, and maintains liaison with the Congress, the IP bar associations, industry, and others concerned with proposed and pending legislation. The group analyzes other IP-related policy issues that are before the Executive Branch and obtains public views through various means, including public hearings. The GA mission is to advance the legislative agenda of the Under Secretary; generate goodwill; provide education and outreach; prepare for hearings and legislation; manage responses to congressional inquiries; and liaison with the Department and other agencies.

Sub-Program #3: Global Intellectual Property Academy (GIPA) (\$8.2 million and 23 FTE)

GIPA provides web-based and on-site training, technical assistance, and capacity building programs and activities to foreign government officials from other IP offices and other foreign government officials responsible for IP enforcement policy and law enforcement. These include customs officials, police officers, IP enforcement office administrators, public prosecutors, and members of the judiciary. GIPA also offers a variety of programs, information booths, and educational materials for U.S. SMEs throughout the United States on protecting and enforcing IP in the United States and abroad, including dedicated programs to minorities, women, and Native Americans. GIPA also provides "train-the-trainers" programs for the Small Business Development Centers (SBDCs), the National Institute of Standards and Technology Manufacturing Extension Partnership (NIST MEP), and others. In addition, GIPA offers specialized programs on doing business in the other BRIC (Brazil, Russia, India and China) countries.

Specific programs include:

- High-level capacity building and technical assistance training to foreign government officials (judges, prosecutors, customs officials, IP enforcement personnel, as well as officials from IP offices).
- Providing patent officials from other countries with patent examiner training at the Patent Training Academy with financial support from those countries.

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- Conducting advanced trademark examination program for examiners and senior officials from other IP offices including Brazil and India. These programs provide the officials with an in-depth analysis of the U.S. approach to the examination of trademark applications in order to strengthen the practices and procedures in other countries.
- Organizing and hosting capacity-building joint projects, such as those conducted with the Asia Pacific Economic Cooperation (APEC); the Association of South East Asian Nations (ASEAN); and the Pacific Islands Forum (PIF).
- Conducting programs for study on IP rights enforcement and the U.S. legal system for foreign government judges and prosecutors.
- Conducting an IP “boot camp” for all U.S. small businesses including an IP “needs assessment” on patents, trade secrets, trademarks, copyright, IP and the Internet; and one-on-one consultations to assist businesses to protect themselves against IP theft from abroad, and to prepare themselves for exporting their goods or services.
- Offering online instruction and outreach through webinars and e-learning modules, providing easy, global access to information tools.

Sub-Program #4: Intellectual Property Rights (IPR) Attaché Program (\$10.9 million and 4 FTE)

The IPR Attaché Program was formally instituted in 2006 to promote strong IP protection and enforcement internationally for the benefit of U.S. foreign, economic, and political interests. Since its creation, the IPR Attaché Program has placed individuals in seven countries: Brazil, China (posts exist in Beijing, Guangzhou, and Shanghai), Egypt, India, Russia, Switzerland, Mexico and Thailand. There are currently attachés at all posts except Egypt and Shanghai. The IPR Attaché Program is closely aligned with and supports achievement of USPTO's mission, the IP PP&E strategic goal, and the objectives identified in the *USPTO 2010-2015 Strategic Plan*. The IP attachés bring unique technical IP expertise and experience to their posts. Attachés have helped influence laws, regulations, and IPR practices in their host countries.

Sub-Program #5: IP PP&E Information Resources (\$.7 million)

IP PP&E Information Resources includes base resources for making capital improvements to, and operating and maintaining, existing IP PP&E systems. The USPTO IT activities are fully described in the “USPTO Information Technology Portfolio” section of the Introduction.

Sub-Program #6: Management Goal – Allocated (\$23.4 million and 66 FTE)

This sub-activity represents all of the management activities that support accomplishment of the IP PP&E goal. These can be specifically IP PP&E related or cross-cutting functions that are dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management Goal while the costs are allocated to the IP PP&E program based on the Agency's ABI analysis and results.

Program Gap Assessment:

Given the demonstrated importance of high-quality IP, the USPTO is a key component of the Administration's strategy to encourage American innovation and global competitiveness. As a result, the USPTO is striving to overcome the challenges to maintaining effective IP rights, which include: gathering data on how IP rights function in the marketplace, deepening the dialogue on global IP policy, facilitating technical cooperation with foreign countries, optimizing

the interaction of the IP system with other legal regimes, arriving at agreement on standards for IP protection, and improving IP enforcement.

Significant Adjustments to Base (ATBs):

The USPTO requires a net increase of 23 FTEs and \$4.1million to fund adjustments to current programs for the IP PP&E Program activities. This increase will provide the annualization of the FTE increase and will also provide inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.

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IP PP&E Performance Goal and Measurement Data								
<i>(Dollars in thousands)</i>	FY 2012 Actual	FY 2013 President's Budget	FY 2013 Current Plan	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate	FY 2018 Estimate
Percent of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing IP rights 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms	75%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Without funding		50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Percent of foreign officials trained who have initiated or implemented a positive change in the IP systems in their organization and/or countries.	69.3%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Without funding		50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%

Exhibit 13 – 15: IP Policy, Protection and Enforcement Program Changes by Sub-Program

Exhibit 13

Department of Commerce U.S. Patent and Trademark Office

INCREASES FOR 2014 (Dollar amounts in thousands)

		2014 Base		2014 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Intellectual Property Policy, Protection and Enforcement Program							
	Pos./Obl.	132	47,976	135	49,151	3	1,175
	FTE	131		134		3	
Policy and Administrative Support							
	Pos./Obl.	94	26,136	95	26,475	1	339
	FTE	93		94		1	
Developing an Economics of Innovation and Technology Analysis Office (EITA)							
	Pos./Obl.					1	339
	FTE					1	
Global Intellectual Property Academy							
	Pos./Obl.	23	8,194	23	8,194	-	-
	FTE	23		23		-	
IPR Attaché Program							
	Pos./Obl.	4	10,887	6	12,039	2	1,153
	FTE	4		6		2	
Posting of IP Attachés							
	Pos./Obl.	-				2	1,153
	FTE	-				2	
IP PP&E Information Resources							
	Pos./Obl.	-	728	-	412	-	(317)
	FTE	-		-		-	-
IP PP&E Information Resources							
	Pos./Obl.					-	(317)
	FTE					-	

Department of Commerce
U.S. Patent and Trademark Office

INCREASES FOR 2014 - 2018
(Dollar amounts in thousands)

		FY 2014 Increase (Decrease)		FY 2015 Increase (Decrease)		FY 2016 Increase (Decrease)		FY 2017 Increase (Decrease)		FY 2018 Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Intellectual Property Policy, Protection and Enforcement Program	Pos./Obl.	3	1,175	3	1,216	3	1,276	3	1,339	3	1,390
	FTE	3		3		3		3		3	
Policy and Administrative Support	Pos./Obl.	1	339	1	343	1	348	1	353	1	357
	FTE	1		1		1		1		1	
Developing an Economics of Innovation and Technology Analysis Office (EITA)	Pos./Obl.	1	339	1	343	1	348	1	353	1	357
	FTE	1		1		1		1		1	
Global Intellectual Property Academy	Pos./Obl.	-	-	-	-	-	-	-	-	-	-
	FTE	-		-		-		-		-	
IPR Attaché Program	Pos./Obl.	2	1,153	2	1,207	2	1,264	2	1,324	2	1,390
	FTE	2		2		2		2		2	
Posting of IP Attachés	Pos./Obl.	2	1,153	2	1,207	2	1,264	2	1,324	2	1,390
	FTE	2		2		2		2		2	
IP PP&E Information Resources	Pos./Obl.	-	(317)	-	(334)	-	(336)	-	(337)	-	(357)
	FTE	-	-	-	-	-	-	-	-	-	-
IP PP&E Information Resources	Pos./Obl.	-	(317)	-	(334)	-	(336)	-	(337)	-	(357)
	FTE	-		-		-		-		-	

Sub-Program: Policy and Administrative Support

The Policy and Administrative Support sub-program contributes to the accomplishment of the strategic goal to improve IP policy, protection and enforcement through the following objective and initiative for which funds are required in FY 2014:

- Provide Domestic Leadership on IP policy issues and development of a national IP strategy by providing policy formulation in all fields of IP protection, and enforcement.

Historical and projected metrics are included in the IP PP&E Program Performance Goals and Measurement Data table on page 108.

Program Change:

Policy and Administrative Support (\$0.3 million and 1 FTE): The USPTO requires an increase of \$0.3 million and 1 FTE for a total of \$26.5 million and 94 FTE to provide policy formulation in all fields of IP protection and enforcement through the research and studies of the USPTO Chief Economist.

This program change is one of several that are necessary to accomplish the goal of improving IP policy, protection and enforcement which supports the Department's Economic Growth goal to develop the tools, systems, policies, and technologies critical to transforming the U.S. economy, fostering U.S. competitiveness, and driving the development of new businesses.

With the current level of attention on the role of IP in a strong economy, the major risk of not funding this program change is the lost opportunity to capitalize on that attention, to explore and find solutions to current IP challenges, and to modernize the international filing system thereby increasing efficiency, and reducing costs for all concerned.

Proposed Actions:

Funds would be used to provide the empirical basis for building awareness by investigating, documenting, and understanding the interplay of ideas and economic growth. This will establish a framework capable of analyzing the growth of an economy increasingly dominated by conceptual products.

Staffing for the Office of the Chief Economist. Funds are required to build a system to link data dynamically across economists and over time. It is in the interests of transparency and efficiency to reduce the burden of access. The straightforward approach is to create an analysis team with an overarching mandate to study innovation in order to provide a common, standardized platform that can be used by both government and non-government researchers to understand the key phenomenon of interest: the U.S. innovation ecosystem. The team would, rather than building on an inadequate and broken basis, build from first principles to develop a 21st century data and analysis infrastructure.

Presently, there is no single entity which studies the important economic drivers and impacts of innovation and technological progress. U.S. policymakers are not adequately served by this lack of what is a fundamental analytical capability. The USPTO is uniquely positioned to establish and fund such a research and analysis capability that would support policymakers to strategically position the United States to win the future through innovation and technology.

FY 2014 President's Budget

One position is required to develop (1) a detailed plan describing its purpose, goals, and scope of activities; (2) an ideal staffing plan including roles and responsibilities; (3) a step-by-step implementation plan including timeline; (4) a plan to establish an advisory board including roles and responsibilities; and (5) performance measures to be used to evaluate the effectiveness of the new analytical capability. Funding also would be used for advisory assistance services to provide for surveys, studies, and round table style meetings with experts during the developmental year. The plan developed during this first year would form the basis for additional resource requests for FY 2015 and beyond. Without meaningful analysis, the most accurate information cannot be discovered, and therefore policy advice is less accurate than it could otherwise be.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$339	\$343	\$348	\$353	\$357
FTE	1	1	1	1	1

Statement of Need and Economic Benefit:

The USPTO is committed to raising public awareness, both domestically and internationally, of the link between IP rights protection, innovation, exports, and economic growth. To fulfill its responsibility in promoting innovation and competitiveness, the USPTO must work to ensure that U.S. IP systems continually adapt to new technological advances; that foreign IP offices similarly adapt and improve their IP systems; that efforts to adapt and improve IP systems are based on the best available data; and that the IP rights of U.S. businesses are protected at home and abroad.

Schedules/Milestones/Deliverables for the strategic objective to provide policy formulation in all fields of IP protection and enforcement can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

Sub-Program: Intellectual Property Rights (IPR) Attaché Program

The IPR Attaché sub-program contributes to the accomplishment of the strategic goal to improve IP policy, protection and enforcement through the following objective for which funds are required in FY 2014:

- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights.

Historical and projected metrics are included in the IP PP&E Program Performance Goals and Measurement Data table on page 109.

Program Change:

IPR Attaché Program (\$1.2 million and 2 FTE): The USPTO requires an increase of \$1.2 million and 2 FTE for a total of \$12.0 million and 6 FTE to expand the IPR Attaché Program.

The major risk is the lost opportunity to bring USPTO's global IP harmonization policies and training to these developing countries' IP offices and governments. The protection and enforcement of IP rights internationally is a critical objective of the Administration and this objective will be set back if these postings are not filled.

Proposed Actions:

The USPTO proposes to expand the IPR Attaché Program in order to focus on issues in Southeast Asia and Europe. Current posts are located in China (Guangzhou, Beijing and Shanghai), Thailand, Brazil, India, Russia, Switzerland, Mexico and Egypt.

Posting of IP Attachés. Funds required for FY 2014 would be used to expand the program beyond the BRIC countries – Brazil, Russia, India and China – by establishing two new attaché posts each headed by an IP attaché and staffed with 2-4 locally employed staff (LES). The importance of the IP enforcement efforts in these critical countries is enormous and represents the four economies with the greatest trading challenges and piracy activity.

One post will be established in South Asia, based in Jakarta, Indonesia. Indonesia is one of the fastest growing major economies in the world. U.S. industry is becoming increasingly interested in the Indonesian market. USPTO has established a productive relationship with the ASEAN which is headquartered in Jakarta. An IP attaché based in Jakarta would be well positioned to work with the Indonesian government on improving IP protection and enforcement in Indonesia, as well as with the ASEAN Secretariat, and the IP attaché based in Bangkok, Thailand on IP matters in Southeast Asia.

Another IP attaché would be based in Brussels, Belgium. The European Union (EU) has 27 Member States and a population of more than 500 million people. The EU may be considered the largest single-market trading partner of the United States. An IP attaché based in Brussels would work with the European Community and the EU on IP issues in WIPO, WTO, and other multilateral forums. The attaché would also work with the EPO and national patent offices in Europe on IP matters, including IP5, work sharing, substantive patent law harmonization, and PPH.

FY 2014 President's Budget

IP attaché postings are for a two to five year period. When USPTO employees are posted, during their time abroad they leave the USPTO and become Foreign Commercial Service (FCS) employees with full return rights to the USPTO. Costs other than salary and benefits (for the attaché and LES) include program funds for training, technical assistance, travel within the region, embassy office space rental, charges for security within the embassy and other International Cooperative Administrative Support Services charges associated with embassy space, housing, and education allowances for attachés' children of school age. FCS suggests budgeting at the rate of 4.7 percent increase per year.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$1,153	\$1,207	\$1,264	\$1,324	\$1,390
FTE	2	2	2	2	2

Statement of Need and Economic Benefit:

The USPTO created its IPR Attaché Program in 2006 to address country-specific and regional IP problems in key parts of the world. The primary responsibilities of the IP attachés are: advancing U.S. policy abroad; dialoguing with foreign counterparts on IP issues; providing training and technical assistance for foreign counterparts; supporting U.S. companies and right holders abroad; facilitating enforcement of IP laws and regulations; and promoting public awareness of IP issues. The work done by some of the current attachés has resulted in collaborative efforts with the host country IP offices, which will help reduce patent pendency in the United States.

Schedules/Milestones/Deliverables for the strategic objective to provide leadership on international policies for improving the protection and enforcement of IP rights can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

Sub-Program: IP PP&E Information Resources

The IP PP&E Information Resources sub-program contributes to the accomplishment of the strategic goal to provide global leadership to improve IP policy, protection and enforcement through the following objective for which funds are required in FY 2014:

- Improve IT Infrastructure and Tools

Program Change:

IP PP&E Information Resources (\$0.3 million): The USPTO requires a decrease of \$0.3 million for a total of \$0.4 million for its CIF. Detailed information about the CIF and the IT tools used by the IP PP&E Program can be found in the Executive Summary – The USPTO IT Portfolio.

Proposed Actions:

This program change includes the initiative to continue ensuring the effective use of IT systems for the accomplishment of this goal. The major system supporting the goal to provide domestic and international leadership on IP policy is the Office of Legislation and International Affairs Document Management System.

CIF – IP PP&E IT Capital Improvements. In FY 2014 and the out years, the IP PP&E Program requires fewer funds to improve its IT capability.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	(\$317)	(\$334)	(\$336)	(\$337)	(\$357)
FTE	-	-	-	-	-

Statement of Need and Economic Benefit:

This program change would improve IT infrastructure and tools.

Schedules/Milestones/Deliverables for the strategic objective to improve IT infrastructure and tools can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

FY 2014 President's Budget

Exhibit 14

PROGRAM CHANGE PERSONNEL DETAIL (Dollar amount in thousands)

Activity: IP PP&E

Subactivity:

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
Attorney Advisor	Alexandria, VA	GS 15	2	155,500	311,000
Expert Advisor or Senior Statistical Economist	Alexandria, VA	GS 15	1	123,758	123,758
Total			3		434,758
less Lapse		17%	1		77,750
Total full-time permanent (FTE)			3		357,008
2013 Pay Adjustment	0.5%				1,785
2014 Pay Adjustment	1.0%				3,588
TOTAL					362,381
Personnel Data			Number		
Full-Time Equivalent Employment					
Full-time permanent			3		
Other than full-time permanent			0		
Total			3		
Authorized Positions:					
Full-time permanent			3		
Other than full-time permanent			0		
Total			3		

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: **IP PP&E**

Subactivity:

Object Class		2014 Increase
11	Personnel compensation	
11.1	Full-time permanent	362
11.3	Other than full-time permanent	
11.5	Other personnel compensation	15
11.8	Special personnel services payments	
11.9	Total personnel compensation	377
12	Civilian personnel benefits	100
13	Benefits for former personnel	
21	Travel and transportation of persons	25
22	Transportation of things	-
23.1	Rental payments to GSA	-
23.2	Rental payments to others	-
23.3	Communications, utilities and miscellaneous charges	-
24	Printing and reproduction	-
25.1	Advisory and assistance services	150
25.2	Other services	817
25.3	Purchases of goods & services from Gov't accounts	-
25.4	Operation and maintenance of facilities	
25.5	Research and development contracts	
25.6	Medical care	
25.7	Operation and maintenance of equipment	
25.8	Subsistence and support of persons	
26	Supplies and materials	-
31	Equipment	(294)
32	Lands and structures	
33	Investments and loans	
41	Grants, subsidies and contributions	
42	Insurance claims and indemnities	
43	Interest and dividends	-
44	Refunds	
99	Total obligations	1,175

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MANAGEMENT PROGRAM

Exhibit 10 – Program Performance: Total Obligations

Department of Commerce
U.S. Patent and Trademark Office
MANAGEMENT PROGRAM
PROGRAM AND PERFORMANCE: DIRECT OBLIGATIONS
(Dollar amounts in thousands)

Activity:

Management Program

		FY 2012 Actual		FY 2013 Current Plan		FY 2014 Base		FY 2014 Estimate		Increase/ (Decrease)	
Sub-Activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Executive Direction and Communications	Pos./Obl	40	4,253	55	5,973	55	6,625	55	6,625	-	-
	FTE	24		34		38		38		-	-
Financial Management Services	Pos./Obl	102	19,171	116	21,631	116	22,334	119	22,834	3	500
	FTE	94		109		114		117		3	-
Human Resource Management and Administrative Services	Pos./Obl	197	35,970	231	43,455	231	46,411	237	56,952	6	10,541
	FTE	189		210		230		236		6	
Legal Services	Pos./Obl	98	15,615	129	21,175	129	23,757	138	25,158	9	1,401
	FTE	83		115		129		136		7	-
Management Information Resources	Pos./Obl	20	32,451	25	44,052	25	45,374	25	47,480	-	2,105
	FTE	18		21		25		25		-	-
IT Infrastructure and IT Support Services	Pos./Obl	373	220,537	519	273,827	536	287,082	536	322,277	-	35,195
	FTE	328		425		536		536		-	-
Miscellaneous General Expense	Pos./Obl	-	210,682	-	234,818	-	243,359	-	253,551	-	10,193
	FTE	-		-		-		-		-	-
Total											
	Pos./Obl	830	538,678	1,075	644,931	1,092	674,943	1,110	734,877	18	59,935
	FTE	735		915		1,072		1,088		16	
Management Goal - Allocation:											
Patent Program	Pos./Obl	667	446,215	855	544,647	855	568,598	869	619,643	14	51,045
	FTE	597	-	734	-	843	-	856	-	13	-
Trademark Program	Pos./Obl	108	75,380	148	78,054	165	82,901	166	90,757	1	7,856
	FTE	93	-	121	-	163	-	164	-	1	-
IPPP&E Program	Pos./Obl	55	17,083	72	22,231	72	23,443	75	24,477	3	1,034
	FTE	45	-	60	-	66	-	68	-	2	-
Total Management Goal Allocation											
	Pos./Obl	830	538,678	1,075	644,931	1,092	674,943	1,110	734,877	18	59,935
	FTE	735		915		1,072		1,088		16	

Exhibit 12 – Management Program and Performance

BUDGET PROGRAM: Management Program

The USPTO requires an increase of \$59.9 million and 16 FTE from the FY 2014 base for a total of \$734.9 million and 1,088 FTE for the Management Program. The costs associated with the Management Program activities have already been allocated to the Patent, Trademark, and IP PP&E Programs using the Agency's ABI results.

PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub-Program	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Executive Direction and Communications	\$4,253	\$5,973	\$6,625	\$6,702	\$6,781	\$6,860	\$6,941
Financial Management Services	\$19,171	\$21,631	\$22,834	\$23,123	\$23,401	\$23,682	\$23,966
Human Resources Management and Administrative Services	\$35,970	\$43,455	\$56,952	\$57,538	\$58,137	\$58,745	\$59,361
Legal Services	\$15,615	\$21,175	\$25,158	\$26,547	\$28,615	\$30,033	\$30,292
Management Information Resources	\$32,451	\$44,052	\$47,480	\$39,671	\$41,016	\$41,880	\$42,657
IT Infrastructure and IT Support Services	\$220,537	\$273,827	\$322,277	\$332,173	\$337,980	\$342,629	\$347,115
Cross-Cutting Services/ (Miscellaneous General Expense)	\$210,682	\$234,818	\$253,551	\$252,964	\$258,341	\$260,674	\$266,190

Management Program Overview

The USPTO's Management Program, through its strategic goal to achieve organizational excellence, enables the USPTO to carry out its mission and accomplish its goals and objectives. The USPTO's management goal is consistent with the DOC management themes of: customer service, organizational excellence, and workforce excellence.

FY 2014 President's Budget

This strategic goal will be met by achieving the following management objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Improve IT Infrastructure and Tools
- Implement a Sustainable Funding Model for Operations
- Improve Employee and Stakeholder Relations

Fulfillment of the USPTO's mission requires strong leadership and collaborative management. While the three strategic goals focus on the USPTO's core mission, overarching management priorities focus on the shared responsibility that is a prerequisite for achieving those goals and objectives; namely, sound resource management, solid workforce planning, corporate support services, and effective use of IT.

Base Justification:

Sub-Program #1: Executive Direction and Communications (\$6.6 million and 38 FTE)

Executive Direction and Communications entails determining the policies and directing the programs of the USPTO. The Under Secretary and Director receives advice from the PPAC and the TPAC on Office policies, goals, performance, budget, and user fees. Communications entail media relations and speech writing; business liaison, outreach, and community relations; internal communications; and museum services, special events, and web services.

Sub-Program #2: Financial Management Services (\$22.3 million and 114 FTE)

Financial Management Services contributes to the efficient and effective management of organizational resources in support of the strategic goals by:

- Ensuring that the USPTO's annual performance supports the strategic plan; the budget is efficiently and effectively formulated and executed to achieve optimal performance levels across all business units; and actionable information is provided to executive management.
- Awarding quality, fiscally responsible, and timely procurement actions by anticipating and exceeding stakeholders' ever-changing needs with their knowledge of business practices and market dynamics, innovative strategies, and well-defined and standardized processes.
- Implementing and managing financial accounting and control systems, collecting financial data, and analyzing financial reports leading to sound financial decisions. These activities have enabled the USPTO to earn an unqualified audit opinion on its annual financial statements for 20 consecutive years, and the Association of Government Accountants' Certificate of Excellence in Accountability Reporting award for 10 consecutive years.

Sub-Program #3: Human Resource Management and Administrative Services (\$46.4 million and 230 FTE)

Efficient and effective human resources management, administrative services, and telework programs under the responsibility of the CAO, entails:

- Recruiting, developing, and retaining a high-performing, highly-skilled, and diverse workforce necessary for mission success, and to foster the next generation of USPTO employees and leaders. This includes attracting employees with the right skill sets while focusing on a results-oriented performance culture, leadership and development, and talent management.
- Expanding and promoting Agency-wide telework as a corporate business strategy, which supports mission achievement and goal fulfillment via a distributed workforce.

- Overseeing a broad range of administrative and employee service programs (for example, occupational/safety/health services; printing and graphics; mail center operations; move services; transportation services; conference services; cafeteria, concessions, and food services; personnel property management services; and file repository services) responsive to the needs of the USPTO workforce.
- Providing real property services (e.g., lease/facilities management, space planning/design, coordination of building renovations), as well as energy conservation and environmental management services.
- Providing for protection of personnel, facilities, and property; coordinating the USPTO's Occupant Emergency, Emergency Preparedness, and Continuity of Operations' planning efforts.

Equal Employment Opportunity and Diversity (EEOD)

The promotion of equal employment opportunity (EEO) and a diverse, inclusive workforce is achieved by providing: reasonable accommodation of employees and job applicants with disabilities; sign language interpreting services, as needed; strategic affirmative employment programs; special emphasis programs; workforce diversity initiatives; EEO complaint processing, including alternative dispute resolution when applicable; and facilitating recruitment, development, and retention of a diverse and multicultural work force. The Office of EEOD partners with each USPTO business unit to maintain a fair and inclusive workforce. The organization reports directly to the Office of the Director and Deputy Director.

Sub-Program #4: Legal Services (\$23.8 million and 129 FTE)

Legal services provided by the offices under the General Counsel entail:

- The Office of the Solicitor (SO) serves as legal counsel to the USPTO on IP law matters, and works in collaboration with the DOC on interagency IP law matters. Primary responsibilities of the SO include defending decisions by the PTAB and the TTAB before the United States Court of Appeals for the Federal Circuit (CAFC) and the Federal District courts; representing the Under Secretary in district court actions that are filed against the USPTO pursuant to the Administrative Procedure Act (APA); providing legal advice on IP law policy and regulation; prosecuting attorneys and agents who practice before the Agency for alleged ethical violations or misconduct; and defending USPTO employees at deposition.
- The Office of General Law (OGL) represents the USPTO in legal matters other than those involving IP, such as providing advice, writing legal opinions, and litigating in areas concerning the management of the USPTO, such as administrative, employment, contract/procurement, fiscal, and labor law.
- The Office of Enrollment and Discipline (OED) evaluates applications of persons seeking registration as attorneys and agents and reciprocal recognition of Trademark agents; registering and maintaining a roster of registered attorneys and agents to practice before the USPTO in patent cases; and investigating and bringing disciplinary proceedings against registered attorneys and agents as well as attorneys practicing in trademark matters.

Sub-Program #5: Management Information Resources (\$45.4 million and 25 FTE)

Management Information Resources includes a base level of resources for ongoing operations and maintenance, and making capital improvements to management business systems, as fully described in the "USPTO Information Technology Portfolio" section of the Introduction.

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Sub-Program #6: IT Infrastructure and IT Support Services (\$287.1 million and 536 FTE)

IT Infrastructure and IT Support Services include a base level of resources for operating and maintaining the underlying infrastructure supporting the business systems and the IT support services (e.g., operations and maintenance); making capital improvements to those same IT infrastructure and support services; and disseminating information to the public. A full description is included in the "USPTO Information Technology Portfolio" in the Introduction.

Sub-Program #7: Cross-Cutting Management Services: Miscellaneous General Expense (\$243.4 million)

This sub-program entails cross-cutting services that affect all USPTO employees and/or operations, such as space rental, utilities, lease management, security, telecommunications, transportation, postage, and the USPTO's participation in the DOC Working Capital Fund. It also includes funding for post-retirement benefits, whereby the USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Benefits (FEHB) Program, Federal Employees Group Life Insurance (FEGLI) Program, and the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) pension liabilities. Funds for this purpose are transferred to the OPM.

Program Gap Assessment:

As the USPTO's core mission activities continue to grow and have an ever-increasing impact on domestic and international economies, it is imperative that the USPTO grow and modernize. This requires USPTO leadership to make prudent management decisions, drive efficiency throughout the Agency, and make informed trade-offs in determining how best to manage the Office's resources.

Significant Adjustments to Base (ATBs):

The Management Program ATBs have already been allocated back to the three main Budget Programs and included with their costs.

Exhibit 13 – 15: Management Program Changes by Sub-Program

Exhibit 13

Department of Commerce
U.S. Patent and Trademark Office

INCREASES FOR 2014
(Dollar amounts in thousands)

		2014 Base		2014 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Total, Management Program	Pos./Obl.	1,092	674,943	1,110	734,875	18	59,933
	FTE	1,072		1,088		16	
Financial Management Services	Pos./Obl.	116	22,334	119	22,834	3	500
	FTE	114		117		3	
	Pos./Obl.					3	500
	FTE					3	
Human Resources Management and Administrative Services	Pos./Obl.	231	46,411	237	56,950	6	10,538
	FTE	230		236		6	
Student Loan Repayment Program	Pos./Obl.			-	10,000	-	10,000
	FTE			-		-	
Staffing for Office of Security	Pos./Obl.					6	538
	FTE					6	
Legal Services	Pos./Obl.	129	23,757	138	25,158	9	1,400
	FTE	129		136		7	-
Solicitor's Office (SO) Production and AIA Workload	Pos./Obl.					9	1,400
Management Information Resources	Pos./Obl.	25	45,374	25	47,479	-	2,105
	FTE	25		25		-	
Management Information Resources	Pos./Obl.					-	2,105
	FTE					-	
IT Infrastructure and IT Support Services	Pos./Obl.	536	287,082	536	322,277	-	35,195
	FTE	536		536		-	
Infrastructure Improvements	Pos./Obl.					-	35,195
	FTE					-	
Miscellaneous General Expense (MGE)	Pos./Obl.	-	243,359	-	253,553	-	10,194
	FTE	-		-		-	
Energy Conservation Measures	Pos./Obl.					-	244
	FTE					-	
Security System Upgrades	Pos./Obl.					-	2,950

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Department of Commerce U.S. Patent and Trademark Office

INCREASES FOR 2014 (Dollar amounts in thousands)

		2014 Base		2014 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
HSPD-12 PIV Card Issuer (PCI) Assessment and Accreditation	FTE					-	
	Pos./Obl.					-	150
RFID Tagging of Assets	FTE					-	
	Pos./Obl.					-	2,000
Parking Access Revenue Control System (PARCS)	FTE					-	
	Pos./Obl.					-	600
Conference Room/Office Furniture Replacement	FTE					-	
	Pos./Obl.					-	4,250
	FTE					-	

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Exhibit 13 continued

Department of Commerce U.S. Patent and Trademark Office

INCREASES FOR 2013* (Dollar amounts in thousands)

		FY 2014 Increase (Decrease)		FY 2015 Increase (Decrease)		FY 2016 Increase (Decrease)		FY 2017 Increase (Decrease)		FY 2018 Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Total, Management Program	Pos./Obl.	18	59,933	22	51,857	32	55,334	36	53,331	36	53,092
	FTE	16		21		30		35		35	
Financial Management Services	Pos./Obl.	3	500	3	520	3	526	3	531	3	536
	FTE	3		3		3		3		3	
Office of Program Evaluation and Improvement	Pos./Obl.	3	500	3	520	3	526	3	531	3	536
	FTE	3		3		3		3		3	
Human Resources Management and Administrative Services	Pos./Obl.	6	10,538	6	10,540	6	10,546	6	10,551	6	10,557
	FTE	6		6		6		6		6	
Student Loan Repayment Program	Pos./Obl.	-	10,000	-	10,000	-	10,000	-	10,000	-	10,000
	FTE	-		-		-		-		-	
Staffing for Office of Security	Pos./Obl.	6	538	6	540	6	546	6	551	6	557
	FTE	6		6		6		6		6	
Legal Services		9	1,400	13	2,536	23	4,347	27	5,505	27	5,502
		7		12		21		26		26	
Solicitor's Office (SO) Production and AIA Workload	Pos./Obl.	9	1,400	13	2,536	23	4,347	27	5,505	27	5,502
	FTE	7		12		21		26		26	
Management Information Resources	Pos./Obl.	-	2,105	-	(6,447)	-	(5,857)	-	(5,762)	-	(5,766)
	FTE	-		-		-		-		-	
Management Information Resources	Pos./Obl.	-	2,105	-	(6,447)	-	(5,857)	-	(5,762)	-	(5,766)
	FTE	-		-		-		-		-	
IT Infrastructure and IT Support Services	Pos./Obl.	-	35,195	-	40,719	-	42,084	-	42,222	-	42,124
	FTE	-		-		-		-		-	
Infrastructure Improvements	Pos./Obl.	-	35,195	-	40,719	-	42,084	-	42,222	-	42,124
	FTE	-		-		-		-		-	
Miscellaneous General Expense (MGE)	Pos./Obl.	-	10,194	-	3,989	-	3,689	-	283	-	138
	FTE	-		-		-		-		-	
Energy Conservation Measures	Pos./Obl.	-	244	-	189	-	(116)	-	78	-	78

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Department of Commerce U.S. Patent and Trademark Office

INCREASES FOR 2013* (Dollar amounts in thousands)

			FY 2014		FY 2015		FY 2016		FY 2017		FY 2018	
			Increase (Decrease)		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)	
			Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
HSPD-12 PIV Card Issuer (PCI) Assessment and Accreditation	FTE		-		-		-		-		-	
	Security System Upgrades	Pos./Obl.	-	2,950	-	-	-	-	-	-	-	-
		FTE	-		-		-		-		-	
		Pos./Obl.	-	150	-	-	-	-	-	150	-	-
		FTE	-		-		-		-		-	
	RFID Tagging of Assets	Pos./Obl.	-	2,000	-	50	-	55	-	55	-	60
		FTE	-		-		-		-		-	
	Parking Access Revenue Control System (PARCS)	Pos./Obl.	-	600	-	-	-	-	-	-	-	-
	FTE	-		-		-		-		-		
Conference Room/Office Furniture Replacement	Pos./Obl.	-	4,250	-	3,750	-	3,750	-	-	-	-	
	FTE	-		-		-		-		-		

Sub-Program: Financial Management Services

The Financial Management Services sub-program contributes to the accomplishment of the goal to achieve organizational excellence through the initiative and commitment to:

- Strengthen financial and non-financial internal controls.

Program Change:

Financial Management Services (+\$0.5 million, +3 FTE): The USPTO requires an increase of \$0.5 million and 3 FTE for a total of \$22.8 million and 117 FTE for additional staff to enable the OCFO to establish an office dedicated to program evaluation, risk management and program improvement efforts throughout the Agency.

This request supports the Department's theme of Organizational Excellence and the goal to create a high performing organization with integrated, efficient and effective service delivery. Funding this requirement addresses the needs resulting from continued implementation of the AIA as well as fulfilling the intent of the GPRA Modernization Act

Proposed Actions:

Office of Program Evaluation and Improvement (OPEI). Funds are required for the USPTO to implement a new office within the Office of the Chief Financial Officer to enhance the coordination of risk management and program improvement throughout the Agency. The USPTO has made great strides in recent years in implementing operational improvements throughout the Agency and meeting challenging strategic performance goals. To sustain a high level of achievement into the future, particularly given the challenges of significant new and expanded activities under the AIA that are only recently underway, it is important the USPTO has the management organization in place to ensure a proactive focus on program effectiveness and improvement. While the full portfolio of activities within this new office is under development, the core functions of the office will be to carry out a coordinated risk management program and program evaluation activity. Both functions are currently carried out within USPTO in limited form today, but must be expanded and enhanced to facilitate a more systematic effort.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$500	\$520	\$526	\$531	\$536
FTE	3	3	3	3	3

Statement of Need and Economic Benefit:

As a fully fee-funded organization, the USPTO is committed to being a good steward of the user fees paid by patent and trademark applicants, and others requesting USPTO products and services.

Schedules/Milestones/Deliverables –The office is expected to be established by early FY 2014.

Sub-Program: Human Resources Management and Administrative Services

The Human Resources Management and Administrative Services sub-program contributes to the accomplishment of the goal to achieve organizational excellence through the objective and commitment to:

- Improve employee and stakeholder relations, and provide safety and security in the workplace.

Program Change:

Human Resources Management and Administrative Services (+\$10.5 million, +6 FTE): The USPTO requires an increase of \$10.5 million and 6 FTE for a total of \$57.0 million and 236 FTE for additional staff to enable the Office of Security to meet OPM background investigation guidelines for new employees, and to implement the Student Loan Repayment Program.

This request supports the Department's theme of Workforce Excellence and addresses USPTO commitments to addressing safety and security risks, as well as compliance with regulatory requirements. Failure to fund this initiative would compromise the ability of the Department and the USPTO to protect lives and property by addressing the safety and security of both.

Proposed Actions:

Staffing for Office of Security. OPM guidelines for initial background investigations under CFR 731 states that

“...Investigations should be initiated before appointment but no later than 14 calendar days after placement in the position” and “...Any upgrade in the investigation required for the new risk level should be initiated within 14 calendar days after the promotion, demotion, reassignment or new designation of risk level is final.”

For the three-year period 2010-2012, the USPTO completed 5,826 background investigations. For FY 2013, the projected number of investigations is estimated at 2,773. Under the current staffing level, the USPTO is unable to consistently meet the 14 day background investigation initiation requirement for upgraded investigations. In November 2011, CFR 731 was updated with the following:

“Reinvestigation requirements. (1) Agencies must ensure that reinvestigations are conducted and a determination made regarding continued employment of persons occupying public trust positions at least once every 5 years.”

Over the next five years, there will be approximately 9,700 employees who will need to be processed for reinvestigations. Funds are required to establish six new positions to meet the growing workload. Three of these positions would replace the contractors currently used to carry out this responsibility.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$538	\$540	\$546	\$551	\$557
FTE	6	6	6	6	6

Student Loan Repayment Program (SLRP). This initiative would enable the USPTO to establish and implement a program whereby it can enhance its ability to attract and retain high caliber employees by offering to repay federally insured student loans as a recruitment/retention incentive. SLRPs are authorized under 5 U.S.C. 5379, which allow federal agencies to set up their own programs to attract or retain highly qualified employees. Although the student loan is not forgiven, agencies may make payments to the loan holder of up to a maximum of \$10,000 for an employee in a calendar year and a total of not more than \$60,000 for any one employee. Each agency is required to establish its own program, which must include a requirement that each employee receiving this benefit must sign a service agreement to remain in the service of the paying agency for a period of at least three years. An employee must reimburse the paying agency for all benefits received if he or she is separated voluntarily or separated involuntarily for misconduct, unacceptable performance, or a negative suitability determination. In addition, an employee must maintain an acceptable level of performance in order to continue to receive repayment benefits.

Currently, approximately 36 federal bureaus and organizations from all 15 cabinet-level agencies are utilizing the SLRP authority as a human capital management tool to:

- address hiring/attrition rates,
- facilitate the pipeline of new talent provided by interns into mission critical occupations,
- maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented, and
- recognize employees with high performance ratings.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
FTE	-	-	-	-	-

Statement of Need and Economic Benefit:

The interests of national security requires that all persons privileged to be employed by the USPTO, as well as elsewhere in the Federal Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.

Recruiting and retaining employees with the skills needed to fulfill core mission requirements requires the implementation of effective human capital strategies to build a successful, high-performing organization.

Schedules/Milestones/Deliverables -- In FY 2014, the USPTO will be in compliance with OPM guidelines under CFR 731.

Sub-Program: Legal Services

The Legal Services sub-program, carried out by the OGC, contributes to the accomplishment of the management goal of organizational excellence, and the IP PP&E initiative to provide ongoing policy guidance on key IP issues by providing legal counsel to the USPTO on all IP law matters, representing the USPTO on non-IP legal matters, and registering and maintaining a roster of registered attorneys and agents to practice before the USPTO in patent cases.

Program Change:

Legal Services (+\$1.4 million and +7 FTE): The USPTO requires an increase of \$1.4 million and 7 FTE for a total of \$25.2 million and 136 FTE to address current and projected workload. In particular, the SO must be staffed in such a manner to address work resulting from decisions made by the PTAB and TTAB, and work that will be the result of implementation of the AIA. Absent funding, the SO will be required to file for extensions of time for filing Court briefs, which is generally a detrimental practice and one that is not sustainable in the long term. Specifically, extensions defer work resulting in larger backlogs and longer case pendency time; lengthen the time of the appeal, which appellants generally dislike because they want decisions as soon as possible, and the Court dislikes them because it increases their case pendency; and risk damaging the USPTO's reputation with the Court and their willingness to continue to grant extensions. Failure to fund requirements to implement patent law reform will put the Agency in jeopardy of meeting effective date requirements.

Proposed Actions:

To operate in a truly businesslike manner, the USPTO must establish and maintain strong legal skills by hiring and retaining a skilled and diverse workforce.

Solicitor's Office (SO) Production and AIA Workload. Funds are required for nine additional positions for the SO, which has experienced a significant increase in work, including appeals from PTAB decisions to the CAFC; OED disciplinary cases; district court cases; amicus participation in IP cases (Supreme Court and other); *inter partes* patent and trademark case monitoring; legal advice to the DOC, Department of Justice (DOJ), USPTO Director, and business units; *Official Gazette* notice review; and deposition and subpoena requests.

As the USPTO constructs its procedures to implement new AIA provisions, such as post grant review, *inter partes* reviews, supplemental examination, and derivation proceedings, the SO has been actively engaged by conducting legal research, providing advice, and drafting and reviewing the rules and regulations needed to fully implement the AIA. Once implemented, the AIA is projected to result in hundreds of PTAB decisions per year in post-grant and *inter partes* review cases, a significant number of which will be appealed to the CAFC. The legislation also places time restrictions on discipline cases and will greatly impact the OED.

It is imperative that the SO uphold the Agency's decisions in PTAB proceedings when they go to the CAFC to ensure that the PTAB proceedings live up to their potential as cost-effective mechanisms for challenging questionable patents. Likewise, the SO must be diligent in not requesting extensions of time in significant numbers of cases as parties will lose confidence in these proceedings as an alternative to litigation. Accordingly, it is important that the SO be adequately staffed to mount strong and timely defense of the USPTO's positions in these cases before the CAFC.

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At the same time, the number of OED cases referred to the SO is increasing. In these cases, SO attorneys act as a prosecutor representing the OED Director throughout pre-trial, trial and post-trial briefing stages, and in any appeals of the administrative decision. SO attorneys are getting involved earlier in OED cases with the objective of settling more of them. This earlier introduction of SO attorneys requires more resources and time.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$1,400	\$2,536	\$4,347	\$5,505	\$5,502
FTE	7	12	21	26	26

Statement of Need and Economic Benefit:

The USPTO strategic goals cannot be achieved without quality legal services for issues that affect both stakeholders and employees.

Schedules/Milestones/Deliverables for the strategic goal to achieve organizational excellence, and the initiative to provide on-going policy guidance on key IP issues are in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

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Sub-Program: Management Information Resources

The Management Information Resources sub-program contributes to the accomplishment of the strategic goal to achieve organizational excellence through the following objective for which funds are required in FY 2014:

- Improve IT Infrastructure and Tools

Program Change:

Management Information Resources (\$2.1 million): The USPTO requires an increase of \$2.1 million for a total of \$47.5 million and 25 FTE to make improvements to the business systems supporting financial management. This request supports the Department's theme of Organizational Excellence.

Funding this request will improve the USPTO's management systems and ensure effective use of IT. Failure to fund this request puts the agency in jeopardy of effectively implementing critical IT systems, which are an essential component in accomplishment of strategic goals.

Proposed Actions:

Management Business Projects. An increase of \$2.1 million is requested for FY 2014 for management information resources to accommodate several small scale financial management improvement IT projects.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$2,105	(\$6,447)	(\$5,857)	(\$5,762)	(\$5,766)
FTE					

Statement of Need and Economic Benefit:

This program change would improve the use of IT tools. The USPTO's CPIC process governs how USPTO manages the selection, control, and evaluation of major IT investments. The CPIC process ensures that major IT investments selected for implementation address legitimate needs of the Agency, and represent cost-effective business solutions.

Schedules/Milestones/Deliverables for the strategic objective to improve IT infrastructure and tools, and the initiative to recruit, develop, train, and retain a highly-skilled, diverse workforce can be found in the work plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

Sub-Program: IT Infrastructure and IT Support Services

The IT Infrastructure and IT Support Services sub-program contributes to the accomplishment of the strategic goal to achieve organizational excellence through the following objective for which funds are required in FY 2014:

- Improve IT Infrastructure and Tools

Program Change:

Improve IT Infrastructure and Tools (\$35.2 million): The USPTO requires an increase of \$35.2 million for a total of \$322.3 million and 536 FTE to make the USPTO data easily accessible to USPTO customers, partners, industry, and the public; and to improve its IT infrastructure. This supports the Department's theme of Organizational Excellence.

Funding this requirement will leverage the USPTO data centers, expand the network, expand business continuity and disaster recovery capabilities, stabilize desktops, and improve cyber-security. Without a 21st century IT system, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services, as well as jeopardize the accomplishment of Departmental and USPTO strategic goals.

Proposed Actions:

IT Projects. IT infrastructure projects (i.e., capital improvements) account for \$33.4 million, or 95 percent of the IT infrastructure budget increase. The remaining five percent (\$1.8 million) is attributed to increases in IT infrastructure operations and maintenance.

In FY 2012 the USPTO completed a major five-year infrastructure-transformation effort, (i.e., Transformation Roadmap) that addressed two key infrastructure problems:

- 1) Many systems and servers past end-of-life usage and no longer under warranty or supported by the vendor, and
- 2) A 20th century infrastructure that was insufficient to support the needs of USPTO's 21st century modernization efforts (including, PE2E, TMNG, FPNG, and Universal Laptops).

The infrastructure-transformation effort was brought about by the institution of a cyclical hardware-replacement cycle and the orientation of the Agency to proactively and consistently address the infrastructure enhancements needed to support business modernization efforts. Therefore, with completion of that five-year effort and a corresponding reduction to base to ensure the continued viability of that five-year investment, the USPTO requires \$33.4 million for scheduled replacement of end-user equipment and network related enhancements, as follows:

End-User-equipment related:

- End-user equipment program increase of \$14.8 million is needed for the end-of-warranty replacement for the Universal Laptops deployed in FY 2011, and for their peripherals, including routers, local printers, scanners, docking stations, and headsets.
- Desktop program increase of \$10.4 million is primarily for migration from the existing, established Microsoft client-computing environment to a new client operating system. Migration to the new operating system is timed to coincide with the Universal Laptop

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replacement cycle and is needed to ensure optimal functioning of the new products deployed by the modernization efforts (e.g., PE2E and TMNG).

Network-related enhancements of \$8.2 million are focused on continuity of operations and greater availability by time and location, and will:

- Provide increased bandwidth (e.g., 10 gigabyte-Ethernet) and high-speed interconnections for server virtualization and cloud computing; and
- Upgrade USPTO firewall infrastructure and application delivery-controller (ADC) high-density backbone; and
- Achieve ability to provide operational support for 75 percent of USPTO main-campus phone system through a designated BC/DR and COOP site; and
- Complete 3G Cellular Repeater System deployment throughout USPTO campus.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$35,195	\$40,719	\$42,084	\$42,222	\$42,124
FTE	-	-	-	-	-

Statement of Need and Economic Benefit:

IT is a mission-critical enabler for every USPTO business function. The productivity of patent and trademark operations is directly correlated to the performance of its IT systems, which are in need of modernization, including its telecommunications technology upon which fulfillment of USPTO goals and objectives depends.

Schedules/Milestones/Deliverables for the strategic objective to improve IT infrastructure and tools can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

Sub-Program: Cross-Cutting Services/Miscellaneous General Expense (MGE)

The Cross-Cutting Services/MGE sub-program contributes to the accomplishment of the management goal to achieve organizational excellence by enabling the effective funding and implementation of cross-cutting activities, primarily corporate support services that affect all USPTO employees and operations. Cross-cutting activities are funded through the MGE budget account that includes the cost of expenses incurred in connection with the general management of the USPTO that are not provided for elsewhere. This sub-program also supports the USPTO objectives to:

- Improve IT Infrastructure and Tools
- Implement a Sustainable Funding Model for Operations – Strengthen Financial and Non-Financial Internal Controls

Program Change:

Cross-Cutting Services - MGE (\$10.2 million): The USPTO requires an increase of \$10.2 million for a total of \$253.6 million to improve security and safety throughout the organization through the use of IT tools, and by strengthening financial controls through better asset management controls. These cross-cutting services support the Department's themes of Organizational Excellence to create a high performing organization with integrated, efficient and effective service delivery.

Failure to fund these initiatives will compromise the Agency's ability to provide a safe and secure environment for its employees, and to implement best practices for improving employee recruitment and retention. Not funding this program change could impact the protection of lives and property by failing to provide a safe, accident-free work environment, and to secure government property including: .

- The inability of the USPTO and the DOC to achieve 30 percent energy reduction by 2015;
- The inability of the USPTO to provide its employees and stakeholders with a safe and adequately functioning work environment;
- Continued inefficiencies associated with the parking garage operations;
- Failure of current security systems with no available backup, leaving the USPTO to assume greater risk and liability for systems that are inoperable and almost impossible to repair;
- Continued costs and lost production to maintain the current asset tracking system; and
- Decertification of the PIV card insurer (PCI) resulting in new and existing employees being unable to access USPTO networks securely using the USPTO public key infrastructure.

Proposed Actions:

Energy Conservation Measures – Executive Order 13423 requires that all agencies reduce energy intensity by 30 percent between 2003 and 2015. FY 2014 funds, required to reduce energy consumption at the USPTO campus, are based on the results of the USPTO-funded campus assessment that was conducted in FY 2012. Per that assessment, the USPTO can take the following actions that would provide potential consumption and cost saving opportunities:

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- Replace approximately 9,250 high wattage T-8 fluorescent lamps throughout the facility with 25-watt T-8 lamps with potential savings of \$89,600 over three years.
- Turn off the 32 400-watt halogen light fixtures at the atrium catwalk by rewiring the lights onto a separate circuit so they can be de-lamped during daylight hours, with a potential savings of about \$12,000 per year.
- Replace approximately 183 PAR-83 light fixtures with more efficient 25-watt CFL replacement lamps, resulting in savings of approximately \$4,800 per year.
- Re-lamp approximately 648 halogen accent fixtures located throughout various hallways with LED replacement fixtures utilizing 15-watts, resulting in savings of approximately \$31,400 over two years.

These actions are in conformance with energy and environmental Executive Orders and regulations, and are based on the results of an energy and water assessment of the USPTO that was conducted by Facility Engineering Associates, P.C. in early 2012. The planned changes will ultimately yield \$137,795 in annual savings in utility costs for an anticipated 2.5 year return on investment (ROI).

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$244	\$189	(\$116)	\$78	\$78
FTE	-	-	-	-	-

Security System Upgrades. Funds are required to replace (1) existing analog security camera systems with new digital camera systems, (2) current Two Way Audio Intercom systems (TOA) which are used as emergency intercoms in public spaces, and (3) current security turnstiles.

The existing analog security camera systems have reached the end of their service life with replacement equipment for failed items becoming difficult to obtain. The current industry standard is digital security cameras with digital recording equipment. Digital systems are easier to maintain, provide enhanced imaging capability, easier indexing of images, and greater storage capacity. The current TOA is no longer supported by the manufacturer because parts are no longer being produced. Once existing part stocks are depleted, the TOA systems on the USPTO campus will not be functional, and will directly impact employees in public spaces who will have difficulty reporting security and safety incidents. The current security turnstiles at USPTO are nearly 10 years old and are beyond their expected service life; the turnstiles regularly break and need repair due to continuous daily use. New security turnstiles will be industry standard utilizing quicker detection technology to allow speedier entry and exit of employees.

Funds would be used to purchase digital security cameras, digital recorders and associated software; TOA intercom boxes; security turnstiles at building entry/exit points; and for associated installation costs. This direct replacement of equipment is the only solution that will result in maintaining an adequate level of safety and security for USPTO employees, contractors and visitors.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$2,950	\$0	\$0	\$0	\$0
FTE	-	-	-	-	-

HSPD-12 Personal Identify Verification (PIV) Card Issuer (PCI) Assessment and Accreditation. Funds are required to enable the USPTO to maintain its capability to use the Federal public key infrastructure to authenticate IT network access and secure communications

through the use of smart card technology. The USPTO has developed a PIV credentialing system for the purpose of meeting the Presidential mandate of HSPD-12. Therefore, the USPTO is acting in the capacity of a PCI. NIST SP 800-79-1 requires PCIs to formally assess and make a determination as to whether their program's policies, procedures, and processes comply with HSPD-12 and FIPS 201-1 prior to issuing PIV credentials. PCIs must undergo an assessment by an outside auditor every three years before the PCI can be re-accredited by the agency approving official. The USPTO PCI was initially accredited in June 2011, and requires recertification in FY 2014. The outcome of the assessment and certification process determines whether the USPTO programs are given (a) the authority to operate, or (b) interim authority to operate, or (c) are denied authority to operate.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$150	\$0	\$0	\$150	\$0
FTE	-	-	-	-	-

Radio-Frequency Identification (RFID) Tagging of Assets. Currently, the USPTO tracks over 110,000 assets located at various sites in Alexandria and Arlington, VA, Boyers, PA and at countless locations across the United States used by teleworkers. In addition, the Office is now responsible for tracking assets at the new Detroit satellite facility and ultimately at the three planned satellite offices to be located in Dallas, Silicon Valley, and Denver.

The asset tracking process today is very labor intensive, requiring manual effort, and is vulnerable to errors due to a heavy reliance on human interaction. With the introduction of RFID tags and readers, the USPTO will be able to reduce the amount of manual labor required by both government employees and contractors to keep track of assets. In addition, the Office will be able to improve its tracking of the assets and thus reduce the number of 'lost' or 'missing' assets to almost zero. Private sector research, such as the Zebra Technologies White Paper, "Unchaining the Value of the RFID for Unmatched Flexibility and Fast ROI", document the value and benefit of transitioning to this technology.

The USPTO requires \$2.0 million in FY 2014 to replace all current Commerce Department bar codes with RFID tags and then make the necessary system changes to take advantage of this technology. Funds will be used to purchase the RFID tags, readers, and contractor support necessary to change the current systems, and to train staff on the use of the new technology. This investment is expected to generate savings of \$500,000-\$750,000 over approximately three years.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$2,000	\$50	\$55	\$55	\$60
FTE	-	-	-	-	-

Parking Access Revenue Control System (PARCS) – Funds are required to install an automated entry/egress system for the USPTO's two onsite garages, which is designed to eliminate problems with the current "puck" sensor device for monthly permit holders and time-consuming payment transactions for transient users. Both systems frequently result in traffic congestion at egress times. For example, overhead antennas in exit lanes frequently fail to read the signal coming from the pucks and thus fail to lift the gate causing backups and requiring human intervention. Likewise long delays can occur when a large number of daily users exit the garages and are required to pay with cash or credit card at the point of exit. The USPTO's landlord subcontracts daily operations of the two garages to Colonial Parking. Colonial's proposed automated egress system will substantially reduce operating costs (primarily labor costs). Colonial plans to replace the puck system with a smart card system

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which will allow monthly permit holders to enter and exit the garages by placing a wallet-sized smart card within a few inches of a card reader. In addition, pay-on-foot stations would be installed at various lobbies within the garages whereby transient users would be able to pre-pay for temporary use of the parking facility. The requested capital expenditure will allow for a 2.9 year return on investment.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$600	\$0	\$0	\$0	\$0
FTE	-	-	-	-	-

Conference Room/Office Furniture Replacement - This initiative supports a more professional and safer work environment for USPTO employees by providing funds to replace existing conference room furniture that is deemed to be damaged, unsafe, and/or still being utilized well beyond its lifecycle. This request is based on a 2012 campus-wide inventory and assessment of commonly used furniture. Typically, commonly used furniture is fully depreciated after seven years. USPTO employees have been at the Carlyle Campus since 2003 (nine years). It is appropriate and in many cases necessary to replace furniture to sustain safe and adequate facilities for our employees. The proposed replacement includes chairs, tables, and a new stage assembly for the auditorium; new tables and chairs in conference rooms; and tables and chairs in the cafeteria. The USPTO currently has a blanket purchase agreement with a furniture vendor that could be utilized for the purchase and installation of this furniture.

This initiative is also the first of a multi-year initiative to buy standardized office furniture to support various business units. Procuring standardized furniture affords the USPTO with the ability to reduce churn where the people and equipment move, but the furniture remains; provides a professional and ergonomic environment; allows the purchase of furniture at a negotiated lower rate based on a mass buy; provides parity between business units; and centralizes procurements. Similar to the process used prior to moving to the Alexandria campus, the USPTO proposes doing a condition assessment of all existing furniture to determine a priority for replacement.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Amount (\$ in thousands)	\$4,250	\$3,750	\$3,750	\$0	\$0
FTE	-	-	-	-	-

Statement of Need and Economic Benefit:

Recruiting and retaining employees with the skills needed to fulfill the core mission requires the USPTO to provide a safe and comfortable work environment by investing in the safety and security of the campus, as well as the upkeep of facilities.

Schedules/Milestones/Deliverables – Actions toward implementing the above initiatives will be taken in FY 2014.

PROGRAM CHANGE PERSONNEL DETAIL
(Dollar amount in thousands)

Activity: Management

Subactivity:

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
Personnel Security Assistant	Alexandria, VA	GS 9	4	58,511	234,044
Personnel Security Specialist	Alexandria, VA	GS 12	2	87,350	174,700
Attorney	Alexandria, VA	GS 15	7	155,500	1,088,500
Paralegal	Alexandria, VA	GS 12	1	97,333	97,333
Administrative Management Specialist	Alexandria, VA	GS 13	1	115,742	115,742
Supervisory Management and Program Analyst	Alexandria, VA	GS 15	1	150,924	150,924
Program Analyst	Alexandria, VA	GS 14	2	113,210	226,420
Total			18		2,087,663
less Lapse		84%	2		336,220
Total full-time permanent (FTE)			16		1,751,443
2013 Pay Adjustment	0.5%				8,811
2014 Pay Adjustment	1.0%				17,711
TOTAL					1,777,965
Personnel Data			Number		
Full-Time Equivalent Employment					
Full-time permanent			16		
Other than full-time permanent			0		
Total			16		
Authorized Positions:					
Full-time permanent			18		
Other than full-time permanent			0		
Total			18		

PROGRAM CHANGE DETAIL BY OBJECT CLASS
(Dollar amounts in thousands)

Activity: **Management**
Subactivity:

Object Class		2014 Increase
11	Personnel compensation	
11.1	Full-time permanent	1,778
11.3	Other than full-time permanent	
11.5	Other personnel compensation	64
11.8	Special personnel services payments	
11.9	Total personnel compensation	1,842
12	Civilian personnel benefits	10,472
13	Benefits for former personnel	
21	Travel and transportation of persons	23
22	Transportation of things	-
23.1	Rental payments to GSA	-
23.2	Rental payments to others	-
23.3	Communications, utilities and miscellaneous charges	-
24	Printing and reproduction	-
25.1	Advisory and assistance services	148
25.2	Other services	8,163
25.3	Purchases of goods & services from Gov't accounts	(2,982)
25.4	Operation and maintenance of facilities	
25.5	Research and development contracts	
25.6	Medical care	
25.7	Operation and maintenance of equipment	
25.8	Subsistence and support of persons	
26	Supplies and materials	33
31	Equipment	42,234
32	Lands and structures	
33	Investments and loans	
41	Grants, subsidies and contributions	
42	Insurance claims and indemnities	
43	Interest and dividends	-
44	Refunds	
99	Total obligations	59,933

EXHIBITS: 16 - 37

Exhibit 16 – Summary of Requirements by Object Class

Department of Commerce
U.S. Patent and Trademark OfficeSUMMARY OF REQUIREMENTS BY OBJECT CLASS
(Dollar amounts in thousands)

Object Class	FY 2012 Actual	FY 2013 Current Plan	FY 2014 Base	FY 2014 Estimate	Increase/ Decrease over 2014 Base
11.1 Salaries	1,098,181	1,267,209	1,372,436	1,376,627	4,191
11.5 Other personnel compensation	117,546	139,412	141,456	147,989	6,534
11.9 Total personnel compensation	1,215,727	1,406,621	1,513,892	1,524,616	10,725
12.1 Civilian personnel benefits	392,137	445,681	481,806	492,764	10,958
21 Travel and transportation of persons	5,224	7,093	7,210	10,252	3,042
22 Transportation of things	315	458	466	623	157
23.1 Rental payments to GSA	89,762	98,444	103,769	106,712	2,944
23.2 Rental payments to others	9,967	10,136	9,804	9,630	(175)
23.3 Commun., util., and misc. charges	24,955	32,510	29,805	30,135	330
24 Printing and reproduction	100,055	117,688	119,688	132,574	12,886
25.1 Advisory and assistance services	62,101	21,474	21,839	22,202	363
25.2 Other services from non-federal sources	104,379	211,703	215,298	218,878	3,580
25.3 Other goods and services from federal sources	27,993	42,441	42,807	43,519	712
25.4 Operation and maintenance of facilities	7,340	12,748	12,965	13,181	216
25.7 Operation and maintenance of equipment	180,907	183,282	186,397	189,497	3,099
26 Supplies and materials	37,119	44,115	44,863	46,216	1,353
31 Equipment	114,167	155,530	158,174	193,245	35,070
32 Land and Structures	1,370	0	0	0	0
4x Insurance claims , indemnities, and refunds	1,235	2,310	2,349	2,310	(39)
99.9 Total Obligations	2,374,754	2,792,236	2,951,134	3,036,354	85,220
Fee Collections	(2,406,826)	(2,745,873)	(3,071,375)	(3,071,375)	0
Less prior year other income/recoveries	(29,096)	(29,000)	(29,000)	(29,000)	0
Less prior year unobligated balance	(177,705)	(237,872)	(219,509)	(219,509)	0
Less end year unobligated balance	237,872	219,509	366,750	281,530	(85,220)
Total Budget Authority	(1,000)	(1,000)	(2,000)	(2,000)	0
Personnel Data					
Full-Time equivalent Employment:	10,469	12,018	12,645	12,667	21
Authorized Positions:	11,531	12,734	12,734	12,752	18

Exhibit 32 – Appropriation Language

**PATENT AND TRADEMARK OFFICE
SALARIES AND EXPENSES
(INCLUDING TRANSFERS OF FUNDS)**

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, ~~\$2,953,241,000~~, \$3,071,375,000 to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections of fees and surcharges assessed and collected by the USPTO under any law are received during fiscal year ~~2013~~ 2014, so as to result in a fiscal year ~~2013~~ 2014 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year ~~2013~~ 2014, should the total amount of such offsetting collections be less than ~~\$2,953,241,000~~ \$3,071,375,000 this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of ~~\$2,953,241,000~~ \$3,071,375,000 in fiscal year ~~2013~~ 2014 and deposited in the Patent and Trademark Fee Reserve Fund shall be transferred to the United States Patent and Trademark Office Salaries and Expenses Account and remain available until expended: *Provided further*, That the Director of USPTO shall submit a spending plan to the Committees on Appropriations of the House of Representatives and the Senate for any amounts made available by the preceding proviso and such spending plan shall be treated as a reprogramming under section 504 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That from amounts provided herein, not to exceed \$900 shall be made available in fiscal year ~~2013~~ 2014 for official reception and representation expenses: *Provided further*, That from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title, and (2) the present value of the otherwise unfunded accruing costs, as determined by OPM for USPTO's specific use of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FEGLI), shall be transferred to the Civil Service Retirement and Disability Fund, the *FEGLI* Fund, and the Employees *FEHB* Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for USPTO's specific use shall be recognized as an imputed cost on USPTO's financial statements, where applicable: *Provided further*, That notwithstanding any other provision of law, all fees and surcharges assessed and collected by USPTO are available for USPTO only pursuant to section 42(c) of title 35, United States Code, as amended by section 22 of the Leahy-Smith America Invents Act (Public Law 112-29): *Provided further*, That within the amounts appropriated, \$2,000,000 shall be transferred to the "Office of Inspector General" account for activities associated with carrying out investigations and audits related to the USPTO.

Explanation of Proposed Changes to Appropriation Language

Proposed Changes	Explanation
... [\$2,953,241,000] \$3,071,375,000 ... fiscal year [2013] 2014	Retains the appropriation language as proposed for FY 2013, but changes the amount available to the USPTO in FY 2014 to be equal to the total amount of fees collected during FY 2014, and changes all references to FY 2013 to FY 2014.
...deposited in the Patent and Trademark Fee Reserve Fund shall be transferred to the United States Patent and Trademark Office Salaries and Expenses Account and remain available until expended	Required to ensure that all USPTO spending occurs in a single appropriation account.

Legislative Authorities

The programs of the USPTO are conducted under the following main legislative authorities:

- 15 U.S.C. 1051-1141n contain provisions of the Trademark Act that govern the administration of the USPTO's trademark registration system, provide for administrative proceedings before the USPTO, and set forth procedures relating to international registration of trademarks pursuant to the Madrid Protocol;
- 15 U.S.C. 1511 states that the USPTO is under the jurisdiction and subject to the control of the Department of Commerce;
- 35 U.S.C. 1-13, 21-26, 32-33, 100-105, 111-122, 131-135, 141-146, 151-157, 161-164, 171-173, 251-256, 261, 262, 267, 301-307, and 311-318 contain basic authorities for administration of patent laws, derived from the Act of July 19, 1952, and subsequent enactments;
- 35 U.S.C. 41 provides for collection of specific fees for identified services and establishment of fees at an estimated average cost for processing, services or materials not specified;
- 35 U.S.C. 41(i)(2) provides for deployment of automated search systems of the Office to the public;
- 35 U.S.C. 42(d) provides that the Director may refund any fee paid by mistake or in excess of that required;
- 35 U.S.C. 181-188 provides authorities for actions relating to secrecy of certain inventions and filing of applications in foreign countries;
- 35 U.S.C. 361-368, 371-375 contain authorities related to Patent Cooperation Treaty applications, national stage entry and related procedures;
- 35 U.S.C. 376 authorizes the USPTO to charge fees for activities related to the Patent Cooperation Treaty, and the Director may set fee amounts, except for the international and handling fees.
- Leahy Smith America Invents Act (Pub. L. No. 112-29) provides specific authority for the USPTO to collect a number of fees related to patent services, including a 15 percent surcharge on most patent fees and a prioritized examination fee.

Exhibit 37

U.S. Department of Commerce
United States Patent and Trademark Office

Statement of Actions on GAO Recommendations made from November 1, 2011, through October 31, 2012

Date of Report	GAO Job Code	Recommendation	Action Plan for Recommendation	Actions Taken to-Date	Status of Recommendation: Open or Closed
4/25/2012	450934	1. Finalize an operating reserve policy, including the expected level of reserves, to smooth the impact of economic downturns on operations and to ensure its use aligns with agency goals.	USPTO will finalize the operating reserve policy using the concepts provided to the public in support of the initial fee proposal on as the foundation.	USPTO is on target to meet action plan deliverable. Recommendation will be implemented by June 30, 2013.	Open
4/25/2012	450934	2. Build on current communication success to provide stakeholders opportunities for substantive, two-way communication when seeking input on the AIA fee-setting process. Moving forward, this should include: <ul style="list-style-type: none"> • providing an accounting of program costs and the assumptions used to project future program costs in biennial fee reviews, and • clearly communicating its fee-setting methods and rationale for policy choices to provide Congress with sufficient information for oversight and transparency for stakeholders and the public. 	USPTO will publish an overview of the accounting of both historical and prospective program costs, the fee setting methodology, the cost and revenue assumptions, and the rationale for individual fee changes in the proposal to set or adjust patent fees.	USPTO has met the action plan target deliverable date of August 31, 2012. The overview was published and posted on the USPTO website for AIA Implementation.	Open
4/25/2012	450934	3. Establish guidance and protocols for communication with PPAC and other stakeholders about the fee process in order to help ensure consistency over time and through subsequent leadership transitions.	USPTO will incorporate guidance and protocols for communication about the fee process in a fee setting policy.	USPTO is on target to meet action plan deliverable. Recommendation will be implemented by June 30, 2013.	Open

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APPENDICES

Appendix I: America Invents Act Implementation

AIA Provision	Effective Date	Status
Change in inter partes reexamination standard	September 16, 2011	Implemented
Tax strategies are deemed within the prior art	September 16, 2011	Implemented
Best mode	September 16, 2011	Implemented
Human organism prohibition	September 16, 2011	Implemented
Micro-entity	September 16, 2011	Final Rule Published 12-19-12; Effective 3-19-13
Fee setting authority	September 16, 2011	Final Rule Published 1-8-13; Effective 3-19-13
OED statute of limitations change	September 16, 2011	Implemented
Prioritized examination	September 26, 2011	Implemented
15% transition surcharge	September 26, 2011	Implemented
Electronic filing incentive	November 15, 2011	Implemented
Inventor's oath/declaration	September 16, 2012	Implemented
Third party submission of prior art in a patent application	September 16, 2012	Implemented
Supplemental examination	September 16, 2012	Implemented
Citation of prior art in a patent file	September 16, 2012	Implemented
Inter partes review	September 16, 2012	Implemented
Post grant review	September 16, 2012	Implemented
Transitional program for covered business methods	September 16, 2012	Implemented
First inventor-to-file	March 16, 2013	Final Rule Published 2-14-13; Effective 3-16-13
Derivation proceeding	March 16, 2013	Final Rule Published 9-11-12, Effective 3-16-13
Elimination of statutory invention registration	March 16, 2013	Final Rule Published 2-14-13; Effective 3-16-13

AIA Required Study	Due date	Status
International patent protection for small businesses	January 14, 2012	Report filed with Congress in January 2012
Prior user rights	January 16, 2012	Report filed with Congress in January 2012
Genetic testing	June 16, 2012	Congress notified in August 2012 of the need for additional information; Public Roundtable held 1-10-13
Misconduct before the office	September 16, 2013	To Be Determined
Satellite offices	September 30, 2014	Sites announced on 7-2-12
Virtual marking	September 16, 2014	To Be Determined
Implementation of AIA	September 16, 2015	To Be Determined
Effects of first-inventor-to-file on small businesses	September 16, 2012	USPTO consultation only
Patent litigation	September 16, 2012	USPTO consultation only
AIA Required Program	Due Date	Status
Pro Bono	September 16, 2011	Implemented
Diversity of Applicants	March 16, 2012	Methodology posted 3-16-12
Patent Ombudsman	September 16, 2012	Established at USPTO – April 2010
Satellite Office	September 16, 2014	One site established; three other locations announced July 2012

APPENDIX II: Patent/Trademark Two-Way Split

Department of Commerce
U.S. Patent and Trademark Office
PATENT / TRADEMARK SPLIT PER TWO WAY BUSINESS LINE
PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS
(Dollar amounts in thousands)

Sub-Activity:	FY 2012			FY 2013			FY 2014		
	Total	Patents	Trademarks	Total	Patents	Trademarks	Total	Patents	Trademarks
Patent Examining	1,526,017	1,526,017		1,770,516	1,770,516		1,908,775	1,908,775	
Patent Trial and Appeals	36,301	36,301		57,968	57,968		70,037	70,037	
Patent Information Resources	104,237	104,237		111,972	111,972		98,904	98,904	
Trademark Examining	97,836		97,836	101,872		101,872	107,460		107,460
Trademark Appeals and <i>Inter Partes</i> Proceedings	9,714		9,714	11,672		11,672	11,791		11,791
Trademark Information Resources	33,966		33,966	48,262		48,262	55,362		55,362
Policy and Administrative Support	14,207	8,952	5,255	24,159	15,045	9,114	26,474	16,497	9,977
Governmental Affairs	1,371	977	395	1,681	1,197	484	2,031	1,447	585
Global Intellectual Property Academy (GIPA)	4,702	3,526	1,175	7,842	5,881	1,960	8,194	6,146	2,048
IPR Attaché Program	7,429	3,350	4,079	10,643	4,799	5,844	12,038	5,429	6,610
IP PP&E Information Resources	297	183	114	716	441	275	412	254	158
Executive Direction and Communications	4,253	3,509	743	5,973	4,950	1,022	6,625	5,493	1,132
Financial Management Services	19,171	15,828	3,343	21,631	17,838	3,793	22,834	18,822	4,013
Human Resource Management and Administrative Services	35,970	33,008	2,962	43,455	39,924	3,531	56,952	52,063	4,886
Legal Services	15,615	12,835	2,779	21,175	17,413	3,762	25,158	20,806	4,352
Management Information Resources	32,451	26,808	5,643	44,052	36,317	7,735	47,480	39,204	8,275
IT Infrastructure and IT Support Services	220,537	187,253	33,284	273,827	232,731	41,096	322,277	273,815	48,462
Miscellaneous General Expense	210,682	179,463	31,220	234,818	212,007	22,811	253,551	227,732	25,821
Total	2,374,754	2,142,246	232,508	2,792,236	2,529,001	263,235	3,036,354	2,745,422	290,932

FY 2014 President's Budget

**Department of Commerce
U.S. Patent and Trademark Office
PATENT / TRADEMARK SPLIT PER TWO WAY BUSINESS LINE
PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS
(Dollar amounts in thousands)**

Sub-Activity:	FY 2015			FY 2016			FY 2017			FY 2018		
	Total	Patents	Trademarks	Total	Patents	Trademarks	Total	Patents	Trademarks	Total	Patents	Trademarks
Patent Examining	1,970,000	1,970,000		2,007,546	2,007,546		1,962,920	1,962,920		2,029,864	2,029,864	
Patent Trial and Appeals	79,446	79,446		87,604	87,604		92,941	92,941		95,383	95,383	
Patent Information Resources	102,241	102,241		101,632	101,632		102,176	102,176		102,926	102,926	
Trademark Examining	113,072		113,072	120,263		120,263	127,335		127,335	134,845		134,845
Trademark Appeals and <i>Inter Partes</i> Proceedings	11,911		11,911	12,033		12,033	12,156		12,156	12,280		12,280
Trademark Information Resources	50,795		50,795	43,185		43,185	31,799		31,799	23,860		23,860
Policy and Administrative Support	26,814	16,708	10,106	27,159	16,921	10,237	27,508	17,138	10,370	27,862	17,357	10,504
Governmental Affairs	2,053	1,462	591	2,075	1,478	597	2,097	1,494	604	2,120	1,509	610
Global Intellectual Property Academy (GIPA)	8,311	6,234	2,078	8,431	6,323	2,108	8,552	6,414	2,138	8,675	6,506	2,169
IPR Attaché Program	12,273	5,535	6,739	12,513	5,643	6,870	12,758	5,753	7,005	13,013	5,868	7,145
IP PP&E Information Resources	406	250	156	418	257	160	429	264	165	422	260	162
Executive Direction and Communications	6,702	5,557	1,145	6,781	5,622	1,159	6,860	5,688	1,172	6,941	5,755	1,186
Financial Management Services	23,123	19,060	4,063	23,401	19,289	4,112	23,682	19,521	4,161	23,966	19,755	4,211
Human Resource Management and Administrative Services	57,538	52,604	4,934	58,137	53,155	4,982	58,745	53,714	5,031	59,361	54,280	5,081
Legal Services	26,547	22,060	4,487	28,615	23,992	4,623	30,033	25,328	4,705	30,292	25,542	4,751
Management Information Resources	39,671	32,928	6,742	41,016	34,049	6,967	41,880	34,761	7,118	42,657	35,404	7,253
IT Infrastructure and IT Support Services	332,173	282,437	49,736	337,980	287,462	50,518	342,629	291,438	51,191	347,115	295,277	51,838
Miscellaneous General Expense	252,964	227,290	25,674	258,341	232,160	26,182	260,674	234,320	26,355	266,190	239,309	26,881
Total	3,116,042	2,823,812	292,230	3,177,129	2,883,133	293,997	3,145,173	2,853,870	291,304	3,227,771	2,934,996	292,775

Appendix III: FY 2012 Fee Report

United States Patent and Trademark Office
FY 2012 Fee Collections Report

<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
	Patent Fee Summary:			
	Patent Application Filing Fees		\$740,982,780	\$600,214,547
	Patent Issue Fees		403,745,626	394,857,728
	Pre-Grant Publication Fees		69,017,850	70,533,100
	Patent Maintenance Fees		813,825,792	698,456,972
	Patent Extension Fees		178,488,815	140,995,635
	Patent Appeal Fees		35,404,110	28,846,820
	Patent Revival Fees		18,870,580	16,398,385
	Patent Cooperation Treaty (PCT) Fees		140,601,925	137,116,186
	Other Patent Processing Fees		32,697,470	36,657,306
	Patent Attorney/Agent Enrollment Fees		1,258,020	1,180,257
	Patent Service Fees		31,392,785	33,792,765
	Corporate Fees		120,720	106,368
	Total Patent Fees		\$2,466,406,472	\$2,159,156,067
	Trademark Fee Summary:			
	Trademark Processing Fees		\$220,576,621	\$228,695,096
	Trademark Madrid Protocol Fees		12,776,503	13,893,635
	Trademark Service Fees		6,539,311	6,275,915
	Corporate Fees		14,267	12,214
	Total Trademark Fees		\$239,906,702	\$248,876,861
	Total United States Patent and Trademark Office Fees		\$2,706,313,174	\$2,408,032,928
	Patent Filing Fees (Large Entity):			
1001	Utility Application Filing	\$0	\$0	\$850
1002	Design Application Filing	0	0	0
1003	Plant Application Filing	0	0	0
1004	Reissue Application Filing	0	0	0

FY 2014 President's Budget

<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
1005	Provisional Application Filing	250	14,181,250	15,215,576
1006	CPA - Utility Filing	990	0	0
1007	CPA - Design Filing	450	0	0
1008	CPA - Plant Filing	700	0	0
1009	CPA - Reissue Filing	990	0	0
1011	Filing of Utility Patent Application	390	84,177,600	80,738,653
1012	Filing of Design Patent Application	250	3,815,250	3,858,720
1013	Filing of Plant Patent Application	250	143,500	141,440
1014	Filing of Reissue Patent Application	390	209,820	236,010
1017	CPA - Design Filing	250	118,000	128,840
1019	CPA - Reissue Filing	390	0	50
1051	Surcharge - Late Filing, Search or Examination Fee, Oath or Declaration	130	8,297,640	7,908,420
1052	Surcharge - Late Provisional Filing Fee or Cover Sheet	50	131,100	124,950
1081	Utility Application Size	310	3,827,280	3,460,740
1082	Design Application Size	310	17,978	23,640
1083	Plant Application Size	310	178	310
1084	Reissue Application Size	310	6,506	1,550
1085	Provisional Application Size	310	1,607,234	1,107,440
1111	Search of Utility Patent Application	630	127,238,580	131,056,530
1112	Search of Design Patent Application	130	1,983,930	1,891,980
1113	Search of Plant Patent Application	390	223,860	218,500
1114	Search of Reissue Patent Application	630	338,940	385,700
1201	Independent Claims in Excess of Three	250	31,154,000	25,747,460
1202	Total Claims in Excess of Twenty	61	44,556,718	36,612,170
1203	Multiple Dependent Claims	460	1,947,180	1,340,630
1204	Reissue Independent Claims in Excess of Three	250	258,750	302,114
1205	Reissue Total Claims in Excess of Twenty	61	329,095	439,320
1311	Examination of Utility Patent Application	250	50,460,000	53,084,420
1312	Examination of Design Patent Application	160	2,441,760	2,523,560
1313	Examination of Plant Patent Application	200	114,800	113,000
1314	Examination of Reissue Patent Application	760	408,880	467,300
1801	Request for Continued Examination	1,610	137,972,170	120,400,660
1809	Filing a Submission after Final Rejection	810	0	44,550
1810	Each Additional Invention to be Examined	810	0	3,240

FY 2014 President's Budget

<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
1817	Request for Prioritized Examination	4,800	67,200,000	12,892,800
1821	Reexamination Independent Claims in Excess of Three	250	97,000	215,760
1822	Reexamination Total Claims in Excess of Twenty	61	183,610	445,352
XXXX	Track 3 (Deferred Examination) fee	390	5,460,000	0
XXXX	Accelerated Examination (Track I) Petition Fee	130	2,600,000	0
XXXX	Filing an IDS under 1.97(c) or (d)(1) or a submission under 1.99	180	81,000	0
XXXX	Filing an IDS under 1.97(d)(2)	540	243,000	0
XXXX	Filing a submission of amendment or evidence under 1.117	780	27,939,015	0
Total Patent Filing Fees (Large Entity)			\$619,765,624	\$501,132,235
Patent Filing Fees (Small Entity):				
2001	Utility Application Filing	\$0	\$0	(\$740)
2002	Design Application Filing	0	0	0
2003	Plant Application Filing	0	0	0
2004	Reissue Application Filing	0	0	0
2005	Provisional Application Filing	125	12,073,125	12,348,145
2006	CPA- Utility Filing	495	0	0
2007	CPA-Design Filing	225	0	0
2008	CPA- Plant Filing	350	0	0
2009	CPA- Reissue Filing	495	0	0
2011	Filing of Utility Patent Application	195	2,705,625	785,111
2012	Filing of Design Patent Application	125	1,907,625	1,883,025
2013	Filing of Plant Patent Application	125	58,625	74,140
2014	Filing of Reissue Patent Application	195	29,640	34,960
2017	CPA-Design Filing	125	59,000	30,265
2019	CPA- Reissue Filing	195	0	190
2051	Surcharge - Late Filing, Search or Examination Fee, Oath or Declaration	65	2,235,415	1,968,330
2052	Surcharge - Late Provisional Filing Fee or Cover Sheet	25	112,575	131,400
2081	Utility Application Size	155	630,584	722,755
2082	Design Application Size	155	473	3,895
2083	Plant Application Size	155	7	0
2084	Reissue Application Size	155	988	310
2085	Provisional Application Size	155	552,418	563,970
2111	Search of Utility Patent Application	315	27,055,980	26,245,415

FY 2014 President's Budget

<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
2112	Search of Design Patent Application	65	991,965	904,410
2113	Search of Plant Patent Application	195	91,455	114,215
2114	Search of Reissue Patent Application	315	47,880	55,800
2201	Independent Claims in Excess of Three	125	6,103,500	4,692,624
2202	Total Claims in Excess of Twenty	31	11,902,808	9,327,376
2203	Multiple Dependent Claims	230	417,450	320,915
2204	Reissue Independent Claims in Excess of Three	125	38,500	33,935
2205	Reissue Total Claims in Excess of Twenty	31	50,417	70,536
2311	Examination of Utility Patent Application	125	10,775,750	10,630,065
2312	Examination of Design Patent Application	80	1,220,880	1,204,855
2313	Examination of Plant Patent Application	100	46,900	59,300
2314	Examination of Reissue Patent Application	380	57,760	67,500
2801	Request for Continued Examination	805	15,659,665	13,575,645
2809	Filing a Submission after Final Rejection	405	0	7,695
2810	Each Additional Invention to be Examined	405	0	0
2817	Request for Prioritized Examination	2,400	14,400,000	5,421,600
2821	Reexamination Independent Claims in Excess of Three	125	7,750	22,985
2822	Reexamination Total Claims in Excess of Twenty	31	14,488	39,762
4011	Electronic Filing of Utility Patent Application	97	7,626,916	7,741,924
XXXX	Track 3 (Deferred Examination) fee	195	1,170,000	0
XXXX	Filing a submission of amendment or evidence under 1.117	390	3,170,993	0
Total Patent Filing Fees (Small Entity)			\$121,217,156	\$99,082,313
Total Patent Application Filing Fees			\$740,982,780	\$600,214,547
Patent Issue Fees (Large Entity):				
1501	Utility Issue	\$1,760	\$341,149,600	\$332,981,920
1502	Design Issue	1,000	13,269,000	11,494,510
1503	Plant Issue	1,390	814,540	627,460
1511	Reissue Issue	1,760	1,291,840	1,074,040
1506	Suspense Account for Partial Issue Payments	0	2,881	67,453
Total Patent Issue Fees (Large Entity)			\$356,527,861	\$346,245,383
Patent Issue Fees (Small Entity):				
2501	Utility Issue	\$880	\$41,240,320	\$42,945,375

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
2502	Design Issue	500	5,428,500	5,103,560
2503	Plant Issue	695	271,745	274,685
2511	Reissue Issue	880	277,200	288,725
	Total Patent Issue Fees (Small Entity)		\$47,217,765	\$48,612,345
	Total Patent Issue Fees		\$403,745,626	\$394,857,728
Pre-Grant Publication Fees:				
1504	Publication Fee for Early, Voluntary or Normal Publication	\$300	\$68,599,200	\$69,397,500
1505	Publication Fee for Republication	300	54,000	38,400
1803	Request for Voluntary Publication or Republication	130	31,200	34,060
1808	Processing Fee, Except in Provisional Applications	130	333,450	1,063,140
1507	Suspense Account for Partial Publication Payments	0	0	0
	Total Pre-Grant Publication Fees		\$69,017,850	\$70,533,100
Patent Maintenance Fees (Large Entity):				
1551	First Stage Maintenance	\$1,150	\$135,317,050	\$110,036,490
1552	Second Stage Maintenance	2,890	266,720,990	220,999,460
1553	Third Stage Maintenance	4,800	338,318,400	294,677,320
1554	First Stage Surcharge In Grace Period	130	218,660	546,600
1555	Second Stage Surcharge In Grace Period	130	397,930	385,740
1556	Third Stage Surcharge In Grace Period	130	459,550	267,450
1557	Maintenance Surcharge After Expiration - Unavoidable Late Payment	700	19,600	9,800
1558	Maintenance Surcharge After Expiration - Unintentional Late Payment	1,640	2,712,560	2,719,120
1559	Unassigned Maintenance Fee Payments	0	1,563,267	1,407,417
	Total Patent Maintenance Fees (Large Entity)		\$745,728,007	\$631,049,397
Patent Maintenance Fees (Small Entity):				
2551	First Stage Maintenance	\$575	\$14,535,425	\$13,081,760
2552	Second Stage Maintenance	1,445	24,838,105	24,541,310
2553	Third Stage Maintenance	2,400	28,154,400	29,142,695
2554	First Stage Surcharge in Grace Period	65	249,275	258,425
2555	Second Stage Surcharge in Grace Period	65	187,070	225,515
2556	Third Stage Surcharge in Grace Period	65	133,510	157,870

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
	Total Patent Maintenance Fees (Small Entity)		\$68,097,785	\$67,407,575
	Total Patent Maintenance Fees		\$813,825,792	\$698,456,972
Patent Extension Fees (Large Entity):				
1251	Extension for Response within First Month	\$150	\$18,492,150	\$15,480,530
1252	Extension for Response within Second Month	570	30,823,320	24,231,301
1253	Extension for Response within Third Month	1,300	68,840,200	52,375,702
1254	Extension for Response within Fourth Month	2,030	6,916,210	5,323,769
1255	Extension for Response within Fifth Month	2,760	11,514,720	9,217,350
	Total Patent Extension Fees (Large Entity)		\$136,586,600	\$106,628,652
Patent Extension Fees (Small Entity):				
2251	Extension for Response within First Month	\$75	\$3,262,425	\$2,837,400
2252	Extension for Response within Second Month	285	6,747,945	5,795,885
2253	Extension for Response within Third Month	650	23,578,100	18,918,985
2254	Extension for Response within Fourth Month	1,015	2,857,225	2,308,931
2255	Extension for Response within Fifth Month	1,380	5,456,520	4,505,782
	Total Patent Extension Fees (Small Entity)		\$41,902,215	\$34,366,983
	Total Patent Extension Fees		\$178,488,815	\$140,995,635
Patent Appeal Fees (Large Entity):				
1401	Notice of Appeal to Board of Appeals	\$630	\$19,794,600	\$14,767,430
1402	Filing a Brief in Support of an Appeal	630	10,648,890	9,311,480
1403	Filing a Brief in Support of an Appeal	1,260	1,256,220	1,163,520
	Total Patent Appeal Fees (Large Entity)		\$31,699,710	\$25,242,430
Patent Appeal Fees (Small Entity):				
2401	Notice of Appeal to Board of Appeals	\$315	\$2,496,060	\$1,846,685
2402	Filing a Brief in Support of an Appeal	315	1,015,560	908,585
2403	Request for an Oral Hearing	630	192,780	154,120
	Total Patent Appeal Fees (Small Entity)		\$3,704,400	\$2,909,390

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
Patent Appeal Fees (Other):				
1405	Petitions to the Chief Administrative Patent Judge	\$400	\$0	\$10,000
1406	Petition to Institute an Inter Partes Review	27,200	0	462,400
1407	Challenged Claims in Excess of 20 for an Inter Partes Review	600	0	7,800
1408	Petition to Institute a Post-Grant or a Covered Business Method Review	35,800	0	214,800
1409	Challenged Claims in Excess of 20 for a Post-Grant or Covered Business Method Review	800	0	0
1411	Request to Make a Settlement Agreement and Other Requests Filed in a Patent Trial Proceeding	400	0	0
Total Patent Appeal Fees (Other)			\$0	\$695,000
Total Patent Appeal Fees			\$35,404,110	\$28,846,820
Patent Revival Fees (Large Entity):				
1452	Petition to Revive Unavoidably Abandoned Application	\$630	\$64,890	\$38,280
1453	Petition to Revive Unintentionally Abandoned Application	1,890	8,091,090	6,059,280
1814	Statutory Disclaimer	160	5,809,440	5,930,230
Total Patent Revival Fees (Large Entity)			\$13,965,420	\$12,027,790
Patent Revival Fees (Small Entity):				
2452	Petition to Revive Unavoidably Abandoned Application	\$315	\$61,425	\$40,840
2453	Petition to Revive Unintentionally Abandoned Application	945	4,134,375	3,367,530
2814	Statutory Disclaimer	80	709,360	962,225
Total Patent Revival Fees (Small Entity)			\$4,905,160	\$4,370,595
Total Patent Revival Fees			\$18,870,580	\$16,398,385

PCT Application Fees (Large Entity):

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
1609	IPEA is USPTO	\$0	\$0	(\$670)
1610	ISA is USPTO	0	0	760
1611	USPTO is not IPEA nor ISA	0	0	0
1612	Claims meet PCT Article	0	0	0
1613	Filing with EPO or JPO Search Report	0	0	0
1614	Independent Claims in Excess of Three	250	5,683,750	5,256,230
1615	Total Claims in Excess of Twenty	61	9,306,831	6,428,826
1616	Multiple Dependent Claims	460	1,664,740	1,045,640
1617	Search or Examination Fee, Oath or Declaration after 30 Months from Priority Date	130	3,330,470	2,615,990
1618	English Translation After 30 Months from Priority Date	130	293,410	232,570
1631	Filing of PCT National Stage Application	390	19,880,640	19,925,450
1632	PCT National Stage Search - All Other Situations	630	343,350	1,269,350
1633	PCT National Stage Examination - All Other Situations	250	12,731,250	13,076,250
1640	PCT National Stage Search - US was ISA or IPEA and All Claims Satisfy PCT Article	0	0	0
1641	PCT National Stage Search - US was the ISA	120	269,160	240,460
1642	PCT National Stage Search - Search Report Prepared and Provided to USPTO	500	25,080,000	23,658,780
1643	PCT National Stage Examination - US was IPEA and All Claims Satisfy PCT Article 33(1)-(4)	0	0	0
1681	PCT National Stage Application Size	310	1,443,670	1,309,390
Total PCT Application Fees (Large Entity)			\$80,027,271	\$75,059,026
PCT Application Fees (Small Entity):				
2609	IPEA is USPTO	\$0	\$0	\$360
2610	ISA is USPTO	0	0	0
2611	USPTO is not IPEA nor ISA	0	0	0

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
2612	Claims meet PCT Article	0	0	0
2613	Filing with EPO or JPO Search Report	0	0	0
2614	Independent Claims in Excess of Three	125	1,360,750	994,233
2615	Total Claims in Excess of Twenty	31	2,722,949	1,928,652
2616	Multiple Dependent Claims	230	304,060	209,730
2617	Search of Examination Fee, Oath or Declaration after 30 Months from Priority Date	65	704,145	530,075
2631	Filing of PCT National Stage Application	195	3,182,595	3,085,595
2632	PCT National Stage Search - All Other Situations	315	55,125	241,090
2633	PCT National Stage Examination - All Other Situations	125	2,019,750	2,009,040
2640	PCT National Stage Search - USPTO is ISA or IPEA and All Claims Meet PCT Article	0	0	0
2641	PCT National Stage Search - US was the ISA	60	171,360	131,040
2642	PCT National Stage Search - Search Report Prepared and Provided to USPTO	250	3,488,750	3,218,050
2643	National Stage Examination - US was IPEA and All Claims Satisfy PCT Article 33(1)-(4)	0	0	0
2681	National Stage Application Size	155	216,070	200,005
	Total PCT Application Fees (Small Entity)		\$14,225,554	\$12,547,870
	Total PCT Application Filing Fees		\$94,252,825	\$87,606,896
PCT Processing Fees:				
1601	PCT Transmittal Fee	\$240	\$11,210,880	\$12,364,740
1602	PCT Search Fee - Regardless of whether there is a corresponding application	2,080	33,034,560	34,785,080
1603	PCT Search Fee - Prior US Application Filed	2,080	0	2,850
1604	Supplemental Search per Additional Invention	2,080	971,360	1,190,920
1605	PCT - Preliminary Examination (USPTO is ISA)	600		

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
			877,200	769,800
1606	PCT - Preliminary Examination (USPTO is not ISA)	750	229,500	269,250
1607	Supplemental Examination per Additional Invention	600	15,600	10,200
1619	PCT - Late Payment	0	10,000	116,450
1620	PCT - Designation Confirmation	0	0	0
1624	Suspense Account for PCT Payments	0	0	0
	Total PCT Processing Fees		\$46,349,100	\$49,509,290
	Total PCT Application and Processing Fees		\$140,601,925	\$137,116,186
Other Patent Processing Fees:				
1053	Non-English Specification	\$130	\$274,300	\$315,640
1451	Petition to Institute a Public Use Proceeding	1,510	22,650	(3,020)
1454	Acceptance of an Unintentionally Delayed Claim for Priority	1,410	1,459,350	1,294,380
1455	Filing an Application for Patent Term Adjustment	200	1,225,400	243,400
1456	Request for Reinstatement of Term Reduced	400	20,800	1,200
1457	Extension of Patent Term	1,120	47,040	35,840
1458	Initial Application for Interim Extension	420	1,680	840
1459	Subsequent Application for Interim Extension	220	1,100	440
1460	Petitions to the Director	0	0	130
1462	Petitions to the Director (Group I)	400	1,216,000	1,188,000
1463	Petitions to the Director (Group II)	200	1,035,800	1,091,800
1464	Petitions to the Director (Group III)	130	1,445,600	964,860
1802	Expedited Examination of Design Application	900	202,500	284,400
1804	Request for Publication of SIR - Prior to Examiner Action	920		

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			3,680	5,520
1805	Request for Publication of SIR - After Examiner Action	1,840	14,720	15,130
1806	Submission of Information Disclosure Statement	180	20,321,820	20,815,560
1807	Processing Fee for Provisional Applications	50	119,500	118,750
1811	Certificate of Correction	100	820,200	1,087,300
1812	Request for Ex Parte Reexamination	2,520	1,673,280	1,988,940
1813	Request for Inter Partes Reexamination	8,800	1,707,200	5,614,400
1816	Processing fee for correcting inventorship in a patent	0	0	780
1818	Document Fee for Third-Party Submissions	180	0	4,500
1824	Petition in Reexamination Proceeding	1,930	0	27,020
8016	Status of Maintenance Fee Payment (Uncertified Statement)	10	70	40
8018	Disclosure Document Filing	10	0	0
8022	Publication in Official Gazette	25	1,950	5,025
8025	Retaining Abandoned Application	130	0	0
8026	Handling Fee for Incomplete or Improper Application	130	37,830	56,810
1815	Suspense Account for Other Patent Processing Fees	0	45,000	56,440
1999	Patent Unassigned Fees	0	1,000,000	1,443,181
XXXX	AIA- Inter Partes Review	27,000	0	0
XXXX	AIA- EX Partes Reexamination	14,080	0	0
XXXX	AIA- Post Grant Review	39,000	0	0
XXXX	AIA- Derivation Proceedings	48,600	0	0
XXXX	AIA- Supplemental Review	21,000	0	0
	Total Other Patent Processing Fees		\$32,697,470	\$36,657,306
Patent Attorney Enrollment Fees:				
9001	Application Fee for Examination	\$40	\$161,360	\$162,280
9003	Attorney Fee - Registration to Practice or Grant of Limited Recognition	100	226,100	162,500
9004	Attorney Fee - Reinstatement to Practice	40	1,000	1,600

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9005	Attorney Fee - Certificate of Good Standing as an Attorney or Agent	10	3,930	3,020
9006	Attorney Fee - Certificate of Standing as an Attorney or Agent, Suitable for Framing	20	580	300
9010	For Test Administration by Commercial Entity	200	754,400	769,000
9011	For Test Administration by USPTO	450	2,250	(450)
9012	Review of Decision by the OED Director under 11.2(c)	130	2,600	1,040
9013	Review of Decision of the OED Director under 11.2(d)	130	0	130
9014	Application Fee for Person Disciplined, Convicted of a Felony or Certain Misdemeanors under 11.7(h)	1,600	16,000	24,000
9015	Annual Fee for Registered Attorney or Agent, Active Status	0	0	0
9016	Annual Fee for Individual Granted Limited Recognition	0	0	0
9017	Annual Fee for Registered Attorney or Agent, Voluntary Inactive Status	0	0	0
9018	Requesting Restoration to Active Status from Voluntary Inactive Status	0	0	0
9019	Balance of Annual Fee Due Upon Restoration to Active Status	0	0	0
9020	Delinquency	0	0	0
9021	Reinstatement	0	0	0
9022	Paper Version of Continuing Training Program and Furnished Narrative	75	0	0
9023	Application by Sponsor for Pre-Approval of a Continuing Education Program	60	0	0
9024	Unspecified other services, excluding labor	0	10,000	1,137
9025	Attorney Fee - Registration to Practice or Grant of Limited Recognition	100	79,800	55,700
Total Patent Attorney Enrollment Fees			\$1,258,020	\$1,180,257
Patent Service Fees:				
8001	Printed Copy of Patent without Color	\$3	\$374,157	\$444,687
8003	Printed Copy of Plant Patent in Color	15	6,375	4,065
8004	Color Copy of Patent (Other than Plant) or SIR with Color Drawing	25	425	0
8005	Patent Application Publication	3	17,340	11,691
8007	Copy of Patent Application as Filed, if Provided on Paper	20	2,235,260	1,996,720
8008	Copy of Patent Related File Wrapper and Paper Contents of 400 or Fewer Pages, if Provided on Paper	200	452,400	384,400
8009	Additional Fee for Each Additional 100 Pages or Portion of Patent Related File Wrapper and Contents	40	162,480	132,560
8010	Certification of Patent-Related File Wrapper and Paper Contents	25	32,200	37,500
8011	Copy of Patent Related File Wrapper and Contents if Provided Electronically other than on a Physical Electronic Medium as Specified	55	150,975	205,425
8012	Additional Fee for Each Continuing Physical Electronic Medium in Single Order	15	90	5,175

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8013	Copy of Office Records, Except Copies of Applications as Filed	25	182,925	281,725
8014	Assignment Records, Abstract of Title and Certification, per Patent	25	685,925	1,078,950
8015	List of US Patents and SIRs in Subclass	3	0	0
8017	Copy of Non-US Document	25	50	25
8019	Local Delivery Box Rental, Annually	50	2,400	0
8020	International Type Search Report	40	80	160
8021	Recording Each Patent Assignment, Agreement or Other Paper	40	23,780,120	27,428,480
8023	Labor Charge for Services	40	215,760	183,560
8024	Unspecified Other Services, Excluding Labor	0	60,138	45,323
8027	Handling Fee for Withdrawal of SIR	130	0	0
	Copy of Patent Related File Wrapper Contents that were Submitted and are Stored on Compact Disk, or other Electronic Form, other than as available, if Provided electronically other than on a Physical Electronic Medium, per Order	55	0	0
8028				
8029	Pre Grant Publication Drawings	130	0	0
8030	Partial Payments Received for Box Pre Grant Publication Drawings	130	0	0
8031	Computer Records, At Cost	0	1,515,854	193,195
	Copy of Patent Related File Wrapper Contents that Were Submitted and Are Stored on Compact Disk or Other Electronic Form, Other Than as Available; First Physical Electronic Medium in a Single Order	55	0	0
8041				
	Additional Fee for Each Continuing Copy of Patent Related File Wrapper Contents as Specified	15	0	0
8042				
8043	Copy of Patent Related File Wrapper Contents	55	0	0
	Petitions for Documents in Form Other Than that Provided by this Part, or in a Form Other Than that Generally Provided by Director, to be Decided in Accordance with Merits	0	0	0
8050				
8901	REPS	0	244,109	316,778
8902	Self Service Copy Charge, per Page	0	1,271,472	1,039,956
8903		0	0	124
8904	Annual Library Subscription	50	2,250	2,266
9705	Self Service Copy Charge, per Page	0	0	0
	Total Patent Service Fees		\$31,392,785	\$33,792,765

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Corporate Fees:				
9202	Service Charge for Below Minimum Balance on Deposit Accounts	25	107,600	96,516
9209	Partial service charge for closing a deposit account	0	520	254
Total Corporate Fees			\$120,720	\$106,368
Total Patent Fees			\$2,466,406,472	\$2,159,156,067
Trademark Processing Fees:				
6001	Application for Registration (Paper Correspondence)	\$375	\$2,167,500	\$1,565,005
6002	Amendment to Allege Use (Paper Correspondence)	100	24,700	27,800
6003	Statement of Use (Paper Correspondence)	100	232,700	215,800
6004	Extension of Time for Filing a Statement of Use (Paper Correspondence)	150	578,700	238,200
6005	Petitions to the Director (Paper Correspondence)	100	64,000	39,800
6006	Division of Applications (Paper Correspondence)	100	18,100	11,300
6008	Additional Fee for Failure to Satisfy TEAS Plus Requirements	50	11,250	7,050
6201	Application for Renewal (Paper Correspondence)	400	1,087,200	1,162,400
6203	Additional Fee for Renewal Application in Grace Period (Paper Correspondence)	100	27,200	21,400
6204	Correcting Deficiency in Renewal Application	100	0	100
6205	Filing Affidavit Under Section 8 (Paper Correspondence)	100	622,200	595,300
6206	Filing Section 8 Affidavit during Grace Period (Paper Correspondence)	100	68,400	57,100
6207	Correcting a Deficiency in a Section 8 Affidavit	100	70,000	12,400
6208	Filing Affidavit Under Section 15 (Paper Correspondence)	200	590,800	459,300
6210	Publication of Mark Under Section 12c	100	0	0
6211	Issuing New Certificate of Registration	100	17,600	1,500
6212	Certificate of Correction, Registrant's Error	100	4,700	6,000
6213	Filing Disclaimer to Registration	100	0	0
6214	Filing Amendment to Registration	100	151,800	13,800
6215	Filing §71 affidavit, per class	100	0	16,600
6216	Filing §71 affidavit grace period, per class	100	0	1,700
6401	Petition to Cancel (Paper Correspondence)	300	31,046	23,100
6402	Notice of Opposition (Paper Correspondence)	300	84,300	41,700
6403	Ex Parte Appeal (Paper Correspondence)	100	26,700	21,900
6991	Recordal Application Fee	20	0	700
6992	Renewal Application Fee	20	0	1,100
6993	Late Fee for Renewal Application	20	0	80

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
6994	Application fee for reactivation of insignia, per request	0	0	120
6999	Trademark Unassigned Fees	0	0	58,466
7001	Application for Registration (Electronic Correspondence)	325	79,031,225	83,085,275
7002	Amendment to Allege Use (Electronic Correspondence)	100	593,600	772,100
7003	Statement of Use (Electronic Correspondence)	100	7,523,900	8,540,400
7004	Extension of Time for Filing a Statement of Use (Electronic Correspondence)	150	28,353,450	30,294,150
7005	Petitions to the Director (Electronic Correspondence)	100	2,069,500	1,800,200
7006	Division of Applications (Electronic Correspondence)	100	208,200	268,200
7007	TEAS Plus	275	35,196,150	36,210,900
7008	Additional Fee for Failure to Satisfy TEAS Plus Requirements	50	129,500	120,150
7201	Application for Renewal (Electronic Correspondence)	400	26,096,800	27,484,800
7203	Additional Fee for Renewal Application in Grace Period (Electronic Correspondence)	100	652,400	611,700
7204	Correcting Deficiency in Renewal Application	100	0	400
7205	Filing Affidavit Under Section 8 (Electronic Correspondence)	100	14,931,900	15,144,200
7206	Filing Section 8 Affidavit during Grace Period (Electronic Correspondence)	100	1,642,500	1,556,900
7207	Correcting a deficiency in a §8 affidavit	100	10,000	86,800
7208	Filing Affidavit Under Section 15 (Electronic Correspondence)	200	14,181,000	14,452,400
7212	Certificate of Correction, Registrant's Error	100	151,600	383,200
7214	Filing amendment to registration	100	38,000	6,500
7215	Filing §71 affidavit, per class	100	0	0
7401	Petition to Cancel (Electronic Correspondence)	300	745,200	686,100
7402	Notice of Opposition (Electronic Correspondence)	300	2,724,000	2,254,200
7403	Ex Parte Appeal (Electronic Correspondence)	100	418,800	336,800
Total Trademark Processing Fees			\$220,576,621	\$228,695,096
Trademark Madrid Protocol Fees:				
6901	Certifying an International Application - Single Application (Paper Correspondence)	\$100	\$2,600	\$5,700
6902	Certifying an International Application - More than One Application (Paper Correspondence)	150	300	0
6903	Transmitting a Request to Record an Assignment or Restriction (Paper Correspondence)	100	0	0
6904	Filing a Notice of Replacement (Paper Correspondence)	100	0	0
6905	Filing an Affidavit Under 71 of the Act (Paper Correspondence)	100	0	400
6906	Surcharge for Filing an Affidavit Under 71 During Grace Period (Paper	100	0	200

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
	Correspondence)			
6907	Transmitting a Subsequent Designation (Paper Correspondence)	100	200	0
7901	Certifying an International Application - Single Application (Electronic Correspondence)	100	428,400	675,400
	Certifying an International Application - More than One Application (Electronic Correspondence)			
7902	Transmitting a Request to Record an Assignment or Restriction (Electronic Correspondence)	150	134,400	178,200
7903	Filing a Notice of Replacement (Electronic Correspondence)	100	0	0
7904	Filing an Affidavit Under 71 of the Act (Electronic Correspondence)	100	0	500
7905	Surcharge for Filing an Affidavit Under 71 During Grace Period (Electronic Correspondence)	100	0	454,400
7906	Transmitting a Subsequent Designation (Electronic Correspondence)	100	0	55,200
7907	Application Fee Filed at WIPO	100	66,600	76,200
7931	Renewal Fee Filed at WIPO	325	10,734,425	10,510,825
7932	Subsequent Designation Fee Filed at WIPO	400	377,200	451,600
7933	International Bureau Unassigned Fees	325	939,250	1,084,200
9990	Total Trademark Madrid Protocol Fees	0	93,128	400,810
			\$12,776,503	\$13,893,635

Trademark Service Fees:

8501	Printed Copy of Registered Mark	\$3	\$369	\$171
8503	Certified Copy of Registered Mark, with Title and/or Status	15	141,645	132,240
8504	Certified Copy of Registered Mark, with Title and/or Status (Expedited)	30	104,430	84,450
8507	Certified Copy of Trademark Application as Filed	15	333,060	356,055
8508	Copy of Trademark File Wrapper and Contents (Certified or Uncertified)	50	39,350	48,550
8513	Copy of Trademark Document (Certified or Uncertified)	25	12,925	14,500
8514	Assignment Records, Abstracts of Title and Certification per Registration	25	37,200	22,800
8521	Recording Trademark Assignment, Agreement or Other Paper	40	1,331,440	1,311,440
8522	For Second and Subsequent Marks in the Same Document	25	4,304,625	4,261,275
8523	Labor Charge for Services	40	38,200	24,720
8524	Unspecified Other Trademark Services, Excluding Labor	0	4,046	1,120
8531	Trademark Computer Records	0	11,151	100
8532	Unassigned Trademark Service Fees	0	0	65
8901	REPS	0	28,866	3,909
8902	Self Service Copy Charge, per Page	0	150,354	12,836
8904	Annual Library Subscription	50	1,650	1,684

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<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	<u>President's Budget Plan Collections</u>	<u>Actual Collections</u>
9705	Self Service Copy Charge, per Page	0	0	0
	Total Trademark Service Fees		\$6,539,311	\$6,275,915
Corporate Fees:				
9101	Processing Each Payment Refused or Charged Back	\$50	\$1,200	\$767
9201	Establish or Reinstate Deposit Account	10	280	335
9202	Service Charge for Below Minimum Balance on Deposit Accounts	25	12,725	11,083
9209	Partial service charge for closing a deposit account	0	62	29
	Total Corporate Fees		\$14,267	\$12,214
	Total Trademark Fees		\$239,906,702	\$248,876,861
	Total United States Patent and Trademark Office Fees		\$2,706,313,174	\$2,408,032,928

Appendix IV: USPTO Fee Collections

USPTO Fee Collections
Estimates and Assumptions

	FY 2012	FY 2013			FY 2014		
(Dollars in Millions)	Actual	Revised Estimate Low	Revised Estimate Working	Revised Estimate High	President's Budget Estimate Low	President's Budget Working Estimate	President's Budget Estimate High
Date of Projection	October 2012	February 2013	February 2013	February 2013	February 2013	February 2013	February 2013
Total USPTO Fee Collections	\$2,408	\$2,552	\$2,746	\$2,878	\$2,853	\$3,072	\$3,239
Total Patent Fee Collections	\$2,159	\$2,294	\$2,479	\$2,607	\$2,609	\$2,806	\$2,962
Total Trademark Fee Collections	\$249	\$258	\$267	\$271	\$244	\$266	\$277
Major Patent Fee Collections:							
Filing (with Excess Claims)	\$600	\$638	\$674	\$703	\$764	\$826	\$884
Issue and Publication	\$465	\$501	\$555	\$582	\$268	\$297	\$311
Maintenance	\$699	\$694	\$762	\$806	\$1,096	\$1,168	\$1,217
PCT	\$137	\$146	\$151	\$158	\$163	\$173	\$184
Extensions of Time	\$141	\$138	\$158	\$177	\$147	\$168	\$189
Other	\$117	\$176	\$179	\$181	\$172	\$175	\$177
Assumptions Used to Develop Fee Collection Estimates							
Filing Growth Rates:	Filings growth rate 5.2% (533,308 UPR filings, 157,817 RCEs). Trademark filings growth rate 4.1% (415,026 filings).	Filings growth rate 0.0% (537,443 UPR filings, 147,743 RCEs) with elasticity assumptions due to fee increases. Trademark filings growth rate -2.6% (404,000 filings). These filing rates are based on conservative estimates of continued economic growth.	Filings growth rate 3.3% (550,026 UPR filings, 153,081 RCEs) with elasticity assumptions due to fee increases. Trademark filings growth rate 4.3% (433,000 filings). These filing rates are based on moderate estimates of continued economic growth.	Filings growth rate 6.3% (565,778 UPR filings, 151,830 RCEs) with elasticity assumptions due to fee increases. Trademark filings growth rate 7.2% (445,100 filings). These filing rates are based on high estimates of continued economic growth.	Filings growth rate 0.0% (528,883 UPR filings, 146,276 RCEs) with elasticity assumptions due to fee increases. Trademark filings growth rate -4.7% (384,900 filings). These filing rates are based on conservative estimates of continued economic growth.	Filings growth rate 3.3% (568,227 UPR filings, 157,156 RCEs) with elasticity assumptions due to fee increases. Trademark filings growth rate 5.3% (456,000 filings). These filing rates are based on moderate estimates of continued economic growth.	Filings growth rate 6.3% (601,266 UPR filings, 160,327 RCEs) with elasticity assumptions due to fee increases. Trademark filings growth rate 10.9% (493,600 filings). These filing rates are based on high estimates of continued economic growth.
Patent Issue:	Patents printed of 237,526.	Patents printed of 251,426 based on conservative estimates of increased patent examination production efficiencies.	Patents printed of 279,362 based on moderate estimates of increased patent examination production efficiencies.	Patents printed of 293,330 based on high estimates of increased patent examination production efficiencies.	Patents printed of 282,289 based on conservative estimates of increased patent examination production efficiencies.	Patents printed of 313,654 based on moderate estimates of increased patent examination production efficiencies.	Patents printed of 329,337 based on high estimates of increased patent examination production efficiencies.
Patent Maintenance (Post Renewal):	Renewal rates: 78.2% first stage, 67.0% second stage and 63.8% third stage	Renewal rates: 80.0% first stage, 71.3% second stage and 62.7% third stage with elasticity assumptions due to fee increases and conservative estimates of continued economic growth and patent demand.	Renewal rates: 87.9% first stage, 77.4% second stage and 70.1% third stage with first year elasticity assumptions due to fee increases and moderate estimates of continued economic growth and patent demand.	Renewal rates: 93.9% first stage, 82.2% second stage and 74.4% third stage with elasticity assumptions due to fee increases and high estimates of continued economic growth and patent demand.	Renewal rates: 80.4% first stage, 72.1% second stage and 61.8% third stage with elasticity assumptions due to fee increases and conservative estimates of continued economic growth and patent demand.	Renewal rates: 85.0% first stage, 76.7% second stage and 66.3% third stage with elasticity assumptions due to fee increases and moderate estimates of continued economic growth and patent demand.	Renewal rates: 89.6% first stage, 79.6% second stage and 69.0% third stage with elasticity assumptions due to fee increases and high estimates of continued economic growth and patent demand.
Enhanced Examination Timing Assumptions:	Track 1 filings: 4,945 filings	Track 1: 5,000 filings.	Track 1: 7,500 filings.	Track 1: 10,000 filings.	Track 1 filings: 5,000	Track 1 filings: 5,000	Track 1 filings: 7,500 filings
Patent Fee Adjustments:	15% increase to certain patent fees continued; \$19.3 million in prioritized examination fees.	15% Increase to certain patent fees continued until fee restructure; CPI of 1.7% implemented 10/5/2012; assuming 4/1/2013 fee restructure implementation. - A 1 month delay in the fee structure implementation would equate to a loss of approximately \$30 million.	15% Increase to certain patent fees continued until fee restructure; CPI of 1.7% implemented 10/5/2012; assuming 4/1/2013 fee restructure implementation.	15% Increase to certain patent fees continued until fee restructure; CPI of 1.7% implemented 10/5/2012; assuming 4/1/2013 fee restructure implementation.	Assuming 1/1/2014 implementation of Issue/PG pub and PCT international fees fee changes.	Assuming 1/1/2014 implementation of Issue/PG pub and PCT international fees fee changes.	Assuming 1/1/2014 implementation of Issue/PG pub and PCT international fees fee changes.
Trademark Fee Adjustments:	N/A	N/A	N/A	N/A	New TEAS filings with lower fee rate; decrease in TEAS Plus and renewal fees. No change in demand expected.	New TEAS filings with lower fee rate; decrease in TEAS Plus and renewal fees. No change in demand expected.	New TEAS filings with lower fee rate; decrease in TEAS Plus and renewal fees. No change in demand expected.

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USPTO Fee Collections FY 2012 Estimated and Actual Fees and Assumptions

(Dollars in Millions)	FY 2011	FY 2012				
	Actual	President's Budget	Congressional Update	Revised Low Estimate	Revised High Estimate	Actual
Date of Projection	October 2011	February 2011	September 2011	January 2012	January 2012	October 2012
Total USPTO Fee Collections	\$2,304	\$2,706	\$2,273	\$2,451	\$2,697	\$2,408
Total Patent Fee Collections	\$2,071	\$2,466	\$2,025	\$2,205	\$2,438	\$2,159
Total Trademark Fee Collections	\$232	\$240	\$248	\$246	\$259	\$249
Major Patent Fee Collections:						
Filing (with Excess Claims)	\$493	\$741	\$562	\$603	\$651	\$600
Issue and Publication	\$398	\$473	\$390	\$475	\$531	\$465
Maintenance	\$820	\$814	\$712	\$725	\$831	\$699
PCT	\$124	\$141	\$129	\$135	\$139	\$137
Extensions of Time	\$125	\$179	\$118	\$145	\$160	\$141
Other	\$111	\$120	\$114	\$122	\$125	\$117
Assumptions Used to Develop Fee Collection Estimates						
Filing Growth Rates:	Patent filings growth rate 5.3% (506,924 UPR filings, 152,644 RCEs). Trademark filings growth rate 8.0% (398,667 filings).	Patent filings growth rate estimated to be 4.1% (527,802 UPR filings, 105,150 RCEs (adjusted downwards due to proposed RCE rule)). Trademarks filings growth rate 0.3% (400,056 filings).	Patent filings estimated to have 0% growth (515,000 UPR filings, 145,000 RCEs). Trademark filings growth rate estimated at -1.3% (345,220 filings). Estimates of filings were slightly lower in the Congressional Update because of lower fee collections in the fall/winter of FY 2011.	Filings growth rate estimated to be 3.1% (522,618 UPR filings; 154,652 RCEs). Trademark filings growth estimated at -1% (395,000 filings). These filing rates were based on low/conservative estimates of continued workloads as seen in the fall/winter of FY 2011.	Filings growth rate estimated to be 9.3% (553,950 UPR filings; 154,652 RCEs). Trademark filings growth estimated at 8.9% (434,000). These filing rates were based on high estimates of economic growth seen in the fall/winter of FY 2011.	Filings growth rate 5.2% (533,308 UPR filings, 157,817 RCEs). Trademark filings growth rate 4.1% (415,026 filings).
Filing Growth Rates Trends:	Patent filings increased 5% in FY 2011 with 30% of the total continued examinations (RCEs). In the President's Budget estimate it was assumed there would be 4% growth in patent filings, and that RCEs would comprise 20% of filings due to the proposed RCE rule. However, due to filing numbers in the spring and summer of FY 2011, the patent filing growth rate was decreased to reflect no growth in the Congressional Update and RCEs were increased to 30% of total filings. The actual growth rate came in better than estimated at 5% and the percentage of RCEs came in, as estimated, at 30%. Patent filings are expected to continue to grow in FY 2013 and FY 2014. Trademark filings were estimated to have 0% growth in the President's Budget. This was revised to reflect a 13% decrease in filings in the Congressional Update. The actual growth rate was 4% with the quick return of trademark activity. This growth is expected to continue in FY 2013 and FY 2014.					
Patent Issue:	244,430 issues.	240,699 planned issues.	254,249 planned issues. Estimates of issues increased in the Congressional Update due to production growth.	Issues of 267,941 planned. Estimates of issues increased in the low estimate based on continued increased patent grants in the fall/winter of FY 2011.	Issues of 289,293 planned. Estimates of issues was based on high estimates of continued increased patent grants seen in the fall/winter of FY 2011.	270,258 issues.
Patent Issue Trends:	Patent Issues is a process and resource driven workload. The Congressional Update reflected the strong FY 2011 numbers and even showed the expectation of increased issues. The number of patents issued increased from 244,430 to 270,258 from FY 2011 to FY 2012, an increase of 16.6 percent and 10.6 percent, respectively. These increases are in line with the increases in production and patent allowance rates. The USPTO expects these strong production levels to continue in FY 2013 and FY 2014.					
Patent Maintenance (Post Renewal):	Renewal rates: 101% first stage, 90% second stage and 84% third stage. Actual renewal rates in FY 2011 were very strong partly due to payments made in advance of the fee increase and have led to decreased levels for FY 2012.	Renewal rates: 93% first stage, 77% second stage and 70% third stage.	Renewal rates: 85% first stage, 74% second stage and 70% third stage. Estimates of renewals changed in the Congressional Update estimate based on collections and activity in the spring/summer 2011.	Renewal rates: 82% first stage, 69% second stage and 66% third stage. Estimates increased in the low estimate of continued demand for renewals in the fall/winter of FY 2011 as a result of sensitivity to the 15% fee increase.	Renewal rates: 94% first stage, 80% second stage and 75% third stage. Renewal rates are based on a high estimate of continued demand for renewals in the fall/winter of FY 2011.	Renewal rates: 78% first stage, 67% second stage and 64% third stage. Actual renewal rates in FY 2012 were lower than in FY 2011 partly due to payments made in advance of the fee increase.
Patent Maintenance (Post Renewal) Trends:	In September of FY 2011, a fee increase was implemented. The renewal payment "window" provides patent holders six months to pay maintenance fees without a penalty, which provides great flexibility for payers. As a result, many applicants paid their maintenance fees early in anticipation of higher fee rates. These prepayment led to higher than estimated renewal rates in FY 2011. Renewal rates were expected to be lower in FY 2012 which is reflected in the President's Budget and Congressional Update estimates.					
Fee Adjustments:	With passage of the AIA, patent statutory and RCE fees were increased 15% effective September 26, 2011. Many applicants paid fees immediately in advance of the fee increase.	Patent statutory and RCE fee increase of 15% continued. CPI increase of 1.4% assumed.	No Fee Adjustments.	Patent statutory and RCE fee increase of 15% continued.	Patent statutory and RCE fee increase of 15% continued.	Patent statutory and RCE fees increase of 15% continued.