United States Patent and Trademark Office

Performance and Accountability Report Fiscal Year 2010

FINANCIAL HIGHLIGHTS

(Dollars in Thousands)	% Change 2010 over 2009	September 30, 2010	September 30, 2009
Fund Balance with Treasury	9.7%	$ 1,436,432	$ 1,309,807
Property, Plant, and Equipment, Net	(15.3%)	174,397	205,802
Other Assets	2.3%	17,124	16,731
Total Assets	6.2%	$ 1,627,953	$ 1,532,340
Deferred Revenue	(3.2%)	$ 774,388	$ 800,256
Accounts Payable	(22.3%)	70,114	90,188
Accrued Payroll, Benefits, and Leave	13.8%	178,465	156,756
Other Liabilities	3.0%	112,681	109,346
Total Liabilities	(1.8%)	$ 1,135,648	$ 1,156,546
Net Position	31.0%	492,305	375,794
Total Liabilities & Net Position	6.2%	$ 1,627,953	$ 1,532,340
Total Program Cost	1.3%	$ 2,006,938	$ 1,981,940
Total Earned Revenue	9.1%	(2,101,682)	(1,927,130)
Net (Income)/Cost from Operations	(272.9%)	$ (94,744)	$ 54,810
Budgetary Resources Available for Spending	9.1%	$ 2,161,632	$ 1,981,204
Total (Collections)/Outlays, Net	(217.2%)	$ (122,074)	$ 104,134
Federal Personnel	(2.2%)	9,507	9,716
Disbursements by Electronic Funds Transfer (EFT)	—	99%	99%
On-Time Payments to Vendors	—	96%	96%

PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2010 Target	FY 2010 Actual	Performance Results[1]
Patent Average First Action Pendency (months)	25.4	25.7	**Slightly Below**
Patent Average Total Pendency (months)	34.8	35.3	**Slightly Below**
Patent Final Rejection/Allowance Compliance Rate	94.5%	96.3%	**Met**
Patent Non-Final In-Process Examination Compliance Rate	94.0%	94.9%	**Met**
Patent Applications Filed Electronically	90.0%	89.5%[2]	**Slightly Below**
Trademark Average First Action Pendency (months)	2.5 to 3.5	3.0	**Met**
Trademark Average Total Pendency (months)	13.0	10.5	**Met**
Trademark Final Compliance Rate	97.0%	96.8%[3]	**Slightly Below**
Trademark First Action Compliance Rate	95.5%	96.6%	**Met**
Trademark Applications Processed Electronically	65.0%	68.1%	**Met**
Percentage of prioritized countries that 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 IPR 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms	50.0%	75.0%	**Met**

[1] *The performance result of a given measure is either met (100 percent or greater of target), slightly below (95 to 99 percent of the target), or not met (below 95 percent of target).*

[2] *This is preliminary data and is expected to be final by December 2010 and will be reported in the fiscal year (FY) 2011 PAR.*

[3] *Within the target range of 97 percent considering the margin of error (+/- 0.6 percent).*

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WEB ADDRESS FOR THE USPTO PERFORMANCE AND ACCOUNTABILITY REPORT

http://www.uspto.gov/about/stratplan/ar/index.jsp

ABOUT THIS REPORT

The USPTO Performance and Accountability Report for FY 2010 provides a comprehensive summary of program and financial results and is structured to help the President, the Congress, and the American public assess our performance relative to our mission and accountability for our financial resources.

Under Secretary David Kappos and President of the National Inventors Hall of Fame (NIHF) Board of Directors, Edward Gray presents the induction medal to Yvonne Brill, a pioneering rocket scientist and 2010 inductee for the Dual Thrust level Monopropellant Spacecraft Propulsion System.

Message from the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO)

The work of the United States Patent and Trademark Office (USPTO) is critically important to the economic well-being of the United States. Innovation drives investment, creates new jobs, and fuels economic growth. The USPTO is our nation's Innovation Agency.

We are committed to fostering an intellectual property system that allows American business, entrepreneurs, and innovators to prosper. To achieve our objectives, the Agency recently completed the ***USPTO 2010-2015 Strategic Plan***. The plan details the key strategies and programs we'll use to reach Agency goals.

The USPTO team has already started implementation. In the past year, we've undertaken a series of initiatives to improve the speed and quality of patent processing. We have re-engineered our examiner count system. We are planning for and implementing full end-to-end electronic patent and trademark processing. We have hired a Chief Economist to develop our understanding of the role of intellectual property in the economy. We are accelerating examination for green technology innovations and working to find solutions that put examination priority in the hands of the applicants.

But even with all of this activity, the USPTO faces enormous challenges in performing its mission. The Agency continues to face operational challenges including an antiquated IT system, an increasing inflow of applications, and a large backlog.

With the likelihood that Fiscal Year (FY) 2011 will be a difficult year financially, we are focused on identifying solutions to put the Agency on solid financial footing. We will continue to work with the Administration, Congress, and our stakeholders to identify and implement solutions for a sustainable funding model.

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent as we improve our ability to measure progress toward our performance goals. For the 18th consecutive year, we earned an unqualified audit opinion on our annual financial statements. For FY 2010 financial reporting, the independent auditors did not identify any material weaknesses or instances of noncompliance with laws and regulations.

The talent, creativity, and innovative spirit of the USPTO employees are producing positive results for the American people and our economy. I look forward to another productive year, working with our employees and stakeholders to ensure that the USPTO drives innovation, creates jobs, and guarantees America's competiveness.

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
November 9, 2010

2009
Certificate of Excellence

Management's Discussion and Analysis

Mission and Organization of the USPTO

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.

The USPTO's mission is anchored in Article I, Section 8, Clause 8, of the Constitution "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writing and discoveries," and the Commerce Clause of the Constitution (Article 1, Section 8, Clause 3) supporting the federal registration of trademarks.

For most of the last century, the United States has been the clear leader in developing new technologies, products and entire industries that provide high-value jobs for Americans, enabling us to maintain our economic and technological leadership.

As a part of the Department of Commerce, the USPTO is uniquely situated to support the accomplishment of the Department's mission to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship.

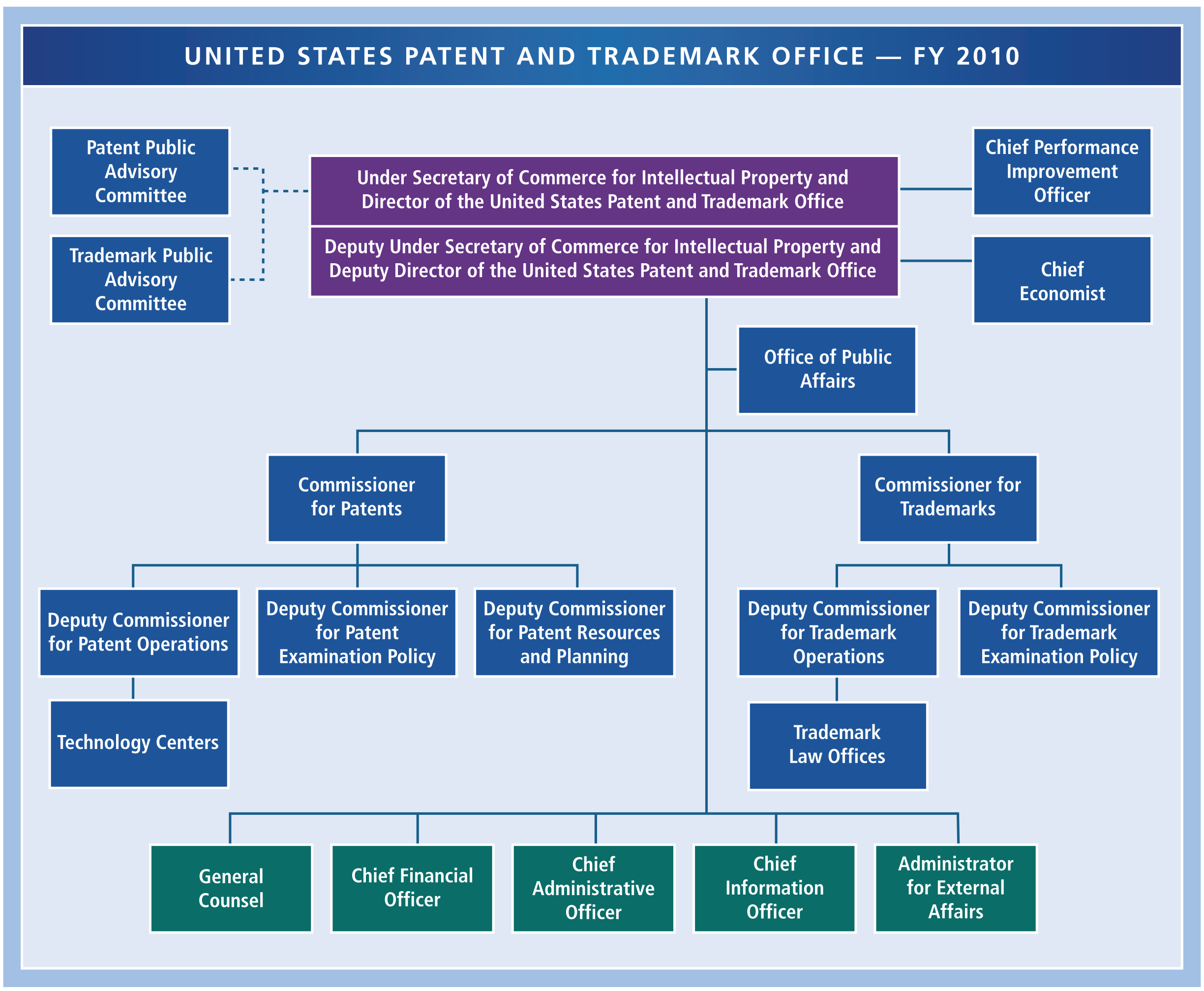
Under Secretary David Kappos and Deputy Under Secretary Sharon Barner greet Secretary of Commerce Gary Locke during his visit to the USPTO campus October 6, 2010.

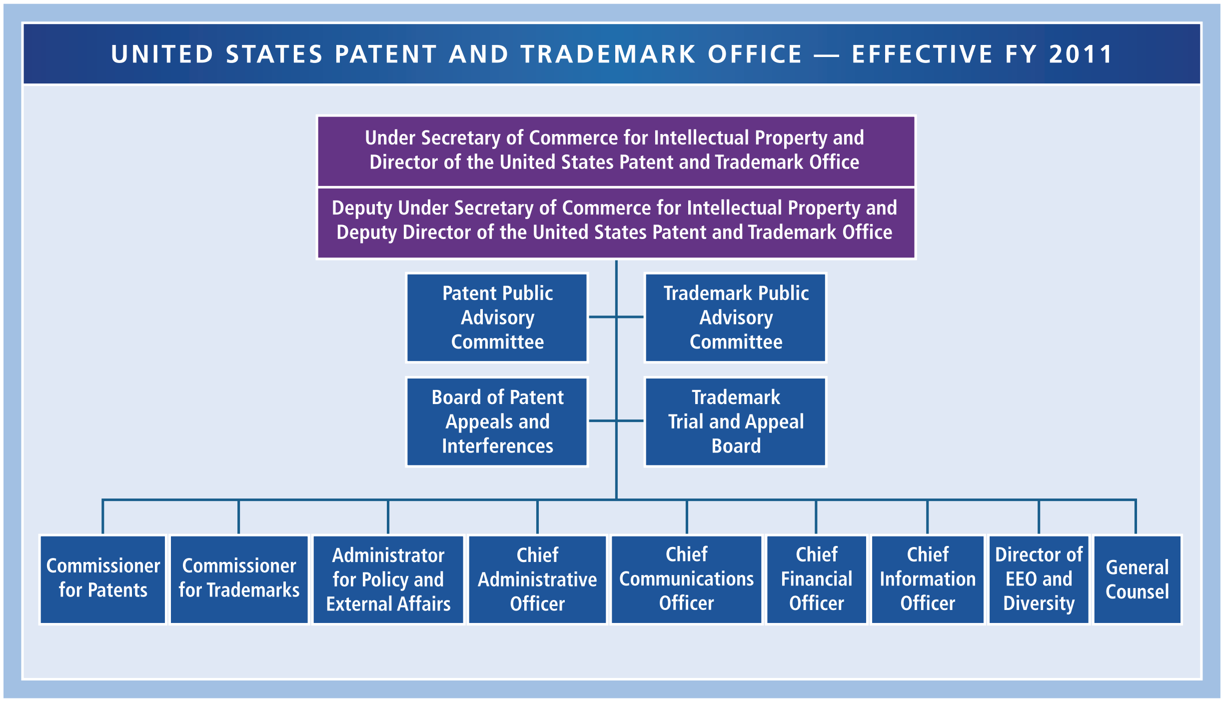
Our Organization

The USPTO is an agency of the United States within the Department of Commerce (DOC). 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 and the Trademark Public Advisory Committee. The USPTO has two major organizations: Patents and Trademarks, as shown in the fiscal year (FY) 2010 organization chart below. Headquartered in Alexandria, Virginia, the USPTO also has two storage facilities located in Virginia and Pennsylvania.

On October 1, 2010, USPTO reorganized its operational structure to strengthen the agency's management, communications and policy functions in accordance with the goals set forth in the ***USPTO 2010-2015 Strategic Plan***. The reorganization creates the Office of the Chief Communications Officer and Office of Equal Employment Opportunity and Diversity. The new offices, along with the Patent and Trademark Appeals Boards, will report directly to the Under Secretary and Director, as shown in the organization chart titled "Effective FY 2011."

USPTO has revised the structure so that it can operate more efficiently, communicate with the public in a more effective and transparent manner, and enhance our ability to reduce patent pendency and bringing innovation to market sooner, while strengthening the appeal process, promoting a more diverse workplace, and enhancing the agency's critical communications and outreach functions. The reorganization will not





The Excellence in Government (EIG) Program team gathers at the USPTO for their initial meeting. The team will identify best practices of private and public sector employment engagement and retention over the next year. Front row right to left: Acting Division Strategic Human Capital Chief Deborah Reynolds; Office of Human Resources (OHR) Director Karen Karlinchak; Deputy Commissioner for Patents Peggy Focarino. Back Row right from left: Cordella Chansler, Partnership for Public Service; Omari Wooden, Department of Commerce; Stacy Boyd, National Science Foundation; and Anthony Van Ess, Executive Office of the President; Rhonda Mayfield, OHR; Dale Polley, OHR; Associate Commissioner for Patent Resources and Planning Bo Bounkong.

increase the USPTO's number of full-time employees or resource requirements, and the agency's current facilities in Alexandria, VA, will accommodate the reorganization.

The USPTO has evolved into a unique government agency. In 1991 – under the *Omnibus Budget Reconciliation Act (OBRA) of 1990* – the USPTO became fully supported by user fees to fund its operations. In 1999, the *American Inventors Protection Act* established the USPTO as an agency with performance-based attributes; for example, a clear mission statement, measurable services and a performance measurement system, and known sources of funding.

As the clearinghouse for U.S. patent rights and registering trademarks, the USPTO is an important catalyst for U.S. economic growth as it plays a key role in fostering the innovation that drives job creation, investment in new technology and economic recovery. Through the prompt granting of patents and registering trademarks, the USPTO promotes the economic vitality of American business, paving the way for investment, research, scientific development, and the commercialization of new inventions. The USPTO also promotes economic vitality by ensuring that only valid patent and trademark applications are approved for granting, thus providing certainty that enhances competition in the marketplace.

The Patent organization examines patent applications to compare the scope of claimed subject matter to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious. Patent examiners also provide answers on applications appealed to the Board of Patent Appeals and Interferences (BPAI), prepare initial memoranda for interference proceedings to determine priority of invention, and prepare search reports and international preliminary examination reports for international applications filed under the *Patent Cooperation Treaty (PCT)*. The patent process includes performing an administrative review of newly filed applications, publishing pending applications, issuing patents to successful applicants, and disseminating issued patents to the public.

The Trademark organization registers marks (trademarks, service marks, certification marks, and collective membership marks) that meet the requirements of the *Trademark Act of 1946*, as amended, and provides notice to the public and businesses of the trademark rights claimed in the pending applications and existing registrations of others. The core process of the Trademark organization is the examination of applications for trademark registration. As part of that process, examining attorneys make determinations of registrability under the provisions of the Trademark Act, which includes searching the electronic databases for any pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters informing applicants of the attorney's findings, approving applications to be published for opposition, and examining statements of use in applications filed under the Intent-to-Use provisions of the Trademark Act.

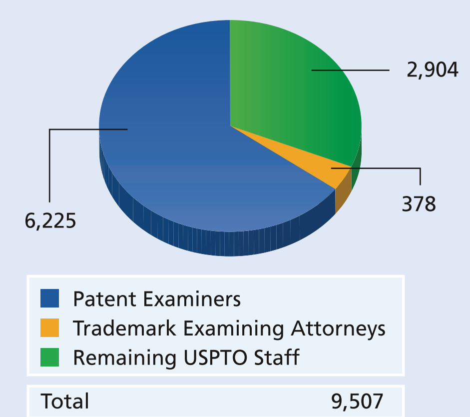
Domestically, the USPTO provides technical advice and information to executive branch agencies on intellectual property (IP) matters and trade-related aspects of IP rights. Internationally, the USPTO works with foreign governments to establish regulatory and enforcement mechanisms that meet international obligations relating to the protection of IP.

The performance information presented in this report is the joint effort of the Under Secretary's Office, the Patent organization, the Trademark organization, the Office of External Affairs, and the Office of the Chief Financial Officer.

Our People

At the end of fiscal year (FY) 2010, the USPTO work force was composed of 9,507 federal employees (including 6,225 patent examiners, and 378 trademark examining attorneys).

USPTO STAFFING



Performance Goals and Results

Introduction to Performance

This section provides the USPTO's strategic and performance planning framework and performance results. In FY 2010, the USPTO issued its ***2010-2015 Strategic Plan*** that is available at *http://www.uspto.gov/about/stratplan/index.jsp*. The strategic plan recognizes that innovation has become the principal driver of our modern economy by stimulating economic growth and creating high-paying jobs. America's innovators rely on the U. S. patent and trademark systems to secure investment capital and to bring their products and services to the marketplace as soon as possible. Therefore, it is critical for America's innovators to have a well-run USPTO.

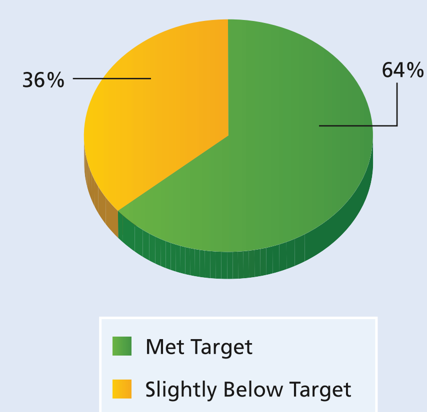
Our new strategic plan communicates agency priorities and directions, and serves as the foundation for programmatic and management functions. These priorities support the DOC's theme of economic growth and goal of delivering the tools, systems, policies, and technologies critical to transforming our economy, fostering U.S. competitiveness, and driving the development of new businesses.

The strategic plan also includes a Balanced Scorecard which identifies the objectives, initiatives, and performance measures associated with each strategic goal. This scorecard serves as a management tool for tracking progress in meeting each of our performance commitments. Most of the scorecard's performance metrics were monitored internally for FY 2010. We will continue to publish the measures that have been historically reported externally.

Following the presentation of the Strategic Planning Framework below, a summary table provides trend information on performance results within each strategic goal. This is followed by a more detailed discussion of our strategy and performance results, by strategic objective within each strategic goal. The performance measurement results data is presented at the end of each strategic goal's discussion.

Performance measures reported in last year's PAR that are no longer tracked or reported are listed in the Accompanying Information on USPTO Performance section of this report.

SUMMARY OF FY 2010 STRATEGIC GOAL PERFORMANCE TARGET RESULTS



2010-2015 Strategic Plan

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, and diverse workforce.

Vision

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

Strategic Goals with Resources Invested	Objectives
GOAL 1: ***Optimize Patent Quality and Timeliness*** Obligations: $1,707 million	Re-Engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness
	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
GOAL 2: ***Optimize Trademark Quality and Timeliness*** Obligations: $183 million	Maintain Trademark First Action Pendency on Average between 2.5 – 3.5 Months with 13 Months Final Pendency
	Continuously Monitor and Improve Trademark Quality
	Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations
	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
GOAL 3: ***Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide*** Obligations: $49 million	Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy
	Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights
MANAGEMENT GOAL: ***Achieve Organizational Excellence***	Improve IT Infrastructure and Tools
	Implement a Sustainable Funding Model for Operations
	Improve Employee and Stakeholder Relations

Summary of Strategic Goal Results

The following table summarizes FY 2010 actual performance results against established goals and targets for each key performance measure. The table also includes actual performance results for the past four fiscal years.

Strategic Goals Performance Measures	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 Target	FY 2010 Actual
GOAL 1: Optimize Patent Quality and Timeliness						
Average First Action Pendency	22.6	25.3	25.6	25.8	25.4	25.7
Average Total Pendency	31.1	31.9	32.2	34.6	34.8	35.3
Final Rejection/ Allowance Compliance Rate	N/A	N/A	N/A	94.4%	94.5%	96.3%
Non-Final In-Process Examination Compliance Rate	N/A	N/A	N/A	93.6%	94.0%	94.9%
Patent Applications Filed Electronically	14.2%	49.3%	71.7%	82.4%	90.0%	89.5%*
GOAL 2: Optimize Trademark Quality and Timeliness						
Average First Action Pendency	4.8	2.9	3.0	2.7	2.5 to 3.5	3.0
Average Total Pendency	15.5	13.4	11.8	11.2	13.0	10.5
Final Compliance Rate	N/A	N/A	N/A	97.6%	97.0%	96.8%**
First Action Compliance Rate	95.7%	95.9%	95.8%	96.4%	95.5%	96.6%
Trademark Applications Processed Electronically	N/A	N/A	N/A	62.0%	65.0%	68.1%
GOAL 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide						
Percentage of prioritized countries that 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 IPR** **2. Institutional improvements of IP enforcement entities** **3. Improvements in IP laws and regulations** **4. Establishment of government-to-government cooperative mechanisms**	N/A	N/A	N/A	NA	50.0%	75.0%

The performance result of a given measure is either Met (100 percent or greater of target), Slightly Below (95 to 99 percent of the target), or Not Met (below 95 percent of target).

N/A: Denotes new FY 2010 performance measures where data was not available.

*This is preliminary data and is expected to be final by December 2010 and will be reported in the fiscal year (FY) 2011 PAR.

**Within the target range of 97% considering the margin of error (+/- 0.6%).

Strategic Goal 1: Optimize Patent Quality and Timeliness

FY 2010 was a remarkable year for the Patent organization. Despite the continued effects of the economic downturn, the Patent organization successfully launched new and innovative initiatives to meet our strategic goals. Many of our routine programs, such as replacement hiring and funding workload-related contracts, were suspended due to budget constraints. Yet our commitment to making progress focused on ways to be more efficient and effective in our business processes, human capital management, policy, and managing our workload.

A market-driven approach to patent application processing was introduced and methods were devised for providing applicants more control over examination timing. We moved forward on refining optimal timeliness and patent quality measures, and recognized the ultimate solution will need to blend applicant needs with efficient patent application processing. The challenges of timely application processing are being met by a combination of increasing examiner capacity, improving efficiency, and leveraging work sharing programs. A quality patent removes risks to patent holders and strengthens the entire IP system.

Under Secretary David Kappos and Commissioner for Patents Robert Stoll joined the Supervisory Patent Examiners and Classifiers Organization's (SPECO) and the Patent examiner corps to launch an initiative aimed at significantly reducing the backlog.

Progress toward our goal of optimizing patent quality and timeliness was accomplished by completing the following programs and objectives. We made significant progress towards reducing the backlog and patent pendency, despite continued funding and hiring challenges. The improvements and increased efficiencies are seen in our performance metrics. Our progress as measured in actions per disposal show a downturn from 2.7 in FY 2009 to 2.42 in FY 2010. Productivity was up by 3.6 percent over the same time last year. The year's total production units were 522,407 versus 504,481 production units in FY 2009. Allowances have increased from 189,120 last year to 240,438 this year. Final rejections ended the year with 258,436 final rejections, compared to 238,497 for the same period in FY 2009. Interviews have increased approximately 37 percent from last year.

OBJECTIVE 1: RE-ENGINEER PATENT PROCESS TO INCREASE EFFICIENCIES AND STRENGTHEN EFFECTIVENESS

The Patent organization identified and implemented tools and policies that increased patent quality and timeliness. Efficiencies were found by redesigning systems and procedures so that redundant processes were removed. Our improved processes required a minimum of resources to complete patent prosecution. A streamlined examination process was created to improve both patent quality and timeliness.

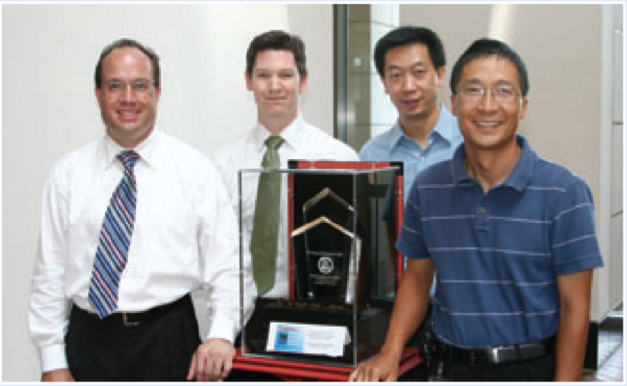
The patent examiner production (count) system was analyzed and re-engineered to set the foundation for long-term pendency improvements, incentivize quality work, identification of allowable subject matter earlier in the examination, and encourage actions that decrease rework and increase examiner morale. This re-engineering effort was one of the most fundamental changes to the 30 year-old examiner count system. Senior management and the Patent Office Professionals Association (POPA) crafted a system that will result in better examination rates and results.

Patent processing systems were closely studied to determine where the improvements would provide the greatest increase in efficiency or increase in examination capacity. A multi-track application pathway introduced in FY 2010 gives applicants control over prioritizing their applications, and assists patents management in balancing workload. This approach is efficient for both the applicant and patents management in that they can now identify areas where increased examination capacity may be required.

Two examination programs, the Green Technology Acceleration Program and Project Exchange Program, were developed to specifically give applicants greater control over examination timing:

- The Green Technology Acceleration Program allows inventors with pending patent applications to be accorded special status and given expedited examination for applications directed to environmental and energy conservation technologies. This program succeeded in getting 71 vital green technology innovations to market sooner with a 48.9 percent allowance rate.
- The Project Exchange Program allows advancement of applications out of turn in exchange for express abandonment of another application. The Project Exchange enables applicants to determine and prioritize their applications, thus freeing examiners from reviewing applications that are no longer of value to their owners. The program was intended for use by small entities, but was expanded to include any and all applications.

In addition to process efficiencies, the Patent organization focused on improving the examination workflow to increase the effectiveness of patent prosecution. The Compact Prosecution concept is a collection of changes in examination practice and culture that encourages examiners to find the core issues in a patent application and resolve them early in their prosecution. Examiners may accomplish this by conducting a complete initial search, issuing a complete first office action, and identifying allowable subject matter so as to expedite prosecution. Compact prosecution contains several elements such as implementation of specific training programs to improve after-final practices and final rejections. The results of this workflow improvement effort are seen in increased allowance rate and decrease actions per disposal.



USPTO patent employees received the Patent Innovation and Creativity Competition trophy for their creative ideas for improving the patent organizational and administrative process. From left to right: Dave Ometz, Allen Parker, Lin Ye and Jason Chan.

Within the Compact Prosecution framework is the First Action Interview Program (FAIP) designed to resolve issues and identify potentially allowable subject matter early in the examination process. The FAIP encourages discussion between applicant and examiner prior to the First Office Action determination on the merits. This program was enhanced and expanded in FY 2010 to include select areas in all technologies. The Office of Patent Training (OPT) provided examiner interview training designed to improve examiner communication skills and encouraged examiners to hold interviews earlier in prosecution. This training also encouraged interviews later in prosecution to prevent unnecessary Requests for Continued Examinations (RCE).

The FAIP program was successfully offered to examiners. These efforts resulted in a 32.3 percent first action allowance rate, compared to an overall first action allowance rate of 15.5 percent. The Patent Pendency Performance Measures are presented in the Goal 1 Performance Measures section.

Changes to examination workflow included providing for how the Patent organization works with customers to resolve issues. The Ombudsman pilot program was launched to enhance the USPTO's ability to assist applicants and/or their representatives with issues that arise during patent application prosecution. The program provides the applicant community with a dedicated resource to assist them when examination has stalled within normal channels of the Technology Center (TC). The Ombudsman representative will work with TC staff to address the concerns expressed by the applicant and/or their representative to get the application "back on track". The Ombudsman pilot program is an important step forward toward improving the quality and efficiency of patent examinations.

The Patent organization started a multi-year effort to re-engineer the entire patent examination process from the time an application is filed all the way through to the granting of a patent. This re-engineering effort will improve examination efficiency, timeliness, and quality by using automated processes and leveraging work sharing. This effort is paramount in order to upgrade and redesign our information technology (IT) processing systems, and to allow innovative redesign of the examination process supported by state-of-the-art automated workflow capabilities. The Patent Efficiency Performance Measure is presented in the Goal 1 Performance Measures section.

OBJECTIVE 2: INCREASE PATENT APPLICATION EXAMINATION CAPACITY

Increasing examination capacity includes hiring more examiners and providing training to make current examiners more effective. While not the sole answer to decreasing pendency and reducing the backlog, increasing our capacity by hiring examiners will make a significant impact on achieving this goal. In FY 2010, the USPTO initiated a new hiring model that targets applicants with previous IP experience. Of the total of 276 new hires, 98 included new hires with IP experience. The major benefits to hiring IP experienced hires are that they require less training time and they can begin examining applications quicker than non-IP hires. Additionally, we focused our attention on reducing attrition by improving coaching and mentoring, resulting in the lowest attrition rate in recent years.

In addition, our capacity can be greatly expanded by developing a nationwide workforce. The nationwide workforce model consists of examiners using telework from an off-site location. The plan targets hiring experienced IP professionals interested in joining the USPTO, but who do not want to relocate to the Washington, D.C. region. This model is expected to result in a lower attrition rate and faster transition for new examiners to become productive. A nationwide workforce will reduce the need to expand the current location. The presence of the USPTO will in turn expand our pool of examiner candidates.

OBJECTIVE 3: IMPROVE PATENT PENDENCY AND QUALITY BY INCREASING INTERNATIONAL COOPERATION AND WORK-SHARING

The USPTO continues to develop relationships with the major IP offices to study, review, and implement work sharing efforts, such as Patent Prosecution Highway (PPH) and Strategic Handling of Applications for Rapid Examination (SHARE). Work sharing remains an important tool for speeding the processing of applications filed in multiple jurisdictions by enabling patent offices to avail themselves of work done by other patent offices.

PPH leverages fast-track patent examination procedures available in participating offices to allow applicants to obtain corresponding patents faster and more efficiently. The USPTO currently has bilateral agreements with twelve countries on Paris-route PPH filings. This year the USPTO added the Hungarian Patent Office and the Russian Federal Service for IP, Patents and Trademarks (Rospatent) to the PPH Program, and is in discussions with several other IP offices. The first PPH pilot started in July 2006. Today, 4,107 PPH applications have been filed through September 2010; 2,130 applications were filed in FY 2010 alone. The USPTO eliminated the PPH petition fee requirement on May 25, to reduce a potential barrier to entry into the PPH program. The improvements to the PPH program have resulted in significant benefits and efficiencies including:

- First action allowance rate for PPH applications (i.e., the rate at which an application is allowed the first time the examiner considers the merits of the claims) is approximately double the first action allowance rate for all applications;
- Overall allowance rate for PPH applications is about double the allowance rate for all applications;
- The number of actions per disposal for PPH applications is approximately 1.7 percent compared to 2.42 percent of all applications; and
- An observed reduction in the number of claims in PPH applications of 15-20 percent compared to the number of claims that would have been examined in the same application.

A new PPH pilot program was established that uses the PCT work products that can be leveraged to obtain participation in

EPO, KIPO, and USPTO officials participate in the PCT Collaborative Search and Examination Workshop to discuss the IP5 search and examination pilot.

the PPH for a related national application. Pilots between the Trilateral Offices (USPTO, European Patent Office (EPO), and Japan Patent Office (JPO)), and Korean IP Office (KIPO) have begun and by fiscal year-end 45,701 PCT-PPH applications were received. The USPTO is now working cooperatively with the other offices and users to dramatically increase the usage of the PPH in order to maximize its benefits.

Discussions with our trilateral partners were the basis for establishing the SHARE agreements, which maximizes re-use between offices to minimize duplication of examinations. When applications are filed in multiple offices, agencies prioritize and balance workloads to maximize the re-use of foreign search and examination results, and minimize duplication of examination work done in other IP offices.

Several new agreements or projects were developed this fiscal year with our trilateral partners. A SHARE agreement with United Kingdom Intellectual Property Office (UK-IPO) on exchanging cross-filing information to identify potential volumes, charting timing, exchanging quality assurance information, and identifying access tools was finalized in March. The foundations for this project have been completed. The USPTO reached agreement this year with the JPO to provide lists of JPO applications with examination results that USPTO examiners can re-use in the corresponding domestic case. Outside of any structured framework or agreement, this "freeform" work sharing is aimed at increasing efficiencies in examination by providing examiners with tangible examination results from that office. The pilot program between the USPTO and the KIPO was established to gather empirical data and test the feasibility of the SHARE concept continued until the fiscal year-end.

Additionally, the five largest IP offices (the EPO, the JPO, the KIPO, China, and the USPTO) have formed a partnership to develop a collaborative IT structure, processes, and procedures for sharing information. The objective is to facilitate work sharing and information exchange by building a foundation for information and work exchange. Several meetings were held and critical accomplishments were achieved, including developing high-level project plans and resource estimates for 2010-2011.

OBJECTIVE 4: MEASURE AND IMPROVE PATENT QUALITY

Patent quality translates into more certainty and economic value for patent holders. It also means less risk from infringement and claims challenges. Our goal to improve the quality of patents includes defining quality and the quality metrics. A joint Quality Task Force between the USPTO and the Patents Public Advisory Committee was initiated to enhance the overall patent quality. Two roundtables were held in May to gather input on how to improve patent quality and how to define metrics to measure progress. The patent quality improvements focuses, *inter alia*, on improving the process for obtaining the best prior art, preparation of the initial application, and examination and prosecution of the application.

In the interim, we changed our focus from end-process reviews to an emphasis on front-end quality. Reviews occur after the first action on the merits, rather than after prosecution is completed. The purpose behind the standard is to highlight those errors in examination that cause the applicant, or the USPTO, serious difficulties and/or unnecessary rework or expense in the prosecution process. Our quality metrics show good improvement. The final rejection/allowance compliance rate is now 96.3 percent, as compared to 94.4 percent in FY 2009. And the non-final in-process compliance rate is 94.9 percent as compared to 93.6 percent in FY 2009. The Patent Quality Performance Measures are presented in the Goal 1 Performance Measures section.

Quality improvement continues to drive many of the Patent organization's new initiatives. The Patent organization improved the quality of its products and services using in-depth reviews of work-in-progress and enhanced end-process reviews to provide feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies.

Training both patent managers and examiners continues to be an important element for achieving quality patent examination. Particular focus was given to providing Supervisory Patent Examiners (SPE) with a Leadership Development Program. Patent managers and supervisors participated in a newly developed, state-of-the-art leadership development program to enhance their supervisory skill set.

The OPT has developed a catalog of refresher training courses for patent examiners to enhance the quality of examination. In FY 2010, over 1,700 requests for refresher training have been registered in the Commerce Learning Center. The OPT will continue to enhance and expand the courses being offered.

Performance management is a major part of managing the process, and motivating and coaching the patent examiners is the responsibility of the SPE. Several key elements that reflect the change in culture and quality were not reflected in the SPE Performance Appraisal Plan (PAP). In FY 2010, a task force was established to craft a new PAP that is in alignment with the ***USPTO 2010-2015 Strategic Plan*** and reflects agency priorities: enhanced examination quality, reduced application pendency, and improved stakeholder responsiveness. The new SPE PAP provides increased recognition of key SPE activities in coaching and mentoring examiners in their "art" units. The new PAP reflects better the varying roles and responsibilities of SPEs, and gives rating officials greater flexibility to provide fair and accurate assessments of SPEs' accomplishments.

Following the draft of the new SPE PAP, the USPTO established a task force consisting of management and the patent examiners' union (POPA) to craft a new patent examiner performance plan and to address performance management issues. The goal of the task force was to increase our collective understanding and increase the transparency of the PAP as well as improve the consistency of PAP administration. The task force's interest was in increasing coaching, counseling, and mentoring as a means of dealing with performance and issues of conduct within the workplace. The revised PAP includes a single quality element for all examiners. The workflow element was changed to provide examiners greater opportunity to use their professional discretion to manage their workflow. The changes provide examiners:

Members of the Patent Office Professional Association (POPA) labor union and Patent Management team established a joint task force to develop recommendations to move the Agency significantly forward towards a new examiner count system which is properly aligned to achieve both efficient and high-quality examination. From Left: POPA Secretary Kathleen Duda, Technology Center (TC) 3600 Director Kathy Matecki, Deputy Commissioner for Patent Operations Margaret Focarino, POPA President Robert Budens, Under Secretary and Director David Kappos, Assistant Deputy Commissioner for Patent Operations Andrew Faile, POPA Assistant Secretary Pamela Schwartz, POPA Vice President Howard Locker, and TC 2100 Director Wendy Garber.

- More control over when work is counted;
- Replaces the customer service element with a stakeholder interaction element with an emphasis on interview practice;
- Creates a more significant pendency award targeted towards agency goals;
- Addresses performance issues as fixable and treats conduct issues in a progressive manner;
- Retains the right to grieve both oral and written warnings; and
- Aligns goals with those cited in the Supervisory Patent Examiner PAP.

OBJECTIVE 5: IMPROVE AND ENHANCE THE PATENT APPEAL AND POST-GRANT PROCESSES

The BPAI issued numerous precedential and informative decisions on both substantive and procedural issues. This year's decisions relate to current issues of concern to the IP community, including the standard of review, obviousness, and indefiniteness, patentable subject matter. BPAI precedential opinions help create consistent authority to be followed in future BPAI decisions and in the Patent Examining Corps.

The BPAI took the following substantive steps to streamline the appeals process:

- First, the BPAI eliminated the redundant reviews of briefs for compliance with the Rules. The BPAI is now the sole reviewer of the brief resulting in a decrease in Notices of Non-Compliance from 30 percent to less than eight percent of the briefs reviewed.
- Second, the BPAI has taken steps to reduce remands thereby eliminating the back and forth between the Patent organization and the BPAI. The BPAI improved communication with its stakeholders by holding a roundtable on the rules package in January.
- Third, BPAI held the first ever Board Conference in April 2010 featuring a full day of presentations and panel discussion aimed at increasing stakeholder knowledge.

OBJECTIVE 6: DEVELOP AND IMPLEMENT THE PATENT END-TO-END PROCESSING SYSTEM

A high quality patent system that works in a timely manner is critical to innovators and the American economy. More than 68.1 percent of all patent applications were filed and processed on electronic systems. This achievement continues to demonstrate the importance of our IT system. The E-Filing of Patent Applications Performance Measure is presented in the Goal 1 Performance Measures section.

Investment in our IT processing systems will accelerate the USPTO towards its goal of high quality and timely patents. The improvement to our IT processing systems will begin the work of setting up a new system that will enable end-to-end electronic processing of patent applications. The new system will be driven by three guiding principles: stakeholders needs lead the process; build small, build fast; and own the design.

The new system design must fill gaps in legacy patent IT systems that now require patent employees and external stakeholders to perform labor-intensive, manual business processes as well as provide improved system availability and reliability. The USPTO plans to deploy a new graphical user interface that will eliminate the need to learn multiple systems while improving the sharing of data among various business functions. The new systems will provide the patent examiner with improved search tools and docket management systems. The current Web site will be improved through the use of Web 2.0 assistance technologies and make available the USPTO patent examiner search systems to the public via a Web 2.0 interface.

GOAL 1 PERFORMANCE MEASURES

Patent Pendency Performance

The two primary measures of the Patent organization's processing time are: (1) Average First Action Pendency, which measures the average time in months from filing until an examiner's initial determination is made of the patentability of an invention; and (2) Average Total Pendency, which measures the average time in months from filing until the application is issued as a patent or abandoned by the applicant.

Our measures of pendency, both Average First Action Pendency and Average Total Pendency, reflect a slight increase from the previous year. The measure of actual Average First Action Pendency for FY 2010 was 25.7 months, slightly missing the goal of 25.4 months. The actual Average Total Pendency of 35.3 months was slightly higher than the target of 34.8 months. During FY 2010, patent processing systems were closely studied to determine where improvements could be made to provide the greatest increase in efficiency, examination capacity, and workflow. The Patent organization then executed these improvements across the board. One significant change was the count system which gave examiners more time to examine each application as a clear sign that quality is our first priority. Even though incoming applications were four percent over projected filings, our workforce was very productive in significantly decreasing the backlog down to 726,331 utility, plant, reissue and design (UPRD) applications. We expect to meet or exceed next year's targets as our improvements to workflow and patents systems are finalized; and our funding is sufficient to hire and utilize overtime at planned levels.

First Action Pendency

Measure: Patent Average First Action Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2006	22.0	22.6
2007	23.7	25.3
2008	26.9	25.6
2009	27.5	25.8
2010	25.4	25.7
2011	27.8*	
2012	21.6*	

Target Slightly Below.

** Out year targets subject to change.*

Final Action Pendency

Measure: Patent Average Total Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2006	31.3	31.1
2007	33.0	31.9
2008	34.7	32.2
2009	37.9	34.6
2010	34.8	35.3
2011	37.3*	
2012	36.8*	

Target Slightly Below.

** Out year targets subject to change.*

Patent Quality Performance

Quality improvement continues to drive many of the Patent organization's new initiatives. The Patent organization continues to improve the quality of its products and services using in-depth reviews of work-in-progress and enhanced end-process reviews to provide feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies. In changing our focus from end-process reviews to an emphasis on front-end quality, the Patent organization has replaced prior year's quality measures with two new measures: Final Rejection/Allowance Compliance Rate and the Non-Final In-Process Examination Compliance Rate. The final rejection/allowance compliance rate gives the percentage of UPRD allowances and final rejections reviewed that were found to be compliant with applicable rules and laws regarding final patentability determination. The non-final in-process examination compliance rate gives the percentage of UPRD office actions (prior to allowance or final rejection) that were found to be in compliant with applicable rules and laws.

Patent Final Rejection/Allowance Compliance Rate

Measure: Patent Final Rejection/Allowance Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2009	N/A	94.4%
2010	94.5%	96.3%
2011	*	

Target Met.

**Along with the Patent Public Advisory Committee (PPAC), the USPTO has engaged our stakeholders in roundtables in order to establish new metrics.*

Patent Non-Final In-Process Examination Compliance Rate

Measure: Patent Non-Final In-Process Examination Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2009	N/A	93.6%
2010	94.0%	94.9%
2011	*	

Target Met.

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

Patent E-Filing and E-Management

The USPTO also created a fully electronic patent application management process whereby all patent examiners, technical support staff, and adjunct users can access an electronic image of all patent applications. Patent automation includes more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications.

The USPTO continues to provide and enhance the tools for applicant's use for patent application filing. The use of electronic filing has risen dramatically from last year when only 82.4 percent of applications were filed electronically. We expect to meet or exceed next year's targets as our improvements to workflow and patents systems are finalized.

Measure: Patent Applications Filed Electronically		
FISCAL YEAR	TARGET	ACTUAL
2006	10.0%	14.2%
2007	40.0%	49.3%
2008	69.0%	71.7%
2009	80.0%	82.4%
2010	90.0%	89.5%*
2011	92.0%**	
2012	93.0%**	

Target Slightly Below.

**Preliminary Data and is expected to be final by December 2010 and will be reported in the FY 2011 PAR.*

*** Out year targets subject to change.*

Patent Efficiency

Measures the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production.

Measure: Patent Efficiency		
FISCAL YEAR	TARGET	ACTUAL
2006	$4,214	$3,798
2007	$4,253	$3,961
2008	$3,982	$3,773
2009	$3,562	$3,523
2010	$3,530	$3,471
2011	*	

Target Met.

**The USPTO is developing new methodologies to better report the efficiency of both the patent and trademark processes.*

Strategic Goal 2: Optimize Trademark Quality and Timeliness

Trademarks have served an important purpose throughout recorded history, as owners of goods and services have historically affixed their names on their products. Trademarks perform a valuable function by identifying the source of products and services and being an indicator of reliable quality to the consumer. In the 21st century, trademarks represent highly valuable business assets, serving as symbols of a company's good will and helping to cement customer loyalty. By registering trademarks, the USPTO has a significant role in protecting consumers from confusion, as well as providing important benefits to American businesses by allowing them to strengthen and safeguard their brands and related investments.

Over the last five years, the Trademark organization has met and exceeded all but one of its performance targets as it continues to reap the benefits of its significant investments in human capital and in automation and process reengineering.

Representative Jim Moran (D-VA) and Deputy Commissioner for Trademarks Operations Debbie Cohn cut the ribbon at the National Trademark Expo with the assistance of Dennis the Menace and Curious George. The annual Exposition, held at the USPTO campus, features educational workshops, themed displays, costume characters and company booths.

OBJECTIVE 1: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5-3.5 MONTHS WITH 13 MONTHS FOR FINAL PENDENCY

For the fourth consecutive year, first action pendency – the length of time between receipt of a trademark application and when the USPTO makes a preliminary decision – was consistently maintained within the optimum range of 2.5 to 3.5 months. This represents an unprecedented achievement, especially with the recent economic turmoil and uncertainty that generate large fluctuations in filings. Average total pendency —the time from filing to notice of allowance, abandonment, or registration—shows sustained improvement as well, with disposal or registration occurring within 11 months of filing. The Trademark Pendency Performance Measures are presented in the Goal 2 Performance Measures section.

Pendency has improved as electronic processing and filing have become the primary means of conducting business within the Trademark organization. Increased use of electronic forms, particularly Trademark Electronic Application System (TEAS) Plus filings, which represent more than 33 percent of new application filings and more than 31 percent of first action approvals, has improved the efficiency and timeliness of examination. The Trademark Efficiency Measure is presented in the Goal 2 Performance Measures section.

To maintain first action pendency at 2.5 to 3.5 months and total pendency at 13 months or less, the Trademark organization managed to dynamically align examination capacity with incoming workloads within existing staffing levels sustaining high productivity by judiciously adjusting production incentives and overtime usage to boost production when needed.

An additional factor in lower total pendency results was the reduction of four weeks process time for applications receiving a notice of allowance. The notice of allowance now issues eight weeks following publication for opposition.

OBJECTIVE 2: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY

Examination quality of office actions in the Trademark organization has achieved consistently high levels of accuracy in recent years. First action quality was 96.6 percent exceeding the target of 95.5 percent. The quality of final decisions (approvals and rejections) was 96.8 percent as measured by statutory and compliance rates for quality of decision making and writing was within the target range of 97 percent considering the margin of error (+/- 0.6 percent), although less than the actual target To sustain these high quality levels, the Trademark organization continues to emphasize and improve training, to promote electronic filing and processing, and to make greater use of on-line tools and enhanced processes.

The Trademark organization continuously monitors and takes steps to improve the quality of examination. This year, a new comprehensive excellence quality measure was implemented, which expands upon the existing first action standards for correct decision making. The new measure seeks to identify the percentage of office actions that are excellent in all respects – setting a more rigorous standard of what constitutes quality. The new standard measures the quality of the search, evidence, writing, and decision making, as well as the percentage of issues that are settled or clarified through a phone call to the applicant or its attorney. Data collected in FY 2010 will be used as a benchmark for setting future goals. The Trademark organization has used feedback from user groups to ensure that the standards of excellence applied by the Trademark organization also reflect users' perception of excellence. The Trademark Quality Performance Measures are presented in the Goal 2 Performance Measures section.

The Trademark organization began incentivizing the examining attorneys to meet our new comprehensive excellence goal through a new awards program, and conducted an extensive training program on writing excellent office actions in the area of refusals for merely descriptive marks.

OBJECTIVE 3: ENSURE ACCURACY OF IDENTIFICATIONS OF GOODS AND SERVICES IN TRADEMARK APPLICATIONS AND REGISTRATIONS

The Trademark organization, along with the George Washington University Law School, hosted a roundtable discussion on

Commissioner for Trademarks Lynne Beresford and President of the NTEU 245 union Howard Friedman sign the Geographical Pilot Expansion for the Trademark Examiners.

"The Future of the Use-Based Register," during which panelists and audience members explored the level of accuracy in the identification of goods and services in trademark applications and registrations, as well as the impact of the Court of Appeals for the Federal Circuit's recent decision raising the standard to find fraud on the USPTO, *In re Bose Corp.*, 580 F.3d 1240 (Fed. Cir. 2009). In connection with the roundtable, the USPTO compiled and made available to the public a range of statistical information regarding the length and nature of identifications in applications and registrations. Following the roundtable's brainstorming session on ideas to improve accuracy on the register, the USPTO posted on its Web site the list of suggestions along with comments and additional information from the USPTO. The USPTO announced a request for comments or additional suggestions. In addition, the USPTO is currently considering piloting a program to assess accuracy on the register to provide more objective data on the issue.

OBJECTIVE 4: ENHANCE OPERATIONS OF TRADEMARK TRIAL AND APPEAL BOARD

In FY 2010, the Trademark Trial and Appeal Board (TTAB) issued more than 50 precedential decisions on a wide variety of substantive and procedural issues. TTAB's precedential decisions on appeals provide guidance not only to the Agency's trademark examining attorneys, but also to trademark owners and the trademark bar. TTAB's precedential decisions in opposition and cancellation proceedings provide guidance to trademark owners and the bar regarding both the Trademark Rules of Practice and substantive issues. In this regard, TTAB has been working on a new edition of the Trademark Board Manual of Procedure to incorporate materials related to the recent amendments to the rules of practice and recent precedential cases. The revised manual will be posted online, and it will be in searchable form for the first time. Thus, the revised manual will not only be easier to use but easier to revise more regularly. The new edition is currently under review. We expect to issue it early in the next fiscal year. Also, TTAB has been working closely with the bar to refine our Accelerated Case Resolution policy. We have already seen increased use of this procedure to expedite the disposition of cases. Finally, TTAB has begun discussions with the bar regarding the possibility of TTAB involvement in settlement discussions.

OBJECTIVE 5: MODERNIZE IT SYSTEM BY DEVELOPING AND IMPLEMENTING THE TRADEMARK NEXT GENERATION IT SYSTEM

The Trademark organization has undertaken a new challenge of creating a modern high-performance and cost-effective IT infrastructure that is reliable, flexible, scalable, and secure. This infrastructure will be focused on providing additional services to the internal and external users of Trademark computer-based resources. These services would enable stakeholders to save time and money during the process of registering and maintaining their trademark rights—time and money that could be better invested in ways that will grow the economy.

The next generation plan for the Trademark organization's computer-based resources needs to address current business requirements while anticipating and designing future ones. These needs and requirements are being identified with valuable inputs from key stakeholders and various subject matter experts in order to design an optimized and cost-effective Next Generation infrastructure.

The Trademark organization will separate its current IT systems from other Agency systems, and create a platform for a virtual environment to support the Trademark organization's Next Generation computer-based resources. The transition will require judicious maintenance of legacy systems and legacy system improvements while migrating to a virtual architecture.

The Trademark organization will continually strive to make its IT systems easier to use, cheaper to operate and maintain, and more secure.

The Trademark organization has made a conscious and sustained investment in IT that is demonstrating efficiencies and results as evidenced by consistently low pendency. Sixty-eight percent of all applications were filed, processed, and disposed of relying completely on electronic systems and communication. Performance results exceed the 65 percent target and demonstrate that the Trademark organization is making good use of its electronic systems and is successfully motivating applicants to conduct correspondence electronically. This measure replaced the electronic application filing performance measure, under which the Trademark organization achieved a rate of more than 98 percent of new trademark applications filed electronically. The Trademark Applications Processed Electronically Performance Measure is presented in the Goal 2 Performance Measures section.

To further improve the functionality of electronic filing, the USPTO has released additional forms and enhancements for existing TEAS forms. A new concept was introduced for filing of any trademark document for which a TEAS form is not currently available.

The Trademark organization continues to make progress in its long-term goal to replace manual, paper-based processes with a fully electronic operation. Progress has continued with the implementation and enhancement of the electronic docketing system known as the First Action System for Trademarks (FAST). This system significantly improves the processing and management of applications and provides access to on-line production reports to monitor the status of individual performance.

The Trademark organization will continue to assess the efficiency of its operations and incorporate process improvements. Replacing IT systems with the Next Generation of systems, as well as completing the electronic workflow and file management system throughout the entire process, will provide better automated tools and consistency for managing workloads and yield better service to customers. The USPTO will also continue to use e-government as the primary means of doing business with applicants and registrants, and as a means of processing work within Trademark organization. Continued high quality actions and consistent low first action pendency will ensure low total pendency, which translates to certainty for business owners in making investments in new products and services.

OBJECTIVE 6: DEVELOP A NEW GENERATION OF TRADEMARK LEADERS

For a third year, the Trademark organization continued programs in support of the Trademark Human Capital Strategic Plan. The Trademark Plan, which was developed to further the objectives of the Office of Personnel Management Federal Human Capital Strategic Plan, has shown results. Teams have continued work on programs and training in support of the three "human capital" objectives of talent management, results-oriented performance culture, and leadership and knowledge management.

The Trademark organization continues to improve upon its successful telework program through the continued expansion of telework opportunities and by expanding the use of remote access and collaboration tools:

- 87 percent of eligible examining attorneys work from home nearly full time; and
- 89 percent of all eligible Trademark employees (78 percent of all Trademark employees) are working from home at least one day per week.

In the past year, the program was expanded to provide work-at-home opportunities for employees in the Examination Support Unit (ESU), the Intent-To-Use/Divisional Unit (ITU), and Pre Examination. As a result, programs exist throughout the organization to expand the number of employees and functions supported by telework.

The Trademark Assistance Center (TAC), the call center for the Trademark organization, was the first federal call center with an extensive telework program. This year, TAC has become the go-to resource for information about how to staff and manage a call center where many employees work at home. Numerous agencies visited TAC to learn and benefit from TAC's successful experience with telework.

GOAL 2 PERFORMANCE MEASURES

Trademark Pendency Performance

Trademark first action pendency measures the average number of months from the date of application filing to the first office action. Trademark average total pendency measures the average number of days from date of filing to notice of abandonment (unless a notice of allowance has been issued), notice of allowance, or registration for applications based on use in that month *excluding* and *including* cases that were previously suspended or were involved in inter parties proceedings at the Trademark Trial and Appeal Board. Average total pendency, including suspended and *inter partes* cases, was 13 months. Excluding applications that were suspended or delayed for *inter partes* proceedings, average total pendency was 10.5 months.

Trademark Average First Action Pendency

Measure: Trademark Average First Action Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2006	5.3	4.8
2007	3.7	2.9
2008	2.5 to 3.5	3.0
2009	2.5 to 3.5	2.7
2010	2.5 to 3.5	3.0
2011	2.5 to 3.5	
2012	2.5 to 3.5	
Target Met.		

Trademark Average Total Pendency

Measure: Trademark Average Total Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2006	16.3	15.5
2007	14.8	13.4
2008	14.3	11.8
2009	13.0	11.2
2010	13.0	10.5
2011	13.0	
2012	13.0	
Target Met.		

Trademark Quality Performance

The Trademark organization measures for assessing examination quality include an evaluation for all issues that could be considered deficient in making a first and final action substantive decision. Evaluations are conducted on a random sample of applications to review the quality of decision-making of the examiner's first office action and final action – an approval for registration or a final refusal.

The "in-process review" standard for assessing excellent and deficient work creates a comprehensive, meaningful, and rigorous review of what constitutes quality. The results of an examiner's first action and final office action are reviewed for the quality of the substantive basis for decision-making, search strategy, evidence, and writing. The measures consider elements for review and evaluation with training targeted to topics that warrant improvement. Examiners are given feedback about excellent, as well as deficient work, to further improve quality.

Trademark Final Compliance Rate

In 2009, the measure for final compliance was expanded to evaluate examination quality at the stage applications are approved for publication and ultimately registration – increasing the number as well as the decisions that were subject to review – demonstrating the high degree of quality that applies to the majority of the determinations made by the Trademark organization.

Trademark quality has continued to demonstrate high levels and sustained improvement of the search and examination process. To further increase quality performance, a new measure that focuses on the comprehensive excellence of the entire office action was developed. The USPTO sought input from stakeholders in determining how to define excellence with members of the IP community involved in the review of office actions to validate and define comprehensive excellence. A program to address consistency of office actions, considered to be an aspect of quality, was piloted. Applicants can submit a request for consistency review to address substantive or procedural issues that had been addressed in a significantly different manner in those different cases owned by the applicant. The initial pilot focused on registrations issued in the past year and excluded issues involving identifications of goods and services.

Measure: Trademark Final Compliance Rate

FISCAL YEAR	TARGET	ACTUAL
2008	Baseline	
2009	97.0%	97.6%
2010	97.0%	96.8%*
2011	97.0%	
2012	97.0%	

Slightly Below.

**Within the target range of 97.0% considering the margin error of (+/- 0.6%).*

Trademark First Action Compliance Rate

Measure: Trademark First Action Compliance Rate

FISCAL YEAR	TARGET	ACTUAL
2006	93.5%	95.7%
2007	95.5%	95.9%
2008	95.5%	95.8%
2009	95.5%	96.4%
2010	95.5%	96.6%
2011	95.5%	
2012	95.5%	

Target Met.

Trademark Efficiency Performance

Trademark efficiency is a measure of the relative cost-effectiveness of the entire trademark examination process over time including the associated allocated costs, or the efficiency with which the organization applies its resources to achieving its performance goals. The measure is determined by comparing the total direct and indirect expenditures attributed to trademark operations and support activities compared to the number of outputs or applications registered and abandoned.

Trademark Efficiency

Measure: Trademark Efficiency

FISCAL YEAR	TARGET	ACTUAL
2006	$635	$565
2007	$685	$660
2008	$697	$470
2009	$639	$474
2010	$607	$520
2011	*	

Target Met.

**The USPTO is developing new methodologies to better report the efficiency of both the patent and trademark processes.*

Trademark E-Management

The number of electronically filed trademark applications has progressed steadily over the years as a result of promotional events, increased number and type of applications available for filing electronically, improved functionality and enhancements, and lower fees for filing electronically.

The Trademark organization has created an electronic trademark application record management process by capturing nearly 100 percent of the application inventory and registered marks as an electronic file that includes text and image of the initial application and subsequent applicant and office correspondence. Examining attorneys use the electronic record to process and examine applications, manage their dockets of pending work, and take action on applications.

A new measure was introduced in 2009 to address the major USPTO strategic challenge to complete full electronic workflow and file management for receiving and processing trademark applications and related documents. The measure "applications processed electronically" has been developed to identify the degree to which the Trademark organization is able to encourage applicants to file and submit correspondence electronically, as well as implement systems that can electronically process, examine, and dispose of an application in a completely electronic environment. This measure reports the percentage of trademark applications that were filed, processed, and disposed relying completely on electronic systems and communications. This measure replaced the electronic filing performance measure for which the target has been achieved.

Measure: Trademark Applications Processed Electronically

FISCAL YEAR	TARGET	ACTUAL
2008	Baseline	
2009	62.0%	62.0%
2010	65.0%	68.1%
2011	68.0%	
2012	71.0%	

Target Met.

Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide

As the President's advisor (via the Secretary of Commerce) on questions of IP policy, the USPTO plays a significant leadership role in promoting effective domestic and international protection and enforcement of IP rights. We are working to formulate a data-driven U.S. government IP policy and to develop unified standards for international IP. The USPTO is also working closely with the White House's U.S. IP Enforcement Coordinator to help formulate a robust and effective Administration IP enforcement plan.

The Office of the Chief Economist was created and an initiative was launched to collect and analyze data on the role IP plays in the promotion of innovation. We have placed additional focus on our IP Attaché Program to assist in improving the protection and enforcement of IP. Through the Global Intellectual Property Academy (GIPA), we continue to provide high-level IP rights training, capacity building programs, and technical assistance training to IP officials from around the world. We continue to work with Congress and the courts to improve the state of U.S. IP law. Progress was achieved towards our goal of providing domestic and global leadership to improve IP policy, protection, and enforcement worldwide by completing the following programs and objectives. The IP International Policy Efforts Performance Measure is presented in the Goal 3 Performance Measures section.

Under Secretary David Kappos delivers a speech at the Center for American Progress on June 2, 2010.

OBJECTIVE 1: PROVIDE DOMESTIC LEADERSHIP ON IP POLICY ISSUES AND DEVELOPMENT OF A NATIONAL IP STRATEGY

Developing a national IP strategy that is integrated into the Administration's innovation strategy

The Administration's *"Strategy for American Innovation"* white paper, published in September 2009, demonstrated a strong commitment to retaining U.S. innovation leadership. The white paper did not elaborate fully on the critical role IP plays in fostering innovation. As this Strategy for American Innovation evolves, the USPTO will lead in ensuring that the Administration's Innovation Strategy (and related projects) encompasses a comprehensive National IP Strategy. The National IP Strategy will ensure that policy developments and implementation take place in a coordinated manner within a national framework in order to allow all national stakeholders to work together to create, own, and exploit research results, innovations, new technologies, and works of creativity.

To effectively develop this strategy, the USPTO established the Office of the Chief Economist in March 2010. The Chief Economist is responsible for advising the Under Secretary and the Administrator for External Affairs on the economic implications of policies and programs affecting the U.S. IP system. The Chief Economist will lead the development of the National IP Strategy, which will reflect the growing body of research demonstrating the importance of high-quality IP to innovation leadership.

Monitoring and providing policy guidance on key IP issues in cases

The USPTO continues to heavily shape IP law and policy through domestic litigation and the decisions of its boards: the TTAB and the BPAI. The agency's litigation responsibilities fall primarily on the USPTO's Office of General Counsel (OGC). In the IP realm, the OGC's Office of the Solicitor defends the decisions of the agency's administrative boards, as well as the agency's rulemaking and policies in court. In FY 2010, the Office of the Solicitor defended in excess of 60 BPAI and TTAB decisions on a wide variety of topics affecting both agency practice and substantive law of patent applications and trademark registrations. The USPTO also advises the Solicitor General of the United States on IP matters before the U.S. Supreme Court.

On the IP policy front, OGC has urged the federal courts to clarify the standards for patent-eligibility under 35 U.S.C. § 101 in a series of important cases over the past few years. OGC's efforts culminated in the U.S. Supreme Court's recent decision in *Bilski v. Kappos*, in which the court considered the metes and bounds of patent-eligibility for process inventions – the number and type of which have greatly expanded over recent years. The court's decision cites with approval the test for a patent-eligible "process" recommended by the USPTO: that a patent-eligible process either be implemented by a machine or transform subject matter into a different state or thing although it is not the sole test for deciding whether an invention is a patent-eligible "process." This is the first time in over 30 years that the Supreme Court has considered the issue of patent-eligibility of process inventions. The USPTO recently drafted guidelines to implement the *Bilski* decision and to address any issues left open by the court.

Another landmark IP policy case involving the USPTO is *Ariad v. Eli Lilly*, in which an *en banc* Federal Circuit considered whether 35 U.S.C. § 112, first paragraph, contains a written description requirement separate from the enablement requirement. The USPTO worked with the Department of Justice (DOJ) to craft the Government's *amicus* position, at both the briefing and oral argument stages. The court majority agreed with the USPTO's position, and held that there is a requirement for a written description separate from enablement. The majority reached this construction based upon the statutory language itself, legislative history, Supreme Court precedent, *stare decisis*, and the practical need for the written description doctrine. The majority also agreed with the USPTO's position and held that section 112, first paragraph, applies to amended as well as original claims, and clarified that the test for satisfying the written description requirement is "possession as shown in the disclosure." The court's holdings validate long-standing USPTO policy and procedures and, ultimately, protect the public from the patenting of claims to inventions beyond the scope of an inventor's original conception and disclosure.

In the copyright arena, the Office of External Affairs and the Office of the Solicitor worked closely with the DOJ and other government agencies on the "Google™ books" matter to craft a court filing explaining the many benefits of a settlement that would give consumers easy access to vast numbers of out-of-print works, while articulating a series of concerns about details of the proposed settlement.

Providing domestic education outreach and capacity building

The USPTO, through the GIPA in the Office of External Affairs, provides IP educational opportunities to domestic small and medium-sized enterprises (SMEs), to universities, and to the public at large. These opportunities include outreach to Native American tribes, educational programs on IP awareness, and China Road Shows providing IP information to SMEs seeking to do business in China. Additionally, GIPA partners to develop and deliver educational outreach programs with other areas of the United States Government (USG), in particular the Small Business Administration, bureaus of the Department of Commerce including the Minority Business Development Agency, and the US Export Assistance Centers of the U.S. Commercial Service. Topics on which GIPA provides expertise cover IP administration, protection, and enforcement in all areas of domestic and international IP, including copyrights, trademarks, patents, industrial designs, and trade secrets. The USPTO will continue and expand its domestic education outreach and capacity building work to both enhance the public awareness and appreciation of IP and to facilitate the competitiveness and export capabilities of domestic SMEs with valuable IP assets.

Engaging USG agencies and Congress on legislation that improves the IP system

The USPTO monitors, analyzes, and provides advice and technical assistance within the Administration and to Congress on patent, trademark, and IP-related legislation and policy matters. Throughout FY 2010, the USPTO has engaged other USG agencies and its stakeholders to discuss proposed legislation consistent with Administration views. Patent reform legislation continued to dominate many of the IP discussions on Capitol Hill during the 111th Congress. This proposed legislation is intended to improve patent quality, reduce patent litigation costs, and further the international harmonization of patent laws. The USPTO supports these goals and sent a views letter to Senate Judiciary leadership supporting S.515. USPTO staff continues to work with both the House and the Senate to develop a comprehensive patent reform bill.

The USPTO also provided policy guidance on various other bills during the year including bills to: expand telework opportunities at USPTO, require broadcast radio stations to pay royalties to musicians for use of their works, and promote the availability of biosimilar drugs. In March 2010, Congress passed The Trademark Technical and Conforming Amendment Act of 2010 (signed into law as P.L. 111-146 on March 17, 2010). In July 2010, the Congress passed the USPTO Supplemental Appropriations Act (H.R. 5874) which provided $129 million in supplemental appropriations to allow the USPTO to access more of its anticipated collections to increase patent production and invest in IT infrastructure (signed into law as P.L. 111-224 on August 10, 2010).

Under Secretary Kappos testified on Capitol Hill twice this past year. First, on March 25, before the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies on the USPTO FY 2011 budget request, and then on May 5, before the House Judiciary Committee at a USPTO oversight hearing. On December 8, 2009, the Commissioner for Patents, Robert Stoll, testified before the House Committee on Oversight and Government Reform on "Protecting Intellectual Property Rights in a Global Economy: Current Trends and Future Challenges."

Members of Congress continue to maintain a strong interest in USPTO operations and its employees. In October 2009, the USPTO hosted Senator Hatch at a celebration to award the 600,000th design patent. In November 2009, the USPTO hosted Congressman Dana Rohrabacher who spoke at the 14th Annual Independent Inventors Conference.

During the fiscal year, USPTO staff increased its interaction with Capitol Hill and provided information on USPTO initiatives and various IP topics to Congressional staff in individual meetings and briefings. Congressional staff was also invited to attend roundtable discussions at the USPTO on issues related to the IP protection and enforcement, assistance to small businesses, the importance and success of the IP attaché program, copyright issues, the patent production goals, and on the USPTO's award winning telework programs. Working closely with key Congressional committee members and staff, the Department of Commerce and the Office of Management and Budget, the USPTO also sought to provide timely information on projected fee collections and analysis of proposed initiatives to address its operational and budgeting challenges. Several briefings were held on Capitol Hill to discuss a long-term sustainable funding model for USPTO which would include providing the Office with fee setting authority.

OBJECTIVE 2: PROVIDE LEADERSHIP ON INTERNATIONAL POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF IP RIGHTS

Lead efforts at the World Intellectual Property Organization (WIPO) and other intergovernmental/international organizations to improve international IP rights systems

Throughout FY 2010, the USPTO continued to seek enhanced cooperation and improved protection for IP multilaterally in several fora including the WIPO, the World Trade Organization (WTO), and several additional intergovernmental organizations. The USPTO consistently promoted the adoption of improvements to the WIPO filing and registration systems in 2010 for patents (PCT system), trademarks (Madrid system), and designs (Hague system), which continue to provide critical benefits and services to businesses that rely on the international protection of their IP. In addition, the USPTO supported continued implementation of the WIPO "development agenda," a set of recommendations and projects aimed at enhancing WIPO's focus on development.

Within the WIPO Standing Committee on Copyright and Related Rights (SCCR), the USPTO led an interagency effort to develop and submit for the committee's consideration a "Consensus Instrument" designed to increase global access to books and other copyrighted works by persons with print disabilities, thereby demonstrating leadership in the international copyright community on an issue of great importance.

The USPTO also actively participated with the Office of the U.S. Trade Representative (USTR) in ongoing IP discussions in the WTO, with the objective of maintaining the integrity of the Agreement on Trade-Related Aspects of Intellectual Property

Rights (TRIPS). The USPTO worked closely with USTR during the WTO accession process of several countries during FY 2010.

At the United Nations Educational, Scientific, and Cultural Organization (UNESCO), the USPTO took part in the activities of the Intergovernmental Copyright Committee. Notable accomplishments in FY 2010 include the launching of UNESCO's World Anti-Piracy Observatory, which is aimed at providing a forum for awareness-raising and information exchange in the area of anti-piracy.

USPTO's leadership in the International Union for the Protection of New Varieties of Plants (UPOV) helped to achieve completion of the online database containing information relating to plant variety protection that can be used to facilitate cooperation between offices that is freely accessible in all four UPOV languages. During FY 2010, UPOV members also elected a USPTO representative as Vice-Chair of the UPOV Council for a three-year term, prepared and adopted several test guidelines, developed explanatory notes and a plant variety protection model law, and had the UPOV 1991 Act translated into certain non-UPOV languages for distribution to potential new members.

Commerce Secretary Gary Locke gathered with leaders from the public and private sectors to discuss the relationship between copyright policy, creativity and innovation in the Internet economy as part of a symposium co-hosted by the USPTO and the National Telecommunications and Information Administration (NTIA) at the Ronald Reagan Building and International Trade Center.

Improving enforcement in, and providing capacity building and technical assistance to, key countries/regions

The USPTO, through the GIPA in the Office of External Affairs, provides training not only for domestic audiences (as discussed earlier) but also for foreign officials. In FY 2010, GIPA conducted more than 75 US and regional IP training programs with more than 4,500 attendees. The attendees were primarily foreign officials from IP offices, law enforcement authorities, including prosecutors, police and customs officials, health ministry representatives, as well as academics, students, and SME leaders. These programs covered the spectrum of IP topics including the protection and management of IP (copyright, trademark, patent, industrial design, trade secret, and data protection). A significant number of these programs also covered IP enforcement topics, offering a forum where officials could explore, in collaboration with experts in the field, the accessibility, efficiency, and effectiveness of civil, administrative, and criminal enforcement mechanisms in global trade, foreign markets, and electronic commerce.

Particularly in the area of enforcement, GIPA partnered with many other agencies of the USG, in particular those responsible for IP law enforcement in the United States, such as the DOJ and Department of Homeland Security, to develop and deliver interactive, practical information, expertise, and guidance, including best practices for more effective enforcement of IP.

GIPA also took a leadership role this year in coordinating all IP training provided by the USG with guidance from the Office of the IP Enforcement Coordinator in the White House. This multi-year effort will provide a Web-based platform through which all USG agencies involved in IP training, technical assistance, and capacity building can both provide information and materials from programs planned and completed, and review programs and materials of other agencies.

The goal of many of these activities is to facilitate country and regional work plans to address the Special 301 Report from the US Trade Representative. Specifically, GIPA and the IP attaché program (discussed further below) coordinate activities on prioritized countries of interest. Consistent with the ***USPTO 2010-2015 Strategic Plan***, country teams at headquarters and attachés have worked to develop a plan identifying strategic priorities and issues for their countries/regions. They have also worked to bring about legislative change in their host country.

Under Secretary David Kappos and the Director General from the Mexican Institute of Industrial Property (IMPI) Jorge Amigo sign a Memorandum of Cooperation, which allows IMPI to participate in the Identifications of Goods and Services project of the Trademark Trilateral.

Improve efficiency and cooperation in global IP system

Throughout FY 2010, the USPTO continued to provide global leadership in developing and implementing cooperative frameworks among national and regional patent offices for the purpose of streamlining the international patent system. The cornerstone of these efforts has been the PPH, the objective of which is to improve the efficiency of the patent examination process to the benefit of patent offices and applicants alike.

The USPTO orchestrated cooperation with the EPO, JPO, and the KIPO to expand the PPH on a test basis in January 2010 by integrating it with the PCT. This effort has had two significant, beneficial effects: it has driven much-needed improvement of the PCT system for work-sharing purposes and has helped to dramatically increase participation rates in the PPH. In addition, the USPTO continues to add new partners to the PPH framework. Negotiations with other patent offices are ongoing, with the expectation of adding more partners in early FY 2011.

The Trademark Trilateral, consisting of the USPTO, the Office of Harmonization for the Internal Market (OHIM), and the JPO, has been collaborating for the last several years to harmonize a list of acceptable identifications and classifications of goods and services between the three offices. Currently, there are 11,200 harmonized identifications (IDs) and an applicant that chooses one of these IDs would be assured that the ID would be accepted in all three offices. The OHIM and the JPO are also providing translations of their proposed IDs for inclusion into a multilateral Web-interface. This year, the Trilateral Partners have executed Memoranda of Understanding (MOUs) with Canada, Korea, Philippines, and Mexico to "dock-on" to the harmonized list, thus potentially expanding the efficiency and utility of the Project for applicants filing in all of these offices with the same ID.

The USPTO also established cooperative agreements with other IP offices and organizations for increased technical cooperation. Agreements were signed with the SIPO of the People's Republic of China to work together on several cooperative projects, including piloting and implementing work sharing systems such as PPH, joint training programs, IT information exchanges, examiner training workshops, and other collaborations between the two offices. The USPTO signed an agreement with the KIPO to provide specialized reclassification services for the USPTO. A landmark agreement was signed with Rospatent to establish a general framework for bilateral cooperation between the two offices. Areas of concentration will include training and capacity building, work sharing, promoting the importance of IP in innovation and economic growth, and exchanging best practices.

Agreements were signed with India's Department of Industrial Policy and Promotion (DIPP) to cooperate on a range of IP rights (IPR) issues, focusing on capacity building, human resource development, and raising public awareness of the importance of IPR. An Action Plan was also developed to carry out specific activities under the agreement including exposure to patent examination practices, exchanges of information on patent databases and patent manuals, IPR awareness programs, exchange of information on traditional knowledge and genetic resources, exchanges of best practices, and other matters.

Additionally, the USPTO and the UK-IPO agreed to develop an action plan for reducing patent processing backlogs in both offices. The plan will optimize reuse of work on patent applications that are filed jointly at the USPTO and the UK-IPO.

Provide policy advice and expertise to other USG agencies

Under the American Inventor's Protection Act (AIPA) of 1999 (Public Law 106-113), the USPTO is directed to advise the President, through the Secretary of Commerce, and federal agencies on national and international IP policy issues, including IP protection in other nations.

The USPTO advises numerous Federal agencies such as the USTR, Department of State, Copyright Office, DOJ, Department of Health and Human Services, Department of Agriculture, Department of the Interior, and others to raise awareness of, and improve, the protection and enforcement of IP here and abroad. During FY 2010, the USPTO assisted the newly-created Intellectual Property Enforcement Coordinator (IPEC) in the development of the 2010 Joint Strategic Plan on Intellectual Property Enforcement.

The USPTO has worked closely with the National Telecommunications and Information Administration (NTIA), as part of the Internet Policy Task Force, to conduct a comprehensive review of the relationship of copyright, creativity, and innovation in the Internet economy. As part of this review process, the USPTO, in collaboration with NTIA, organized over 20 discussions with individual stakeholder groups. On July 1, it held a public symposium that was attended by over 130 stakeholders. The USPTO will be issuing a Notice of Inquiry with NTIA and plans to issue a report on digital copyright later in the year.

On May 26, the USPTO joined the Antitrust Division of the DOJ and the Federal Trade Commission (FTC) in hosting several panels of economists, attorneys, entrepreneurs, and other government and private industry specialists for a day-long symposium on the intersection of competition and patent policy.

The USPTO provided expert policy advice to the USTR in the 2010 "Special 301" review of the IP systems of our trading partners, and in IP discussions in the WTO, including the WTO TRIPS Council, WTO Trade Policy Reviews, and accessions to the WTO. The USPTO also advised USTR with regard to the negotiation and implementation of trade agreements involving IP including the Anti-Counterfeiting Trade Agreement (ACTA).

During FY 2010, the USPTO supplied policy guidance to the interagency team negotiating Science and Technology (S&T) agreements with foreign governments. These S&T agreements include a detailed IP annex governing the equitable allocation of rights to IP created in the course of international S&T cooperation. The USPTO also supplied expert advice in negotiations of the WHO Open-ended Working Group convened to find agreement on remaining elements under the pandemic influenza preparedness framework. Working with other relevant federal agencies, the USPTO continued to emphasize, in the drafting of WHO resolutions, the vital role IP plays in the creation of new medical products.

Under Secretary David Kappos and Representative Jim Moran (D-VA) discuss USPTO operations, its role in fostering innovation and ways to enable greater manufacturing in the U.S. based on this innovation.

The USPTO offered policy guidance and expertise in the course of several additional international negotiations, including those convened under the auspices of the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, the United Nations Conference on Trade and Development, and several specialized agencies of the United Nations such as WIPO.

Providing technical expertise in negotiation and implementation of bilateral and multilateral agreements

The USPTO continued to provide to other agencies of the USG, in particular the Office of the USTR, the Department of Commerce, and the Department of State, technical advice and expertise on IP administration, protection, and enforcement, during both the formulation and negotiation of the IP protection and enforcement provisions of various multilateral and bilateral agreements, and the subsequent implementation and evaluation of such agreements. Agreements on which the USPTO provided such expertise and advice include: the WTO TRIPs Agreement, bilateral and regional Free Trade Agreements (FTAs), Trade and Investment Framework Agreements (TIFAs), Science and Technology Agreements, the Anti-Counterfeiting Trade Agreement (ACTA), and the Trans-Pacific Partnership Agreement (TPP). The USPTO will continue its work to compile all partner agreements, MOUs, and work plans in determining whether such agreements are viable/functional and identifying gaps and funding challenges.

The range of technical expertise and services provided by the USPTO included:

- Legislative and regulatory analysis and drafting;
- Comments and reactions on proposed drafts and text;
- Compliance with international standards;
- Technical and tactical advice on accomplishing certain goals and objectives;
- Placing of IP protection and enforcement within a national or regional legal, historic, cultural, or political context;
- Identification of potential administrative improvements to existing foreign IP regimes;
- Design and provision of training and capacity-building activities to assist with human resource development;
- Creation of public education and consumer awareness programs on the importance of IP protection, innovation, creativity, and enforcement;
- Infrastructure improvements;
- Compliance with rule of law and transparency in decision-making; and
- The integration of legal regimes into a broader international system.

The two major multilateral negotiations which USPTO provided technical expertise to the USTR are the on-going ACTA and the newly launched TPP. For bilateral activities, the USPTO provided technical expertise in the on-going evaluation of certain FTAs, including Australia and Singapore, and a range of technical assistance and capacity-building activities in support of the implementation of the FTAs with Bahrain, Central American Free Trade Agreement (CAFTA)-Dominican Republic, Chile, Jordan, Morocco, Oman, and Peru, and the pending FTAs with Colombia and Panama. The USPTO continued to consult with the USTR on issues raised in connection to the pending Korea-US FTA, and the possible resumption of FTA negotiations with Malaysia.

The USPTO also provided technical expertise and capacity-building activities in connection with various TIFAs, including those with: Algeria, Brunei Darussalam, Cambodia, CARICOM, East African Community, Egypt, Ghana, Indonesia, Kuwait, Lebanon, Malaysia, Nigeria, Philippines, Saudi Arabia, South Africa, Thailand, Tunisia, and Vietnam.

Increasing the effectiveness of IP attachés in prioritized countries/regions

In FY 2010, to improve the effectiveness of IP attachés, the USPTO appointed a program director to oversee the IP Attaché Program. The program director communicates directly with the attachés to ensure they have adequate support from the headquarters as well as the country/region teams at the USPTO. The attachés' primary goals are to promote U.S. government IPR policy internationally; to help secure strong IPR provisions in international agreements and host country laws; and to encourage strong IPR protection and enforcement by U.S. trading partners for the benefit of U.S. rights holders. The attachés engage with national/regional IP offices on bilateral and plurilateral IP issues, as well as with other host government agencies. For instance, the IP attaché for South Asia successfully worked to prevent the Sri Lankan government from using pirated software. This accomplishment will represent millions of dollars in sales to U.S. software companies that will now be able to sell to the Government of Sri Lanka (GOSL).

Attachés have also worked to bring about legislative change in their host country. For example, Thailand had opposed joining the Madrid Protocol, saying that it only benefited foreign trademark owners. Based on the outreach efforts of the attaché, the Thai business community lobbied their government to join the Protocol. This year the Thai Government pledged to join the Protocol.

During FY 2010, the IP attachés continued fostering long-term and direct working relationships with the national governments in their host countries, as well as the private sector. The IP attaché for Latin America worked with the USPTO region team to help finalize a cooperative agreement between Chile's IP Office (INPI) and USPTO to develop technical cooperation between the offices. Likewise, in FY 2010, the IP attaché in Russia helped conclude a Memorandum of Understanding for Bilateral Cooperation between the USPTO and Rospatent.

In FY 2010, the attachés also worked with country/region teams at the USPTO to develop country/region integrated action plans that focus on specific needs of the countries contained in their portfolios. For example, the attaché in Beijing leads the Embassy's IPR Task Force monthly meetings, which includes all the various agencies that affect and are affected by IP issues. The attaché led the task force in drafting the China mission IPR strategy, developing consensus on IP subject matter priorities.

GOAL 3 PERFORMANCES MEASURES

International Policy Efforts

This new measure, which replaces IP performance measures reported in past years, 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.

Measure: Percentage of prioritized countries that 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 IPR**
2. **Institutional improvements of IP enforcement entities**
3. **Improvements in IP laws and regulations**
4. **Establishment of government-to-government cooperative mechanisms**

FISCAL YEAR	TARGET	ACTUAL
2009	Baseline	
2010	50.0%	75.0%
2011	75.0%	
2012	75.0%	

Target Met.

Management Goal: Achieve Organizational Excellence

Fulfillment of the USPTO's mission requires strong leadership and collaborative management. While the three strategic goals focus on our core mission, our overarching management priorities focus on the shared responsibility that is a prerequisite for achieving those goals, objectives, and measures namely, the priorities of sound resource management, solid workforce planning, corporate support services, and effective use of IT. Performance measures are not assigned to the Management Goal.

OBJECTIVE 1: IMPROVE IT INFRASTRUCTURE AND TOOLS

The USPTO continued to make improvements in our IT enterprise architecture, internal processes, and organizational alignment to improve our ability to be more responsive and better manage and deliver quality products at enhanced service levels. In particular, these initiatives directly support the ***USPTO 2010-2015 Strategic Plan*** to:

- Improve overall efficiency;
- Improve availability of and streamline access to USPTO information, data, and services;
- Serve an increasingly geographically dispersed workforce;
- Implement faster, more secure information exchange;
- Continue expansion and improvement of e-filing, e-processing, and other e-government efforts; and
- Improve the USPTO's IT infrastructure and tools.

In keeping with the Administration's commitments for "Transparency, Participation, and Collaboration", the USPTO expanded access to all Patent and Trademark data through the Data.gov and Google.com Web sites. The purpose of these free Web sites is to increase awareness and access to machine-readable federal information by the public in easy-to-find, downloadable datasets.

The USPTO host the Strategic Planning session for all the Department of Commerce's bureaus. Commissioner for Patents Bob Stoll leads a conversation at the break out planning session.

The Office of the Chief Information Officer (OCIO) continues to work in improving the visibility of IT costs by instituting a standardized budget execution system with assistance from the Office of the Chief Financial Officer (OCFO). This has allowed for the OCIO to work with all of the USPTO Business Units to create an improved long-term IT investment strategy, which is discussed further in the *USPTO Strategic Information Technology Plan (SITP)*.

In fulfilling responsibilities under 44 U.S.C. § 3504(h), the USPTO uses a *Capital Planning and Investment Control (CPIC)* process to prioritize investments and determine funding levels for subsequent fiscal years. Projects are carefully managed throughout their life cycle, and progress reviews are conducted at key milestone dates, to compare the project's status to planned benefit, cost, and schedule, along with technical efficiency and effectiveness measures. All major IT system investments are reported in the Office of Management and Budget's (OMB) Circular A-11, Exhibit 53, Exhibit 300s, and the USPTO's IT Investment Portfolio.

The USPTO's OCIO continued to work diligently with the Office of the Inspector General (OIG) and the DOC to improve the USPTO's overall IT security program and the quality of the certification and accreditation (C&A).

OBJECTIVE 2: IMPLEMENT A SUSTAINABLE FUNDING MODEL FOR OPERATIONS

In FY 2010, the USPTO has been working to establish a sustainable funding model that provides the USPTO with a reliable and sustainable source of funding. The USPTO operating structure is like a business in that it receives requests for services—applications for patents and trademark registrations—and charges fees projected to cover the cost of performing the services it provides. Unlike a business, however, the USPTO does not have the flexibility to adjust its fees or spending authority if actual application filings and revenues are different than those previously estimated. A USPTO funding model must span multiple years and be adaptable to fluctuations. Anything less will not sustain operation of our nation's IP system over an extended period of time.

The FY 2011 President's Budget begins moving the USPTO in the direction of a sustainable funding model by: (1) Ensuring access to fee collections to support the performance objectives, (2) Instituting an interim increase on certain patent fees as a financial bridge until the USPTO obtains fee setting authority and develops a new fee structure that will provide sufficient financial resources in the long term; (3) Pursuing the legislative authority to adjust our fee structure by regulation to better align fees with the cost of providing services, and (4) Creating an operating reserve to manage operations on a multi-year basis. Fee setting authority, coupled with maintaining an operating reserve from past fee collections would begin to put the USPTO on solid ground to adjust for volatility in the economy and/or demand for products and services without putting the agency at risk.

OBJECTIVE 3: IMPROVE EMPLOYEE AND STAKEHOLDER RELATIONS

The Office of the Chief Administrative Officer (OCAO) has played a critical role in the agency's efforts to meet the management goal to "achieve organizational excellence" by making significant improvements to many of our routine programs and services in the areas of human resources, telework, civil rights, security, and safety.

The USPTO continues to be a model for telework in the federal government. This year the USPTO secured the "Innovative Application of Technology to Support Telework" award, for developing and deploying the Enterprise Remote Access (ERA) Portal telework solution. The ERA Portal provides a versatile and economical telework solution and is an attractive option for many USPTO business units who want to deploy teleworkers without incurring the expenses associated with the standard ERA suite of equipment. The agency was also awarded the 2010 "Federal Telework Driver Award".

USPTO telework has been highlighted in the *Washington Post, Government Executive*, the *Federal Times*, on Federal News Radio, and has become a valued resource for federal agencies seeking to start or expand their telework programs. Additionally, the USPTO participated in a White House Forum on Workplace Flexibility to share agency perspective on telework and the 21st century worker.

To continue to strive for organizational excellence, the USPTO implemented an agency-wide *Leadership Development Program* featuring a world-class portfolio of online tools, job aids, resources, and classroom and computer-based courses. The program provides a diverse set of development strategies to help supervisors and employees efficiently and effectively identify and close competency gaps, as well as strengthen leadership values, knowledge, skills, and abilities. The program is easily accessible, technologically savvy, and advances organizational development by cultivating a culture of continual learning and professional growth. It includes an online Supervisory Resource Center to provide just-in-time support for supervisors as they perform their day-to-day tasks. It also includes a 180° Leadership Assessment Tool to help identify individual strengths and development needs, along with online and group coaching to develop and implement a leadership development plan. The program has been touted as a model of excellence and shared government-wide to assist other agencies who are considering launching a similar initiative.

As part of the goal of building a more collaborative relationship with our unions, the USPTO has established a *Labor-Management Council* with National Treasury Employees Union (NTEU) Chapter 243 that meets approximately each month to address issues of mutual concern. NTEU represents employees from numerous bargaining units and the council has been the best way to ensure collaboration and allow for pre-decisional involvement on certain issues. This council compliments

The Office of Civil Rights (OCR) hosted a special event for federal sector Science, Technology, Engineering and Mathematics (STEM) agencies in the Washington, DC metro area. The one-day conference provided valuable perspectives and strategies for increasing the representation of and retention of underrepresented groups in STEM professions. Federal Equal Employment Opportunity (EEO) and human resources (HR) professionals from STEM agencies such as NASA, NIST, EPA, NOAA, the Department of Energy, and the National Science Foundation gathered at the USPTO to gain new insight and strategies for the government-wide STEM program.

periodic informal meetings between agency executives, POPA and with NTEU Chapter 245.

Leadership development efforts are most successful when senior leaders set the example for others by engaging in their own development. Therefore, a Senior Executive Service (SES) Council was established to maximize the capabilities, contributions, and potential of senior executives by bringing them together to regularly network, discuss agency strategic priorities, collaborate by sharing knowledge and resources across business units, focus on results, recognize other's performance and contributions, and share best practices for helping subordinate leaders lead more effectively.

The USPTO continually aims to create a workplace environment that is modern, safe, secure, attractive, and energy efficient. The agency's emergency preparedness program once again became vital to the safety and welfare of our employees as the Influenza A (H1N1) virus was reported to be a threat to our workforce. Excellent proactive health solution approaches include providing the H1N1 vaccine to high risk category employees initially and the placement of hand sanitizer dispensers on every floor of every building.

The Office of Civil Rights (OCR) has partnered with the agency's business units in an effort to improve the performance and retention of patent examiners and the agency has supported the establishment of several new "affinity groups." These new groups include: a chapter of the National Society of Black Engineers, a chapter of the Society of Hispanic Professional Engineers, the Society of Women in Science and Engineering, the IP Society of Iranian Americans, and the Society of Ethiopian American Professional Engineers and Scientists. The affinity groups are jointly developing a mentoring program that will make available mentors to new examiners shortly after their arrival at the agency.

Additionally, the USPTO is working on expanding the pool of applicants for SES positions. OCR is periodically offering SES preparation seminars to all interested employees so they are better prepared to apply for SES vacancies.

The agency hosted its annual Community Day event, a major celebration of the agency's diversity. The agency also held observances for National Hispanic Heritage Month, National Disability Awareness Month, Black History Month, Engineering Week, National Women's History Month, Asian Pacific American Heritage Month, and Lesbian, Gay, Bisexual and Transgender Pride Month.

The agency created an electronic weekly publication for managers called, *Diversity Counts* that briefly covers either a timely topic, such as a Martin Luther King Day announcement, or a training tip, such as how to respond to requests for non-production time to engage in EEO activities.

Providing information and feedback channels for employees and the public

The *USPTO Ombudsman program* is intended to provide patent applicants, attorneys and agents assistance with application-specific issues including concerns related to prosecution advancement. The objective is to quickly resolve issues and thereby to decrease pendency. The program spans all TCs, using TC ombudsman representatives who are SPEs and Quality Assurance Specialists (QASs) prepared to field questions and concerns from the public and work with the appropriate USPTO employees to facilitate responses. The ombudsman representative helps ensure that the applicant's issues are addressed quickly – usually within five business days. The ombudsman representative also ensures confidentiality when requested by the applicant or applicant's representative.

The independent inventor community is a vital source of innovation and new business creation within the patent community. The USPTO has a long history of advocacy and support of the independent inventor. The patent and trademark process can be complicated for independent inventors and SMEs. As part of the USPTO stakeholder outreach, numerous independent inventor assistance programs have been developed by the USPTO. Our outreach includes the Inventors Eye Newsletter, an electronic quarterly publication. Inventors Eye is for and about America's independent and small entity inventor community. The USPTO holds an annual Independent Inventor conference to address issues of concern to the independent and small entity inventor community. To supplement the roundtables, on-line chats are offered which are held bi-monthly for the public to ask questions and receive responses from USPTO experts in both the Patent and Trademark organizations. Training and education are provided through the creation of computer based training modules on the USPTO Web site. We regularly host education conferences where inventors can learn about the importance of IP protection.

Under Secretary David Kappos and Deputy Under Secretary Sharon Barner led a public roundtable on Board of Patent Appeals and Interferences (BPAI) ex parte rules at the USPTO's Alexandria, VA headquarters.

USPTO has established a series of pro bono IP services with the help of universities, law offices, and technology transfer offices. In all cases, the USPTO was instrumental in developing the concept and finding partners. The USPTO acts as an information conduit for independent inventors through our Web site and outreach events. There are 13 universities currently offering IP law clinics on IP rights education aimed at independent inventors. The IP law clinics will provide basic IP education. A small pilot program was created with three university technology transfer offices and law schools to assist independent inventors with claims search and application preparation. This program offers more education and consulting than the IP law clinics. A pro bono legal service has been established with a select group of law offices to offer legal services to independent inventors who can show significant effort in defining claims and completing an initial search. Independent inventors can work directly with experts to improve their applications.

The USPTO has actively solicited and gathered opinions and suggestions from our applicants through numerous roundtables by which we have demonstrated our commitment to enlist the help of all stakeholders in our problem-solving process. A "feedback loop" has been established for our roundtables that include communication with stakeholders, posting summaries of comments, and providing summaries of resulting actions. Roundtables have included: International Work sharing and the PCT, Patent Quality (Los Angeles, CA and Alexandria, VA), *Bose* Fraud on the Trademark Office, and the Enhanced Examination Timing Control Initiative.

Management Challenges and What's Ahead

The distance between innovation and the marketplace is shrinking. Said another way, innovation is moving more quickly from creation to manufacture and distribution. IP is a necessary instrument for innovators and businesses to capture value as ideas move to the marketplace. In performing its mission — quality examination and disposition of patents and trademarks—the USPTO faces significant challenges.

BUILD AND FOCUS ON IMPROVEMENTS

The Patent and Trademark organizations will build on its accomplishments and work toward meeting the objectives of the ***USPTO 2010-2015 Strategic Plan*** while working with customers to ensure that the objectives remain aligned with their needs. The Patent organization's challenges are to create pathways for optimal pendency, to provide applicants with greater control over examination timing, and to create a quality review system that provides the high quality patents. The Patent organization must meet these challenges while facing the rapid rise in advanced technologies. Consequently, the Patent organization will continue to hire, train, and retain additional examiners, and explore and implement process improvements. These actions will help to make the USPTO even more responsive to the ever-increasing demand for patents.

The Trademark organization's biggest challenge is to maintain its quality and pendency achievements, given the uncertainty of trademark filings, future revenues, and costs. The Trademark organization strives to support a high quality operation and maintain consistent first-action pendency of 2.5 to 3.5 months, even in the face of monthly fluctuations in filings, the unpredictability of projecting new filings in the current economy, and the need to secure congressional approval for certain aspects of funding and fee changes.

The Trademark organization must strike a proper balance between forecasting filing levels, existing inventories, and managing an appropriately sized staff to ensure sufficient resources are available to maintain pendency goals on a consistent basis. Efficiency gains have been realized through process improvement and cost reduction, along with greater use of information technology.

Although first and final quality compliance rates are very high and consistently exceed 96 percent, the Trademark operation continues efforts to improve quality in a cost-effective manner. To raise the bar, the Trademark organization is emphasizing comprehensive excellence in office actions, which expands upon the existing first and final action standards for correct decision-making. While a comprehensively excellent office action certainly reflects correct decision-making, it also includes excellent evidentiary support and is very well-written. The success of this initiative depends on novel and focused training, best practice benchmarking and sharing, new quality incentives, sustained communication, and close collaboration with key stakeholders.

Under Secretary David Kappos testifies before the House Appropriations Committee on the President's USPTO FY 2011 budget request.

MANAGE AND EXECUTE TO GOALS

The USPTO's promotion, protection, and enforcement of IP rights have never been more important to our nation's economic prosperity. The USPTO must harness the expertise and skills within the agency and leverage new technology to achieve its goals. The actions taken by the agency to create a unified system to deliver timely, high-quality patents and trademarks must be carefully managed. The agency continues to face the external pressures of increasing application volume and rapid technology changes. We will meet these challenges by updating our antiquated IT infrastructure; hiring, retaining, and training examiners; and improving our operations to be more effective and efficient. As we work to improve our agency, we must continue to build relationships with our workforce, applicants, owners of patents and trademarks, Congress, and the public.

Although patent and trademark application filings show positive growth this year compared with the negative decline in filings last year, in order to maintain the USPTO's financial health, an increase of $129 million to the spending authority was signed into law on August 10th. This action reflects the recognition on the part of the Administration and the Congress of the vital role our Agency plays in supporting innovation and in spurring job creation and economic growth. This increase allowed the USPTO to immediately take a number of actions that benefited the entire IP community, including: hiring additional examiners; funding full overtime for examiners and support staff; accelerating examination process reengineering; and continuing to fully fund PCT outsourcing. Mission-critical IT projects to increase the effectiveness of every USPTO function was also accelerated.

In addition to the above efforts, a sustainable funding model must be established that provides USPTO fee setting authority so that we are able to manage patent and trademark revenue fluctuations and properly align fees with costs in a timely, fair and consistent manner. We will collaborate and build relationships with our international counterparts that foster seamless and cost-effective IP rights and that ensure global competitiveness for American innovators and businesses. Only through building these solid partnerships—where we work together to achieve our goals—is the USPTO capable of being successful.

CONTINUE TO MOVE TO AN ELECTRONIC WORKPLACE

The Patent and Trademark organizations have made significant progress to eliminate paper documents and manual transactions from their processes. Electronic communications are improving and encouraging more applicants to do business electronically by using Web-based systems. The Patent and Trademark organizations now rely heavily on data submitted or captured electronically to support examination, publish documents, and issue registrations. Because of the high degree of reliance on electronic operations, both organizations are dependent on the management and support of internal information technology systems and services to manage their operations and provide services to the public.

The Patent and Trademark organizations, along with the support of the OCIO, are working to address the challenge of completing an electronic docket and file management system. These systems will link all operations and processing that support core examination and post-issuance activities. A fully electronic workflow will allow both organizations to better manage the fluctuations in filings and be more efficient, as well as timely, in processing and responding.

Another major challenge is to integrate and modernize legacy systems, especially those now used for Patent operations. The legacy systems were developed over the past 30+ years, and most have their own user interface, do not allow for easy movement of data to other systems, and were built on now-obsolete technology. The goal of our next generation IT systems is to provide a common user interface and full data integration using modern IT tools, replacing the current antiquated and decaying infrastructure.

This increased reliance on electronic systems presents other challenges to the USPTO in the event of an unplanned outage or disruption in processing. To address this need, the USPTO has embarked on an aggressive, phased business continuity/disaster recovery program. The USPTO has established a remote data bunker which contains on-line backups of mission critical data.

STRENGTHEN GLOBAL IPR SYSTEMS

The challenges for the USPTO in carrying out its mission with regard to international initiatives are several and varied. Funding uncertainty continues for personnel resources, GIPA programs, and the IP Attaché program. A lack of political will on the part of some countries hinders progress in bilateral and multilateral negotiations. Institutional and governance concerns persist with regard to several international organizations with which the USPTO engages.

The USPTO will continue to promote the adequate and effective protection and enforcement of IP rights overseas, and will strengthen efforts to streamline and improve global systems for the registration and grant of IP rights. USPTO capacity building and technical assistance will target developing and least developed countries and support the initiatives of the U.S. IP Enforcement Coordinator. Use of search and examination results from foreign IP offices also will be increased in the USPTO's work sharing initiatives.

USPTO FUNDING MODEL

The USPTO is challenged to establish a sustainable funding model that provides the requirements-based authority to spend all fees collected on operations and work received, spans multiple years, and is adaptable to fluctuations inherent in estimates. Another important aspect of a sustainable funding model is the authority to set and adjust fees by regulation, so that we can properly establish and align fees in a timely, fair, and consistent manner without the inherent time impediments of the legislative process. Today, the USPTO does not have the ability to proactively adjust over 80 percent of its fees in response to changes in demand for services, processing costs, or other factors. This fee-setting authority is contained in the patent reform legislation discussed on Capitol Hill during the 111th Congress and the USPTO's FY 2011 budget request before Congress.

RECRUIT AND HIRE, DEVELOP AND RETAIN THE RIGHT SKILLS AND TALENT

The USPTO's mission requires a highly skilled, well educated, and diverse workforce. The agency faces the ongoing need to recruit, hire, develop, and retain sufficient numbers of qualified professionals in a highly competitive environment.

The USPTO strives to attract the highest-skilled, highest-performing, and most diverse workforce possible. Attracting the desired candidates ensures that there are sufficient numbers from which to select. The agency has begun a targeted approach to recruit a highly skilled and experienced IP workforce while continuing to recruit candidates from our traditional sources. It is anticipated that this new hiring strategy, which focuses on experienced practitioners, will garner a more productive and balanced workforce, lower attrition levels, and foster a faster transition to productivity for new hires.

Once hired, efforts must be continued to develop our employees. Many of our training programs are designed to enhance fundamental skills required for job performance, improve communication and cooperation with internal and external customers,

Krissy Fulton (center), 2009 Patent and Trademark Office Society (PTOS) president and Matthew Bradley (right), 2009 PTOS vice president, present Deputy Under Secretary Sharon Barner with a framed copy of the first United States Patent at the PTOS annual meeting.

and strengthen leadership skills at all levels. Knowledge management must be supported by an appropriate investment in training, development and technology.

In order to retain our highly skilled employees, the USPTO strives to be recognized as an employer of choice. Our retention strategies must continually be updated to reflect industry best practices. Attrition data will be tracked and survey results monitored in an effort to discern the effectiveness of our retention initiatives and to identify developing trends.

COMMUNICATION AND HUMAN CAPITAL MANAGEMENT

The USPTO recognizes the importance of building an active and engaged communication culture as a vital component of the agency's strategic goal of transparency, accountability and interactivity. The USPTO continues to identify new and innovative ways to communicate and collaborate with employees and stakeholders. Through these communication avenues, the agency will share human capital programs and information, and will solicit employee feedback and recommendations regarding current human capital activities, as well as new ones of interest.

Employees are the most valuable asset of the USPTO and the key to the agency's ability to meet mission-critical requirements. The USPTO has focused its efforts in recent years on improvements and worklife enhancements which have increased employee satisfaction at the USPTO as reported on the annual Employee Viewpoint Survey. The USPTO recognizes human capital as it's most critical and important asset. As in many large organizations, there are opportunities for improvement in the agency's management of human capital issues. A comprehensive Strategic Human Capital Plan, which is aligned with the ***USPTO 2010-2015 Strategic Plan***, has been developed to manage the agency's human capital. This plan identifies specific human capital goals and objectives to address agency needs.

CREATE IT ENTERPRISE ARCHITECTURE THAT SUPPORTS MISSION-CRITICAL BUSINESS AND PROGRAMMATIC REQUIREMENTS

In FY 2011, the USPTO will continue to take steps to improve its ability to be more responsive and better manage and deliver quality products at enhanced service levels. This will be accomplished by reducing the complexity of systems, establishing and enforcing more standards, and practicing continual process improvement.

In addition, the OCIO will continue to:

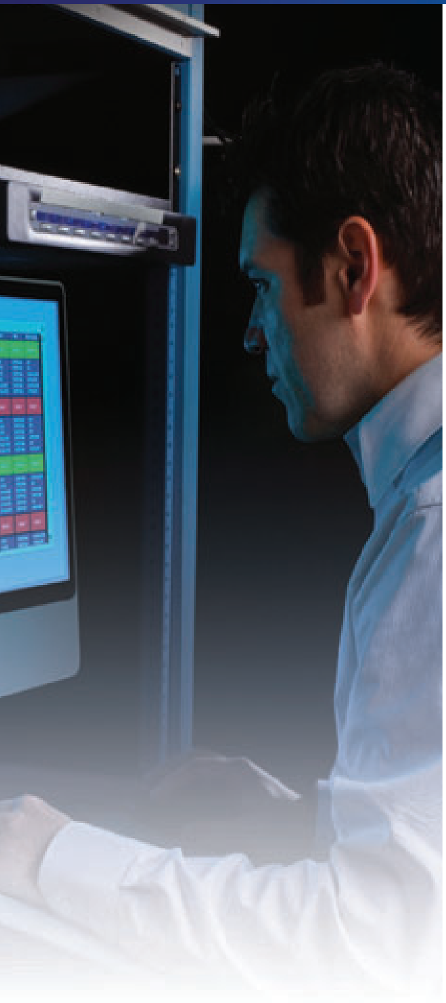
- Work with the OIG and the DOC to improve the overall IT security program and C&A package quality.
- Work on strengthening our IT Infrastructure and moving to a "cloud" computing environment.
- Expand IT infrastructure to include faster network connections to/from USPTO campus, a universal laptop, Voice over Internet Protocol (VOIP) telephones, and additional collaboration tools in support of a nationwide workforce.
- Plan, implement, and maintain IT systems that support and improve business processes in the Patent and Trademark organizations.

Senior Advisor for Telework Danette Campbell with Feodor Vostrikov and Elena Smirnova from the Russian Federal Service for Intellectual Property, Patent and Trademarks (Rospatent) gather at the USPTO to share their experience in designing and developing telework programs for their examiners.

- Begin development of a Patent End-to-End Processing System and a Trademark Next Generation System.
- Work to develop and fully implement an IT Human Capital Strategic Plan, in alignment with the ***USPTO Strategic Human Capital Plan 2007-2010***, that will set the foundation to hire, develop, and retain a highly competent IT Workforce now and in the future.
- Improve the security, availability, and quality of IT systems and services while reducing their complexity and cost; support business area needs to accommodate the hiring and equipping of new employees; provide internal on-line tools (regarding consistency and quality of searching and examination); provide electronic file management and workflow; develop interactive on-line electronic filing capabilities and upgrade e-tools to the public; help move the USPTO to fully electronic records and eliminate the need to collect and store paper records; and continue to improve overall data quality.
- Work with the OCFO to plan, implement and support Fee Processing Next Generation (FPNG) system that integrates with the IT systems for the Patent and Trademark organizations.
- Continue to add datasets to the Data.gov Web site, providing the public with no-cost access to bulk text and image data collections of current and retrospective patent and trademark data.

Deputy Under Secretary Sharon Barner held the first "Noon Forum" executive brown bag lecture series with USPTO employees on the topic of China. Chief Communications Officer and Senior Advisor to the Under Secretary Peter Pappas moderated the hour-long forum.

Accompanying Information on USPTO Performance



Performance Audits and Evaluations

While there were several OIG audits and evaluations on-going at the end of FY 2010, the OIG did not issue any audit or evaluation reports during FY 2010.

PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with GPRA requirements, the USPTO is committed to making certain the performance information it reports is complete, accurate, and consistent. The USPTO developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results and has taken the following actions:

ACCOUNTABILITY — Responsibility for providing performance data lies with managers of USPTO programs who are held accountable for making certain that procedures are in place to ensure the accuracy of data and the performance measurement sources are complete and reliable.

QUALITY CONTROL — Automated systems and databases that collect, track, and store performance indicators are monitored and maintained by USPTO program managers, with systems support provided by the OCIO. Each system, such as the Patent Application Location and Monitoring (PALM) or Trademark Reporting And Application Monitoring (TRAM), incorporates internal program edits to control the accuracy of supporting data. The edits typically evaluate data for reasonableness, consistency, and accuracy. Crosschecks between other internal automated systems also provide assurances of data reasonableness and consistency. In addition to internal monitoring of each system, experts outside of the business units routinely monitor the data-collection methodology. The OCFO is responsible for monitoring the agency's performance, providing direction and support on data collection methodology and analysis, ensuring that data quality checks are in place, and reporting performance management data.

DATA ACCURACY — The USPTO conducts verification and validation of performance measures periodically to ensure quality, reliability, and credibility. At the beginning of each fiscal year, and at various points throughout the reporting or measurement period, sampling techniques and sample counts are reviewed and adjusted to ensure data are statistically reliable for making inferences about the population as a whole. Data analyses are also conducted to assist the business units in interpreting program data, such as the identification of statistically significant trends and underlying factors that may be impacting a specific performance indicator. For examination quality measures, the review programs themselves are assessed in terms of reviewer variability, data entry errors, and various potential biases.

COMMISSIONER'S PERFORMANCE FOR FY 2010

The AIPA, Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, requires that an annual performance agreement be established between the Commissioner for Patents and the Secretary of Commerce, and the Commissioner for Trademarks and the Secretary of Commerce. The Commissioners for Patents and Trademarks have FY 2010 performance agreements with the Secretary of Commerce, which outline the measurable organizational goals and objectives for which they are responsible. They may be awarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary. The results achieved in FY 2010 are documented in this report. FY 2010 bonus information is currently not available. For FY 2009, the Commissioner for Patents was awarded a bonus of 21.8 percent of base salary and the Commissioner for Trademarks a bonus of 14.5 percent of base salary.

Management Assurances and Compliance with Laws and Regulations

This section provides information on the USPTO's compliance with the following legislative mandates:

- Federal Managers' Financial Integrity Act
- Federal Financial Management Improvement Act (FFMIA)
- Federal Information Security Management Act (FISMA)
- Financial Management Systems Strategy
- Inspector General (IG) Act Amendments
- OMB Financial Management Indicators
- Prompt Payment Act
- Civil Monetary Penalty Act
- Debt Collection Improvement Act
- Biennial Review of Fees

Management Assurances

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

The FMFIA requires Federal agencies to provide an annual statement of assurance regarding management controls and financial systems. The USPTO management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the FMFIA. The objectives of internal control, as defined by the Government Accountability Office (GAO), are to ensure:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting; and
- Compliance with laws and regulations.

The statement of assurance is provided below. This statement was based on the review and consideration of a wide variety of evaluations, control assessments, internal analyses, reconciliations, reports, and other information, including the DOC OIG audits, and the independent public accountants' opinion on the USPTO's financial statements and their reports on internal control and compliance with laws and regulations. In addition, USPTO is not identified on the GAO's High Risk List related to controls governing various areas.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

The FFMIA requires Federal agencies to report on agency substantial compliance with Federal financial management system requirements, Federal accounting standards, and the U.S. Standard General Ledger at the transaction level. The USPTO complied substantially with the FFMIA for FY 2010.

Other Compliance with Laws and Regulations

FEDERAL INFORMATION SECURITY MANAGEMENT ACT

The USPTO continues to stay vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2010, the FISMA Report Instructions significantly impacted the approach of the USPTO IT Security Program. The previous methodology documented tri-annual "point in time snapshots" regarding the process and level of compliance of USPTO IT security by preparing the master system certification and accreditation packages. The new requirements focus our time and attention on continuous monitoring of the information systems, which requires significant investments in automated tools and manpower that must be properly managed. This defensive cybersecurity focuses on the most damaging potential risks through good metrics and personal accountability and provides the USPTO the ability to concentrate our efforts and resources on where we are most likely to be attacked.

As a result, the Chief Information Security Officer and the OCIO staff working together made a concerted effort to meet the new compliance requirements of FISMA, while also meeting the reporting requirements to OMB. These endeavors were a complete success. All USPTO systems (28 out of 28) achieved

On the basis of the USPTO's comprehensive internal control program during FY 2010, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2010, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that our agency's systems of internal control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over financial reporting as of June 30, 2010 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting. In addition, no material weaknesses related to internal control over financial reporting were identified between July 1, 2010 and September 30, 2010.

David J. Kappos

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
November 9, 2010

a 100 percent FISMA compliance reporting level prior to the end of FY 2010. There were no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result of the work accomplished, the USPTO was able to roll forward with continuous monitoring and provide an accurate summary of information consistent with OMB reporting requirements for year-end reporting.

The OCIO continues to coordinate closely with the OIG throughout the year, as well as review annual assessments with the OIG, to gain additional insight and ensure compliance with requirements.

FINANCIAL MANAGEMENT SYSTEMS STRATEGY

The USPTO's Consolidated Financial System (CFS) provides support for financial management, fee collections, procurement, and travel management functions to the USPTO. CFS leverages several Commercial-off-the-shelf (COTS)/Government-off-the-shelf (GOTS) products that includes:

- The core financial and acquisition system (Momentum Financials);
- eTravel system (FedTraveler);
- Budget execution and compensation projection system (Corporate Planning Tool using the Cognos Planning tool);
- Cost accounting system (Activity Based Information System built using the Profitability and Cost Management tool); and
- Data warehouse (Enterprise Data Warehouse accessed using the Business Objects tool).

Additionally, CFS includes an internally developed fee collection system (Revenue Accounting and Management (RAM)) and an internally developed application to automate the transit subsidy program (Transit Subsidy System).

As the USPTO progresses with its Patent and Trademark IT strategies (Patents End-to-End and Trademarks Next Generation), the fee processing system also needs to progress to the next generation. The Fee Processing-Next Generation (FPNG) system will replace the previous initiative to modernize RAM, the USPTO's legacy fee collection system. FPNG will focus on retiring legacy RAM and will utilize either COTS, GOTS, or open source code using custom code as a last resort. Developing and implementing FPNG supports USPTO's Strategic Priority, "Improve IT Infrastructure and Tools", and will replace legacy RAM with modern 21st Century technology that has more automated internal controls, electronic commerce capabilities, and will be able to meet the Patent and Trademark fee collection needs of the future. The lack of modern technology in legacy RAM hinders the USPTO from taking full advantage of the potential benefits from Patents End-to-End and Trademarks Next Generation initiatives.

INSPECTOR GENERAL ACT AMENDMENTS

The Inspector General Act, as amended, requires semi-annual reporting on IG audits and related activities, as well as any requisite agency follow-up. The report is required to provide information on the overall progress on audit follow-up and internal management controls, statistics on audit reports with disallowed costs, and statistics on audit reports with funds put to better use. The USPTO did not have audit reports with disallowed costs or funds put to better use.

The USPTO's follow-up actions on audit findings and recommendations are essential to improving the effectiveness and efficiency of our programs and operations. No new audit reports were issued during FY 2010.

OMB FINANCIAL MANAGEMENT INDICATORS

The OMB prescribes the use of quantitative indicators to monitor improvements in financial management. The USPTO tracks other financial performance measures as well. The table above shows the USPTO's performance during FY 2010 against performance targets established internally and by OMB and the government-wide Metric Tracking System (MTS).

PROMPT PAYMENT ACT

The Prompt Payment Act requires Federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2010, the USPTO did not pay interest penalties on 98.8 percent of the 6,773 vendor invoices processed, representing payments of approximately $470.8 million. Of the 118 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 84 invoices, and was not required to pay interest

Financial Performance Measure	FY 2010 Target	FY 2010 Performance
Percentage of Timely Vendor Payments (MTS)	98%	96%
Percentage of Payroll by Electronic Transfer (OMB)	90%	99%
Percentage of Treasury Agency Locations Fully Reconciled (OMB)	95%	100%
Timely Reports to Central Agencies (OMB)	95%	100%
Audit Opinion on FY 2010 Financial Statements (OMB)	Unqualified	Unqualified
Material Weaknesses Reported by OIG (OMB)	None	None
Timely Posting of Inter-Agency Charges (USPTO)	30 days	16 days
Average Processing Time for Travel Payments (USPTO)	8 days	7 days

penalties on 34 invoices, where the interest was calculated at less than $2. The USPTO paid only $14 in interest penalties for every million dollars disbursed in FY 2010. Virtually all recurring payments were processed by electronic funds transfer in accordance with the electronic funds transfer provisions of the Debt Collection Improvement Act of 1996.

CIVIL MONETARY PENALTY ACT

There were no Civil Monetary Penalties assessed by the USPTO during FY 2010.

DEBT COLLECTION IMPROVEMENT ACT

The Debt Collection Improvement Act prescribes standards for the administrative collection, compromise, suspension, and termination of Federal agency collection actions, and referral to the proper agency for litigation. Although the Act has no material effect on the USPTO since it operates with minimal delinquent debt, all debt more than 180 days old has been transferred to the U.S. Department of the Treasury for cross-servicing.

BIENNIAL REVIEW OF FEES

The Chief Financial Officers Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (such as rights or privileges) provided directly to identifiable non-Federal beneficiaries. The USPTO is a fully fee-funded agency without subsidy of general taxpayer revenue. The USPTO uses Activity Based Costing (ABC) to calculate the cost of activities performed for each fee, and uses this information to evaluate and inform when setting fees. When appropriate, fees are adjusted to be consistent with the legislative requirement to recover full cost of the goods or services provided to the public.

A study and analysis of all USPTO fees, comparing the average unit costs for all products and services to the fees currently charged was completed in FY 2010. The results are under review and will be used as the USPTO designs a new fee structure to sustain operations.

Financial Discussion and Analysis

Financial Highlights

The following presents the USPTO's FY 2010 financial highlights for budgetary resources and requirements, along with results of operations. Details behind these highlights are included in the discussion of the USPTO's financial statements beginning on page 52.

BUDGETARY RESOURCES AND REQUIREMENTS

The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2010 for an amount up to $2,016.0 million. This was less than the amount of total fees collected in FY 2010. When spending authority is less than fee collections, the additional fee collections are temporarily unavailable. During FY 2010, the USPTO collected an additional $52.5 million in fees that were temporarily unavailable for spending.

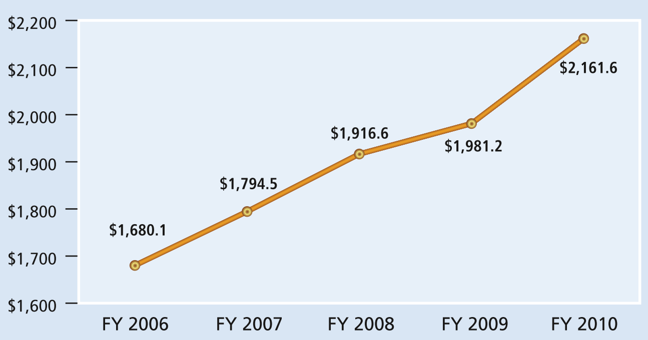
The table on the next page presents the source of funds made available to the USPTO, and the use of such funds.

Source and Status of Funds *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Source of Funds:					
Unobligated Beginning Balance	$ 5.7	$ 5.7	$ 28.0	$ 72.1	$ 118.7
Recovery of Prior Year Obligations	9.1	9.9	12.0	30.7	19.8
Spending Authority from Offsetting Collections	1,665.4	1,791.1	1,885.6	1,880.4	2,075.6*
Non-Expenditure Transfer	(0.1)	–	(1.0)	(2.0)	–
Unavailable Fees	–	(12.2)	–	–	(52.5)
Total Source of Funds	$ 1,680.1	$ 1,794.5	$ 1,924.6	$ 1,981.2	$ 2,161.6
Status of Funds:					
Obligations Incurred	$ 1,674.4	$ 1,766.5	$ 1,852.5	$ 1,862.5	$ 1,938.9
Unobligated Balance, Available	5.7	28.0	64.1	118.7	222.7
Unobligated Balance, Unavailable	–	–	8.0	–	–
Total Status of Funds	$ 1,680.1	$ 1,794.5	$ 1,924.6	$ 1,981.2	$ 2,161.6

** Of this amount, $2,068.5 million were fee collections related to patent and trademark applications.*

During FY 2010, total budgetary resources available for spending was 9.1 percent over the amount available in the preceding year. Of the total amount of the remaining unobligated balance, $100.5 million of the remaining unobligated balance at the end of the fiscal year is derived from Trademark fee collections. The increase in budgetary resources available for use over the past four years is depicted by the graph below.

ANNUAL GROWTH IN BUDGETARY RESOURCES AVAILABLE
(Dollars in Millions)



In FY 2010, the USPTO was not provided with authority to spend all of its estimated fee collections. At the end of FY 2009, the USPTO's estimate for FY 2010 fee collections was based on the lower than average fee levels experienced during FY 2009 – resulting in the low amount appropriated to the Agency. As an Agency funded entirely by user fees, this affects our operations significantly. The fees collected would enable the USPTO to increase the number of patent examiners to assist in addressing the growing backlog of patent applications and increasing workloads and to allocate additional resources towards protecting intellectual property in the United States and abroad.

The USPTO was initially appropriated and apportioned up to $1,887.0 million of fee collections. As the fiscal year progressed, it was identified that our fee collections would exceed the anticipated fee collections, as appropriated by Congress. We worked with the Department of Commerce, Office of Management and Budget, and Congress to obtain a supplemental appropriation to spend an additional $129.0 million in actual fee collections. This additional funding is being used for hiring additional examiners, funding full overtime for examiners and support staff, accelerating examination process reengineering, and continuing to contract for PCT searches. Mission-critical information technology projects to increase the effectiveness of every USPTO function will also be accelerated.

Given that the supplemental appropriation was not enacted until August, during the majority of FY 2010, any overtime spending was limited to the Patent organization for producing patents and fees, new hiring was limited, information technology business system improvement projects were limited, and operating services obtained through contracts continued at reduced levels. However, as the economy has begun showing signs of recovering, the Patent and Trademark application filings have also been slowly recovering.

As we return to financial health, we must build a sustainable funding model that provides USPTO fee setting authority so that we are able to manage patent and trademark revenue fluctuations and properly align fees in a timely, fair, and consistent manner. We must collaborate and build relationships with our international counterparts that foster seamless and cost-effective intellectual property rights and that ensure global competitiveness for American innovators and businesses. Only through building these solid partnerships – where we work together to achieve our goals – is the USPTO capable of being successful.

RESULTS OF OPERATIONS

The USPTO generated a net income of $94.7 million for the year ended September 30, 2010, an increase of $149.5 million over FY 2009 net cost of $54.8 million. This variation is the result of a few factors, explained in more detail in the Statement of Net Cost discussion.

Due to the increase in pendency, the amount of time an application is waiting before a patent is issued or trademark is registered, the USPTO had been recognizing a steadily increasing deferred revenue liability through FY 2008 for fees received prior to the revenue being earned. From FY 2006 through FY 2008, unearned patent fees increased 12.2 percent, with the majority of the increase occurring during FY 2007. The increase during FY 2007 was consistent with the increase in first action pendency of 11.9 percent; however, as a result of increased Patent staffing and increased focus on workload, first action pendency has remained fairly constant since FY 2007, despite overall increases in Patent applications. In FY 2009 and FY 2010, unearned patent fees decreased 4.6 percent and 4.2 percent, respectively. As a result of the process improvements and increased efficiencies, the USPTO was able to make progress in working off the existing inventory, despite an increase in the number of patent filings of 4.7 percent over the prior year. This was evidenced by the Patent organization disposing of 13.6 percent more applications than were disposed of during FY 2009. From FY 2006 through FY 2009, unearned trademark fees decreased 22.8 percent, with the majority of the decrease occurring during FY 2009.

Financial Discussion and Analysis

FINANCIAL STATEMENTS

The USPTO received an unqualified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2010 financial statements, provided on pages 67 to 93. This is the 18th consecutive year that the USPTO received a clean opinion. Our unqualified audit opinion provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses in the USPTO's internal control, and no instances of non-compliance with laws and regulations affecting the financial statements.

The USPTO financial management process ensures that management decision-making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The preparation of these financial statements is a component of the USPTO's objective to continually improve the accuracy and usefulness of its financial management tools.

The following sections provide a discussion and analysis of the financial statements and related information.

Resources	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Budgetary Resources Available for Spending *(Dollars in Millions)*	$1,680.1	$1,794.5	$1,916.6	$1,981.2	$2,161.6
Percentage Change	*11.2%*	*6.8%*	*6.8%*	*3.4%*	*9.1%*
Patent Examiners	4,779	5,477	6,099	6,242	6,225
Percentage Change	*14.4%*	*14.6%*	*11.4%*	*2.3%*	*(0.3)%*
Trademark Examining Attorneys	413	404	391	388	378
Percentage Change	*15.7%*	*(2.2)%*	*(3.2)%*	*(0.8)%*	*(2.6)%*

STATEMENT OF BUDGETARY RESOURCES

The above table displays the USPTO's total budgetary resources available for spending over the past five years, with the related percentage change.

As presented above, total budgetary resources available for spending increased with a 9.1 percent change and a 28.7 percent increase over the past five fiscal years. Through FY 2008, the increase in available budgetary resources was used to fund the increased cost of additional human capital to address the backlog of patent applications and the decrease in patent and trademark filings. In FY 2009, the increase in available budgetary resources minimally covered inflationary increases and was $200 million less than planned for. As a result, budget reductions and cost-savings measures were implemented. However, while fee collections were showing a rebound at the beginning of FY 2010, we were operating under a smaller appropriation that was based on the FY 2009 financial picture with lower than average fee collections. This was a result of the slower economy and actual collections in FY 2009. As we are an Agency funded entirely by user fees, this affects our operations significantly.

As the economy has begun showing signs of recovering, the Patent and Trademark application filings have also been slowly recovering.

The USPTO was initially appropriated and apportioned up to $1,887.0 million of fee collections. As the fiscal year progressed, it was identified that our fee collections would exceed the anticipated fee collections, as appropriated by Congress. We worked with the Department of Commerce, Office of Management and Budget, and Congress to pass a supplemental appropriation to spend an additional $129.0 million in actual fee collections. This additional spending authority is being used for hiring additional examiners, funding full overtime for examiners and support staff, accelerating examination process reengineering, and continuing to increase examination capacity by contracting for PCT searches. Mission-critical information technology projects to increase the effectiveness of every USPTO function will also be accelerated.

USPTO operations rely on patent maintenance fees to fund a portion of the work being completed each fiscal year. During FY 2010, maintenance fees collected increased $126.4 million, or 23.1 percent, from FY 2009. As maintenance fees are one of the largest sources of budgetary resources and are recognized immediately as earned revenue, any fluctuations in the rates of renewal have a significant impact on the total resources available to the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown on page 56, the renewal rates for all three stages of maintenance fees increased during FY 2010. The renewal rates have rebounded as the economy rebounds.

Filings	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Patent Filings	445,613	468,330	496,886	486,499	509,367[1]
Percentage Change in Patent Filings	*8.8%*	*5.1%*	*6.1%*	*(2.1)%*	*4.7%*
Trademark Filings	354,775	394,368	401,392	352,051	368,939
Percentage Change in Trademark Filings	*9.7%*	*11.2%*	*1.8%*	*(12.3)%*	*4.8%*

[1] *Preliminary data*

Temporarily Unavailable Fee Collections *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Fiscal year fee collections	$ 1,657.6	$ 1,783.2	$ 1,879.3	$ 1,874.2	$ 2,068.5
Fiscal year collections appropriated	(1,657.6)	(1,771.0)	(1,879.3)	(1,874.2)	(2,016.0)
Fiscal year unavailable collections	$ –	$ 12.2	$ –	$ –	$ 52.5
Prior year collections unavailable	516.5	516.5	528.7	528.7	528.7
Cumulative temporarily unavailable fee collections	$ 516.5	$ 528.7	$ 528.7	$ 528.7	$ 581.2

Legislation was passed in July 2009 that allowed the USPTO to use surplus funds from Trademark revenues to cover any shortfalls that may occur as the result of the decrease in Patent fee collections [H.R. 3114]. The authority to use these funds lasted until June 2010. As such use of Trademark funds was not necessary, no funds must be paid back to the Trademark organization.

As defined earlier, temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. During FY 2010, the USPTO collected $52.5 million in fee collections that were designated as temporarily unavailable. As a result, the $528.7 million in temporarily unavailable fee collections at the end of FY 2007 increased to $581.2 million at the end of FY 2010.

The above chart illustrates amounts that Congress has appropriated to the USPTO over the past five fiscal years, as well as the cumulative temporarily unavailable fee collections.

These cumulative temporarily unavailable fee collections remain in the USPTO's general fund account at the U.S. Department of the Treasury (Treasury) until appropriated for use by Congress. In addition to these annual restrictions, collections of $233.5 million are unavailable in accordance with the OBRA of 1990, and deposited in a special fund receipt account at the Treasury.

STATEMENT OF NET COST

The Statement of Net Cost presents the USPTO's results of operations by the following responsibility segments – Patent, Trademark, and Intellectual Property Policy, Protection and Enforcement Worldwide. The following table presents the total USPTO's results of operations for the past five fiscal years. In FY 2006, the USPTO generated a net income due to the increased maintenance fees received and revenue recognition of previously deferred revenue collected subsequent to the fee increase on December 8, 2004. During FY 2007, FY 2008, and FY 2009 the USPTO's operations resulted in a net cost of $33.9 million, $30.4 million, and $54.8 million, respectively. In FY 2010, the USPTO generated a net income of $94.7 million due to the increased maintenance fees received and revenue recognition of previously deferred revenue collected as we work off the backlog.

The Statement of Net Cost compares fees earned to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation is based on fees earned during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees also play a large part in whether a total net income or net cost is recognized. Maintenance fees collected in FY 2010 are a reflection of patent issue levels 3.5, 7.5, and

Net (Cost)/Income *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Earned Revenue	$ 1,594.4	$ 1,735.7	$ 1,862.2	$ 1,927.1	$ 2,101.7
Program Cost	(1,514.2)	(1,769.6)	(1,892.6)	(1,981.9)	(2,007.0)
Net Income/(Cost)	$ 80.2	$ (33.9)	$ (30.4)	$ (54.8)	$ 94.7

11.5 years ago, rather than a reflection of patents issued in FY 2010. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

During FY 2010, while the number of patent filings increased by 4.7 percent over the prior year, the backlog for patent applications decreased as a result of the process improvements and increased efficiencies, thereby decreasing deferred revenue and increasing earned revenue. This was evidenced by the Patent organization disposing of 13.6 percent more applications than were disposed of during FY 2009.

During FY 2010, with the number of trademark applications increasing by 4.8 percent over the prior year, the Trademark organization was able to continue to address the existing inventory and maintain pendency between 2.5 and 3.5 months during FY 2010. The Trademark organization was able to do this while recognizing a slight increase in deferred revenue and corresponding decrease in revenue earned.

EARNED REVENUE

The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The following table presents the earned revenue for the past five years.

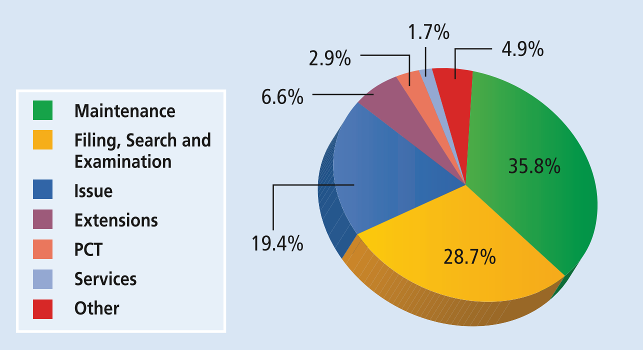
Earned revenue totaled $2,101.7 million for FY 2010, an increase of $174.6 million, or 9.1 percent, over FY 2009 earned revenue of $1,927.1 million. Of revenue earned during FY 2010, $424.6 million related to fee collections that were deferred for revenue recognition in prior fiscal years, $673.1 million related to maintenance fees collected during FY 2010, which were considered earned immediately, $997.3 million related to work performed for fees collected during FY 2010, and $6.7 million were not fee-related.

For fees collected and earned during FY 2010, there was an increase of $76.6 million over these same fees earned during FY 2009. This increase can primarily be attributed to $10.7 million in earned patent filing fees, $72.7 million in earned patent issue fees, $8.8 million in PCT international fees, $0.3 million in trademark post-registration fees, offset by a decrease of $7.5 million in fees considered earned immediately, $3.2 million in patent appeal fees, $2.2 million in trademark application, and $3.4 million in trademark statement of use.

Patent

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees, initial application fees for filing, search, and examination, and issue fees. These fees account for approximately 84 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.

FY 2010 PATENT REVENUE BY FEE TYPE



Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2010, maintenance fees collected increased $126.4 million, or 23.1 percent, from

Earned Revenue ***(Dollars in Millions)***	**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**FY 2010**
Patent	$ 1,384.2	$ 1,507.0	$ 1,625.0	$ 1,697.4	$ 1,887.6
Percentage Change in Patent Earned Revenue	*15.6%*	*8.9%*	*7.8%*	*4.5%*	*11.2%*
Trademark	210.2	228.7	237.2	229.7	214.1
Percentage Change in Trademark Earned Revenue	*20.1%*	*8.8%*	*3.7%*	*(3.2)%*	*(6.8)%*
Total Earned Revenue	$ 1,594.4	$ 1,735.7	$ 1,862.2	$ 1,927.1	$ 2,101.7
Percentage Change in Earned Revenue	*16.1%*	*8.9%*	*7.3%*	*3.5%*	*9.1%*

Patent Renewal Rates*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
First Stage	93.1%	90.1%	83.1%	80.3%	99.4%
Second Stage	69.2%	71.4%	73.7%	63.5%	71.2%
Third Stage	44.4%	48.5%	49.2%	45.4%	50.0%

***Note:** *the First Stage refers to the end of the 3rd year after the initial patent is issued; the Second Stage refers to the end of the 7th year after the initial patent is issued; and the Third Stage refers to the end of the 11th year after the initial patent is issued. For example, in FY 2010, 99.4 percent of the patents issued three years ago were renewed, 71.2 percent of the patents issued seven years ago were renewed, and 50.0 percent of the patents issued 11 years ago were renewed.*

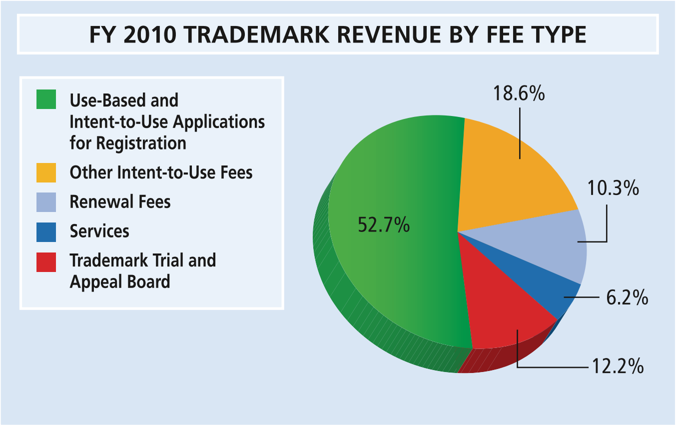
FY 2009. As they are recognized immediately as earned revenue, any fluctuations in the rates of renewal have a significant impact on the total earned revenue of the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown above, the renewal rates for all three stages of maintenance fees increased this year.

Application fee revenue earned upon filing decreased slightly from $95.2 million in FY 2009 to $95.0 million in FY 2010 (decrease of 0.2 percent), with the number of applications increasing from 486,499 to 509,367 over the same period (increase of 4.7 percent). The FY 2011 President's Budget projects a gradual increase in patent applications filed beginning in FY 2012 and extending through FY 2014, which will contribute to a renewed growth in budgetary resources, as well as earned fee revenue.

Earned issue fee revenue increased from $292.7 million in FY 2009 to $364.5 million in FY 2010, with the number of patents issued increasing from 190,121 to 223,127 over the same period, an increase of 24.5 percent and 22.6 percent, respectively. The FY 2011 President's Budget projects that patents issued will increase an average of 2.2 percent each fiscal year through FY 2015.

Trademark

Trademark fees are comprised of application filing, renewals, services, and Trademark Trial and Appeal Board fees. Additional fees are charged for intent-to-use filed applications, as additional requirements must be met for registration. The following chart depicts the relationship among the most significant trademark fee types.



Earned revenue for trademark applications decreased from $126.0 million in FY 2009 to $112.5 million in FY 2010, with the number of trademarks registered decreasing from 241,637 to 221,090 over the same period, a decrease of 10.7 percent and 8.5 percent, respectively. The FY 2011 President's Budget projects that trademark applications filed will start to increase, which will contribute to the continued growth in budgetary resources, as well as earned fee revenue.

Trademark registration can be a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process. As shown below, the renewal rates

Trademark Renewal Rates	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010[1]
Renewals	28.8%	28.6%	28.9%	29.3%	28.2%

Note: *the renewals occur every 10th year for trademarks registered after November 15, 1989. For trademarks issued or renewed before November 15, 1989, renewal will occur after the 20th year and the renewal will be for a ten-year period. For example, in FY 2010, 28.2 percent of the trademarks granted ten and 20 years ago were renewed.*

[1] *Preliminary data*

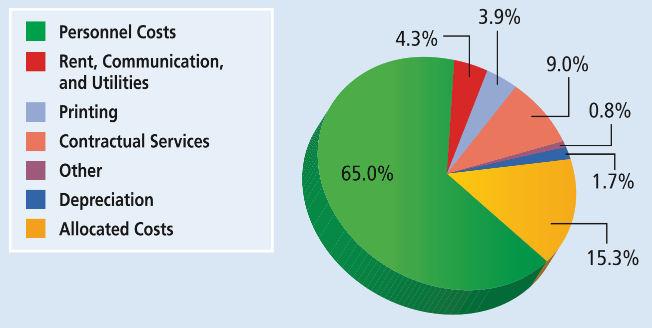
for trademarks have remained fairly stable over the last five years, indicating continued earned revenue from this source. Further, in the FY 2011 President's Budget, earned revenue from trademark renewals is expected to continue in the future.

PROGRAM COSTS

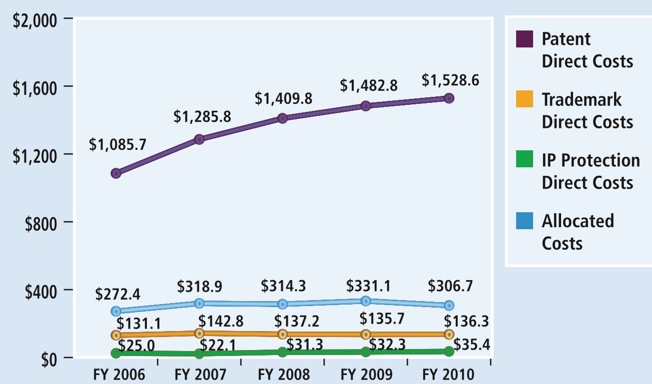
Program costs totaled $2,007.0 million for the year ended September 30, 2010, an increase of $25.1 million, or 1.3 percent, over FY 2009 program costs of $1,981.9 million. The USPTO's most significant program cost is personnel services and benefits, which comprise almost 70 percent of USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total program costs from year-to-year. Total personnel services and benefits costs for the year ended September 30, 2010, were $1,399.4 million, an increase of $77.8 million, or 5.9 percent, over FY 2009 personnel services and benefits costs of $1,321.6 million. This change was a result of a 2.4 percent increase in the Federal pay scale, combined with a net decrease of 209 personnel, from 9,716 at the end of FY 2009 to 9,507 at the end of FY 2010. In addition, $18.8 million of this increase was related to an increase in employee overtime going towards working on the existing inventory of applications.

The USPTO directs maximum resources to the priority functions of patent and trademark examination, as well as IP policy, protection, and enforcement worldwide. For FY 2010, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 84.7 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using ABC accounting.

FY 2010 PROGRAM COSTS



PROGRAM COSTS *(Dollars in Millions)*

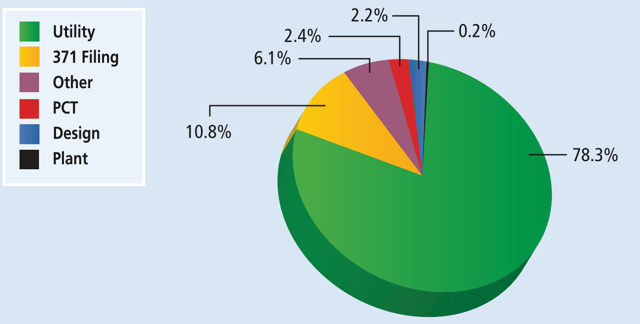


Patent

Total costs for the Patent business unit increased $465.6 million, 35.5 percent, from FY 2006 through FY 2010. The following table presents the major components of Patent costs for the past five years.

Patent Costs *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personnel Costs	$ 714.4	$ 867.1	$ 993.6	$ 1,098.9	$ 1,172.2
Contractual Services	181.5	223.6	226.2	203.0	160.1
Printing and Reproduction	71.9	70.0	59.4	58.2	77.6
Rent, Communications, and Utilities	69.3	71.1	72.6	73.4	76.7
Depreciation, Amortization, or Loss on Asset Disposition	24.8	32.3	35.8	34.4	28.8
Other	23.8	21.7	22.2	14.9	13.2
Direct Costs	1,085.7	1,285.8	1,409.8	1,482.8	1,528.6
Allocated Costs	226.6	247.2	245.9	261.8	249.3
Total Patent Costs	$ 1,312.3	$ 1,533.0	$ 1,655.7	$ 1,744.6	$ 1,777.9
Percentage Change in Patent Costs	*4.7%*	*16.8%*	*8.0%*	*5.4%*	*1.9%*

FY 2010 PATENT COST BY PRODUCT



The Patent organization's most significant program costs relate to personnel services, and account for 98.3 percent of the increase in total cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2010, were $1,172.2 million, an increase of $73.3 million, or 6.7 percent, over FY 2009 personnel costs of $1,098.9 million. Rent, communications, and utilities, printing and reproduction, and contractual service costs represent 17.7 percent of the Patent program costs for FY 2010. From FY 2006 through FY 2008, contractual costs increased in line with the overall increase in Patent costs due to increases in the number of patents issued and increased spending on indexing and scanning documents for the electronic file wrapper, offset by minor decreases to printing and reproduction. During FY 2009 and FY 2010, contractual costs decreased in line with the budget cuts implemented agency-wide.

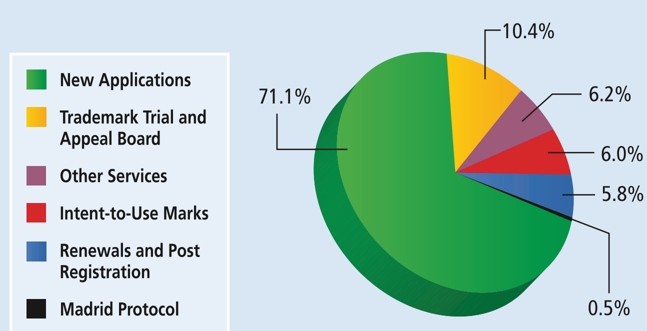
Patent costs were predominantly spread over two patent products: utility patents and 371 filings (an international application designated to the U.S. that has entered the national stage). The cost percentages presented below are based on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.

Trademark

Total costs for the Trademark business unit increased $13.8 million, 8.2 percent, from FY 2006 through FY 2010. The below table shows the major components of Trademark costs for that period.

The Trademark organization's most significant program costs relate to personnel services, and account for most of the increase in total cost of Trademark operations during the past four years. This increase of $23.1 million was offset by other cost increases and decreases. Contractual services have decreased $14.4 million over the past four years, which represents the majority of the total Trademark cost change over the past four years, as a result of being able to rely more on automated tools, rather than contractors.

FY 2010 TRADEMARK COST BY PRODUCT



Trademark Costs *(Dollars in Millions)*	**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**FY 2010**
Personnel Costs	$ 88.8	$ 99.8	$ 101.7	$ 107.9	$ 111.9
Contractual Services	25.1	24.4	19.4	13.3	10.7
Printing and Reproduction	0.3	0.8	0.4	0.4	0.1
Rent, Communications, and Utilities	7.8	7.8	7.3	7.6	6.7
Depreciation, Amortization, or Loss on Asset Disposition	6.0	7.3	5.4	4.2	4.1
Other	3.1	2.7	3.0	2.3	2.8
Direct Costs	131.1	142.8	137.2	135.7	136.3
Allocated Costs	37.7	61.7	55.4	57.5	46.3
Total Trademark Costs	$ 168.8	$ 204.5	$ 192.6	$ 193.2	$ 182.6
Percentage Change in Total Trademark Costs	*(1.2)%*	*21.1%*	*(5.8)%*	*0.3%*	*(5.5)%*

Intellectual Property Protection Costs *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personnel Costs	$ 13.6	$ 13.1	$ 17.9	$ 18.0	$ 19.8
Contractual Services	6.3	1.9	6.6	8.8	10.7
Rent, Communications, and Utilities	2.1	2.2	2.6	2.6	2.6
Travel	1.6	3.5	2.8	1.8	1.6
Depreciation, Amortization, or Loss on Asset Disposition	0.5	0.4	0.5	0.5	0.3
Other	0.9	1.0	0.9	0.6	0.4
Direct Costs	25.0	22.1	31.3	32.3	35.4
Allocated Costs	8.1	10.0	13.0	11.8	11.1
Total IP Protection Costs	$ 33.1	$ 32.1	$ 44.3	$ 44.1	$ 46.5
Percentage Change in Total IP Protection Costs	*–%*	*(3.0)%*	*38.0%*	*(0.5)%*	*5.4%*

The Intent to Use cost includes costs related to examining both the application and the additional intent to use disclosures. The overall cost percentages presented in the pie chart on the previous page are based on both direct costs and indirect costs allocated to trademark operations and are a function of the volume of applications processed in each product area.

Intellectual Property Protection and Enforcement

The release of the *2007-2012 Strategic Plan* resulted in a new responsibility segment for FY 2007. Presentation of FY 2006 costs were reclassified for this responsibility segment. This new responsibility segment continues in the *2010-2015 Strategic Plan*. Total costs for IP Protection increased $13.4 million, or 40.5 percent, from FY 2006 through FY 2010. The above table shows the major components of IP Protection costs for that period.

The most significant program costs for IP Protection relate to personnel services, and account for 42.6 percent of the total cost for IP Protection operations during the past year. The next largest cost associated with the policy, protection, and enforcement of intellectual property worldwide is contractual services, which include cooperative agreements. These costs were incurred in line with the activities discussed on pages 27 to 34.

BALANCE SHEET AND STATEMENT OF CHANGES IN NET POSITION

At the end of FY 2010, the USPTO's consolidated Balance Sheet presents total assets of $1,627.9 million, total liabilities of $1,135.6 million, and a net position of $492.3 million.

Total assets increased 3.0 percent over the last four years, resulting largely from the increase in Fund Balance with Treasury and Property, Plant, and Equipment. The decrease in total assets during FY 2009 is a result of the decrease in Fund Balance with Treasury, resulting from the decrease in fee income. The following table shows the changes in assets during this period.

Composition of USPTO Assets *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Cash	$ 6.8	$ 7.0	$ 4.4	$ 3.2	$ 3.2
Fund Balance with Treasury	1,401.8	1,402.7	1,431.2	1,309.8	1,436.4
Property, Plant, and Equipment, Net	164.5	204.6	204.2	205.8	174.4
Accounts Receivable and Prepayment	7.2	11.2	8.5	13.5	13.9
Total Assets	$ 1,580.3	$ 1,625.5	$ 1,648.3	$ 1,532.3	$ 1,627.9
Percentage Change in Total Assets	*12.1%*	*2.9%*	*1.4%*	*(7.0)%*	*6.2%*

Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 88.2 percent of total assets at the end of FY 2010. This asset is comprised of unpaid obligated funds of $297.3 million, temporarily unavailable fees of $581.2 million, unavailable special receipt funds under OBRA of $233.5 million, other funds held on deposit for customers of $101.7 million, and unobligated funds of $222.7 million.

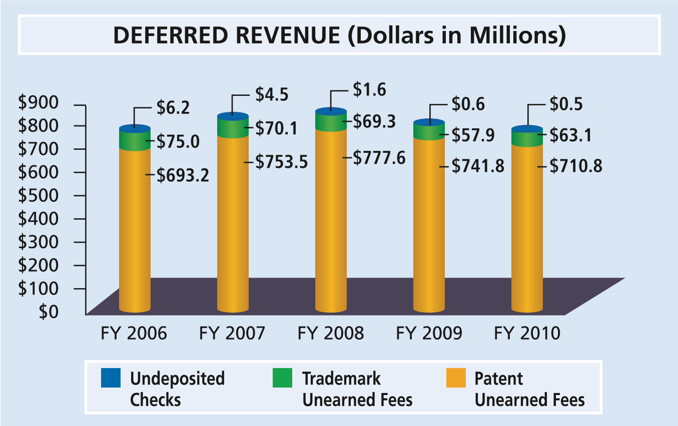
The unavailable special receipt funds and the temporarily unavailable funds require Congressional appropriation before they will be available for USPTO's use. These funds, together with amounts obligated and held on deposit, represent 84.5 percent of the Fund Balance with Treasury.

The other major asset is property, plant, and equipment. The net balance of this asset has increased by $9.9 million during the past four years, with the acquisition values of property, plant, and equipment increasing by $192.6 million. Investments in IT software and software in development from FY 2006 to FY 2009 increased $90.3 million, in conjunction with enhancing the existing e-government capabilities in areas such as e-filing, application information retrieval, data and image capture, and web-based search systems. This increase slowed to only $6.8 million in FY 2010 as the USPTO chose to stop investing in modifications to our outdated systems. Instead, the USPTO is beginning to completely re-invent our IT systems from end-to-end, which will lead to future increases in IT software and software in development values.

Total liabilities decreased from $1,156.5 million at the end of FY 2009 to $1,135.6 million at the end of FY 2010, representing a decrease of $20.9 million, or 1.8 percent. The following table shows the change in liabilities during the past five years.

The USPTO's deferred revenue is the largest liability on the Balance Sheet. The liability for deferred revenue is calculated by analyzing the process for completing each service provided. The percent incomplete based on the inventory of pending work is applied to fee collections to estimate the amount for deferred revenue liability.

From FY 2006 through FY 2008, the deferred revenue liability increased $74.1 million, or 9.6 percent. At the end of FY 2009, deferred revenue liability was $800.3 million, representing a one year decrease of $48.2 million, or 5.7 percent. During FY 2010, the deferred revenue liability decreased an additional $25.9 million, or 3.2 percent from FY 2009. The deferred revenue liability for FY 2010 includes unearned patent and trademark fees, as well as undeposited checks. The unearned patent fees represented 91.8 percent of this liability. The following graph depicts the composition of the deferred revenue liability, in addition to the change in this liability during each of the past five years.



Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency rates, and changes in fee rates. In a year where increased fees associated with the unearned patent and trademark application filings are not a factor, such as with FY 2007, the percentage change in deferred revenue is consistent with the percentage change in the first action pendency

Composition of USPTO Liabilities *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Deferred Revenue	$ 774.4	$ 828.1	$ 848.5	$ 800.3	$ 774.4
Accounts Payable	104.4	96.6	96.7	90.2	70.1
Accrued Payroll, Leave, and Benefits	101.4	120.3	145.4	156.8	178.5
Customer Deposit Accounts	83.8	91.9	101.5	98.1	102.3
Other Liabilities	18.3	24.6	23.6	11.1	10.3
Total Liabilities	$ 1,082.3	$ 1,161.5	$ 1,215.7	$ 1,156.5	$ 1,135.6
Percentage Change in Total Liabilities	*9.2%*	*7.3%*	*4.7%*	*(4.9)%*	*(1.8)%*

Filings and Pendencies	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Patent Filings	445,613	468,330	496,886	486,499	509,367[1]
Percentage Change in Patent Filings	*8.8%*	*5.1%*	*6.1%*	*(2.1)%*	*4.7%*
Patent First Action Pendency (months)	22.6	25.3	25.6	25.8	25.7
Percentage Change in Patent First Action Pendency	*7.1%*	*11.9%*	*1.2%*	*0.8%*	*(0.4)%*
Total Patent Pendency (months)	31.1	31.9	32.2	34.6	35.3
Percentage Change in Total Patent Pendency	*6.9%*	*2.6%*	*0.9%*	*7.5%*	*2.0%*
Trademark Filings	354,775	394,368	401,392	352,051	368,939
Percentage Change in Trademark Filings	*9.7%*	*11.2%*	*1.8%*	*(12.3)%*	*4.8%*
Trademark First Action Pendency (months)	4.8	2.9	3.0	2.7	3.0
Percentage Change in Trademark First Action Pendency	*(23.8)%*	*(39.6)%*	*3.4%*	*(10.0)%*	*11.1%*
Total Trademark Average Pendency (months)	15.5	13.4	11.8	11.2	10.5
Percentage Change in Total Trademark Pendency	*(9.9)%*	*(13.5)%*	*(11.9)%*	*(5.1)%*	*(6.2)%*

[1] *Preliminary data*

months. In a year where increased fees associated with the unearned patent and trademark application filings are a factor, such as with FY 2006, FY 2008, FY 2009, and again in FY 2010, the percentage change in first action pendency months was less than the percentage change in deferred revenue.

The above table above depicts the changes in the filings and pendencies during the past five years.

Deferred revenue associated with the patent process is expected to further decrease. In the FY 2011 President's Budget, the number of patent applications filed from FY 2011 through FY 2015 is expected to gradually increase, with first action pendency decreasing to 10.8 months by FY 2015 and total pendency at 19.9 months by FY 2015. The pendency decreases will result in patent deferred revenue decreases.

The deferred revenue associated with the trademark process increased in FY 2010. Trademark deferred revenue increased by $5.2 million, or 9.0 percent, from FY 2009, with an overall 15.9 percent decrease over the past four years. The FY 2010 increase was consistent with trademark first action pendency increasing to 3.0 months and total trademark pendency decreasing to 13.0 months, combined with the increase in trademark applications. Estimates included in the FY 2011 President's Budget project the pendencies to remain constant in the upcoming years.

The Statement of Changes in Net Position presents the changes in the financial position of the USPTO due to results of operations and unexpended appropriations. The movement in net position is the result of the net income or net cost for the year. The change in the net position during the past five years is presented in the below table.

The increase in net position from $375.8 million at the end of FY 2009 to $492.3 million at the end of FY 2010, or 31.0 percent, is attributable largely to the results of operations.

LIMITATION ON FINANCIAL STATEMENTS

The USPTO has prepared its FY 2010 financial statements in accordance with the requirements of OMB Circular A-136, *Financial Reporting Requirements*, as amended, and guidance provided by the Department of Commerce. OMB Circular A-136

USPTO Net Position *(Dollars in Millions)*	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Net Position	$ 498.0	$ 464.0	$ 432.6	$ 375.8	$ 492.3
Percentage Change in Net Position	*19.2%*	*(6.8)%*	*(6.8)%*	*(13.1)%*	*31.0%*

incorporates the concepts and standards contained in the Statements of Federal Financial Accounting Concepts (SFFAC) and the Statements of Federal Financial Accounting Standards (SFFAS) recommended by the Federal Accounting Standards Advisory Board (FASAB) and approved by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General.

On October 19, 1999, the American Institute of Certified Public Accountants Council designated the FASAB as the accounting standards-setting body for Federal government entities. Therefore, the SFFAS constitute accounting principles generally accepted in the United States (GAAP) for the Federal Government. These concepts and standards have been set by FASAB to help Federal agencies comply with the requirements of the *Chief Financial Officers' Act of 1990*, as amended by the *Government Management Reform Act of 1994*. These two Acts demand financial accountability from Federal agencies and require the integration of accounting, financial management, and cost accounting systems.

The financial data in this report and the financial statements that follow have been prepared from the accounting records of the USPTO in conformity with GAAP. The USPTO's financial statements consist of the Balance Sheet, the Statement of Net Cost, the Statement of Changes in Net Position, the Statement of Budgetary Resources, and the Statement of Cash Flows. The financial statements were prepared pursuant to the requirements of 31 (United States Code) U.S.C. 3515(b). The following limitations apply to the preparation of the financial statements:

- While the statements are prepared from books and records in accordance with the formats prescribed by the OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.
- The statements should be read with the realization that the USPTO is a component of the U.S. Government, a sovereign entity. One implication is that unfunded liabilities cannot be liquidated without legislation that provides resources to do so.

In addition, certain information contained in this financial discussion and analysis and in other parts of this Performance and Accountability Report may be deemed forward-looking statements regarding events and financial trends that may affect future operating results and financial position. Such statements may be identified by words such as "estimate," "project," "plan," "intend," "believe," "expect," "anticipate," or variations or negatives thereof or by similar or comparable words or phrases. Prospective statements are subject to risks and uncertainties that could cause actual results to differ materially from those expressed in the statements. Such risks and uncertainties include, but are not limited to, the following: changes in U.S. or international IP laws; changes in U.S. or global economic conditions; the availability, hiring and retention of qualified staff employees; management of patent and trademark growth; Government regulations; disputes with labor organizations; and deployment of new technologies. The USPTO undertakes no obligation to publicly update these financial statements to reflect events or circumstances after the date hereof, or to reflect the occurrence of unanticipated events.

MANAGEMENT RESPONSIBILITIES

USPTO management is responsible for the fair presentation of information contained in the principal financial statements, in conformity with GAAP, the requirements of OMB Circular A-136, and guidance provided by the Department of Commerce. Management is also responsible for the fair presentation of the USPTO's performance measures in accordance with OMB requirements. The quality of the USPTO's internal control rests with management, as does the responsibility for identifying and complying with pertinent laws and regulations.

Financial Section

Message from the Chief Financial Officer

I am pleased to present the USPTO's FY 2010 financial information. For the 18th consecutive year we have received an unqualified opinion on the financial statements. Along with the unqualified opinion, the auditors reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting. Also, the auditors reported that our financial system complies with Federal financial systems requirements. Additionally, for the eighth consecutive year, the Association of Government Accountants awarded the USPTO the Certificate of Excellence in Accountability Reporting for our *FY 2009 Performance and Accountability Report*, clearly demonstrating our excellence in integrating performance and accountability reporting.

Throughout this year we have been successful in improving internal controls and financial management processes to ensure unmatched reliability in financial information and activities. We will build upon these accomplishments as the Office of the Chief Financial Officer provides the level of service necessary to carry out the goals and objectives outlined in the USPTO's *2010 – 2015 Strategic Plan*.

As we take pride in our successes, FY 2010 also proved to be a challenging year for financial planning at the USPTO. The year began much like FY 2009 ended – a weak financial picture resulting from lower than average projected fee collections. This resulted in our spending authority and financial plans also being set at a level lower than necessary to achieve intended performance results. As the economy began showing signs of recovery, patent and trademark application filings and fee collections also began to grow at a faster pace than originally projected. While the growth in fees was good news, for the full year the fees exceeded our estimates upon which the spending authority appropriated by Congress was based.

We worked quickly within the Administration to propose a supplemental appropriation providing the USPTO with the authority to spend these additional fees to further our mission. In August, 2010, Congress passed a supplemental appropriation and provided the USPTO authority to spend an additional $129 million of fees collected during FY 2010. The USPTO used these funds to resume its multi-year plans for reducing the backlog in processing patent applications by expanding the examiner workforce and making that workforce more productive by improving information technology and patent processing tools.

In our *2010 – 2015 Strategic Plan*, we identified funding authority to support agency performance objectives as a significant challenge in accomplishing our vision and mission. To address this challenge, we are proposing the establishment of a sustainable funding model that spans multiple years. Such a funding model would provide the USPTO with authority to set fees at the rates necessary to recover the cost of operations, spend the fees collected on requirements-based operations, and the ability to adapt and manage agency funding authority as needs and workload demands change.

The events that occurred in FY 2010 bring to light one of the vulnerabilities in the USPTO's funding model. Linking the USPTO's spending authority to an estimate derived almost a year in advance is at times problematic. The USPTO will continue to work with the Administration and Congress to identify a funding model that is agile and employs a tolerance for variables and the inherent characteristics of forecasting workload demand, operations requirements, and resulting fee estimates.

Toward this end, we have already begun making advances in other areas of our sustainable funding model. During FY 2010, we created an operating reserve to manage multi-year plans and undertake long-term strategies for improvement in a financially viable way. In addition, the FY 2011 President's Budget proposes an interim increase on some patent fees during FY 2011. When enacted, this authority will provide for a closer temporary alignment of fees with the cost of operations until the USPTO obtains fee setting authority and develops a new fee structure that will provide sufficient financial resources for the long term.

The dedicated efforts of our talented and committed employees continue to produce a high standard of financial management at the USPTO. We look forward to the future with confidence as we continue to support the strategic direction of the USPTO by working as a trusted partner within the organization and providing sound advice to enable informed program and financial decision-making into FY 2011.

Anthony P. Scardino
Chief Financial Officer
November 9, 2010

Principal Financial Statements and Related Notes

Members of the USPTO FY 2009 Performance and Accountability Report Team. From left: Mark Krieger, Shana Willard, Judy Grundy, Dennis Detar, Jeanette Kuendel, Jack Buie, Karen Strohecker, and Deputy CFO Mark Olechowski.

UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED BALANCE SHEETS

As of September 30, 2010 and 2009

(Dollars in Thousands)	2010	2009
ASSETS		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	$ 1,436,432	$ 1,309,807
Accounts Receivable	608	143
Advances and Prepayments	2,988	3,480
Total Intragovernmental	1,440,028	1,313,430
Cash	3,199	3,231
Accounts Receivable, Net	150	295
Advances and Prepayments	10,179	9,582
Property, Plant, and Equipment, Net (Note 4)	174,397	205,802
Total Assets	$ 1,627,953	$ 1,532,340
LIABILITIES		
Intragovernmental:		
Accounts Payable	$ 4,732	$ 4,852
Accrued Payroll and Benefits	12,974	12,486
Accrued Workers' and Unemployment Compensation	1,878	1,771
Customer Deposit Accounts (Note 3)	5,823	5,419
Total Intragovernmental	25,407	24,528
Accounts Payable	65,382	85,336
Accrued Payroll and Benefits	94,473	76,758
Accrued Leave	71,018	67,512
Customer Deposit Accounts (Note 3)	96,481	92,659
Deferred Revenue (Note 6)	774,388	800,256
Actuarial Liability (Note 7)	8,299	8,097
Contingent Liability (Note 14)	200	1,400
Total Liabilities (Note 5)	$ 1,135,648	$ 1,156,546
NET POSITION		
Cumulative Results of Operations – Earmarked Funds (Note 10)	$ 492,305	$ 375,794
Total Net Position	$ 492,305	$ 375,794
Total Liabilities and Net Position	$ 1,627,953	$ 1,532,340

The accompanying notes are an integral part of these consolidated financial statements.

UNITED STATES PATENT AND TRADEMARK OFFICE
CONSOLIDATED STATEMENTS OF NET COST

For the years ended September 30, 2010 and 2009

(Dollars in Thousands)	**2010**	**2009**
Strategic Goal 1: Optimize Patent Quality and Timeliness		
Total Program Cost	$ 1,777,871	$ 1,744,676
Total Program Earned Revenue	(1,887,538)	(1,697,432)
Net Program (Income)/Cost	(109,667)	47,244
Strategic Goal 2: Optimize Trademark Quality and Timeliness		
Total Program Cost	182,565	193,187
Total Program Earned Revenue	(214,144)	(229,698)
Net Program Income	(31,579)	(36,511)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide		
Total Program Cost	46,502	44,077
Net (Income)/Cost from Operations (Note 11)	$ (94,744)	$ 54,810
Total Entity		
Total Program Cost (Notes 12 and 13)	$ 2,006,938	$ 1,981,940
Total Earned Revenue	(2,101,682)	(1,927,130)
Net (Income)/Cost from Operations (Note 11)	$ (94,744)	$ 54,810

The accompanying notes are an integral part of these consolidated financial statements.

UNITED STATES PATENT AND TRADEMARK OFFICE
CONSOLIDATED STATEMENTS OF CHANGES IN NET POSITION

For the years ended September 30, 2010 and 2009

(Dollars in Thousands)	2010	2009
	Earmarked Funds	Earmarked Funds
Cumulative Results of Operations		
Beginning Balances	$ 375,794	$ 432,604
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	–	(2,000)
Other Financing Sources		
Imputed Financing (Note 9)	21,767	–
Total Financing Sources	21,767	(2,000)
Net Income/(Cost) from Operations	94,744	(54,810)
Net Change	116,511	(56,810)
Cumulative Results of Operations	$ 492,305	$ 375,794
Net Position, End of Year	$ 492,305	$ 375,794

The accompanying notes are an integral part of these consolidated financial statements.

UNITED STATES PATENT AND TRADEMARK OFFICE
COMBINED STATEMENTS OF BUDGETARY RESOURCES

For the years ended September 30, 2010 and 2009

(Dollars in Thousands)	2010	2009
BUDGETARY RESOURCES		
Unobligated Balance - Brought Forward, October 1	$ 118,692	$ 72,079
Recoveries of Prior Year Unpaid Obligations	19,796	30,760
Budget Authority		
Spending Authority from Offsetting Collections:		
Earned:		
Collected	2,101,227	1,927,415
Customer Receivables and Refund Payables	248	136
Change in Unfilled Customer Orders - Advance Received	(25,788)	(47,186)
Total Spending Authority from Offsetting Collections	2,075,687	1,880,365
Nonexpenditure Transfers, Net, Anticipated and Actual	–	(2,000)
Temporarily not Available Pursuant to Public Law	(52,543)	–
Total Budgetary Resources	$ 2,161,632	$ 1,981,204
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred - Reimbursable	$ 1,938,958	$ 1,862,512
Unobligated Balance:		
Apportioned for Current Year	222,674	118,692
Total Status of Budgetary Resources	$ 2,161,632	$ 1,981,204
CHANGE IN OBLIGATED BALANCE		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	$ 331,250	$ 483,861
Customer Receivables and Refund Payables, Brought Forward, October 1	525	661
Total Unpaid Obligated Balance Brought Forward, Net	331,775	484,522
Obligations Incurred, Net	1,938,958	1,862,512
Gross Outlays	(1,953,365)	(1,984,363)
Recoveries of Prior Year Unpaid Obligations, Actual	(19,796)	(30,760)
Change in Customer Receivables and Refund Payables	(248)	(136)
Total Unpaid Obligated Balance, Net, Current Year	(34,451)	(152,747)
Obligated Balance, Net, End of Year		
Unpaid Obligations	297,047	331,250
Uncollected Customer Receivables and Unpaid Refund Payables	277	525
Total Unpaid Obligated Balance, Net, End of Year	$ 297,324	$ 331,775
NET OUTLAYS		
Gross Outlays	$ 1,953,365	$ 1,984,363
Offsetting Collections	(2,075,439)	(1,880,229)
Net (Collections)/Outlays	$ (122,074)	$ 104,134

The accompanying notes are an integral part of these consolidated financial statements.

UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF CASH FLOWS (INDIRECT METHOD)

For the years ended September 30, 2010 and 2009

(Dollars in Thousands)	2010	2009
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Income/(Cost) from Operations	$ 94,744	$ (54,810)
Adjustments Affecting Cash Flow:		
Imputed Financing from Cost Absorbed by Others	21,767	–
(Increase)/Decrease in Accounts Receivable	(320)	79
Increase in Advances and Prepayments	(105)	(5,073)
Decrease in Accounts Payable	(20,074)	(6,506)
Increase in Accrued Payroll and Benefits	18,203	3,869
Increase in Accrued Leave and Workers' and Unemployment Compensation	3,613	7,273
Increase/(Decrease) in Customer Deposit Accounts	4,226	(3,397)
Decrease in Deferred Revenue	(25,868)	(48,249)
Decrease in Contingent Liability	(1,200)	–
Increase/(Decrease) in Actuarial Liability	202	(221)
Depreciation, Amortization, or Loss on Asset Dispositions	59,083	63,345
Total Adjustments	59,527	11,120
Net Cash Provided/(Used) in Operating Activities	154,271	(43,690)
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of Property and Equipment	(27,678)	(64,963)
Net Cash Used in Investing Activities	(27,678)	(64,963)
CASH FLOWS FROM FINANCING ACTIVITIES		
Transfers Out Without Reimbursement	–	(2,000)
Net Cash Used in Financing Activities	–	(2,000)
Net Cash Provided (Used) in Operating, Investing, and Financing Activities	126,593	(110,653)
Effect of Implementation of SFFAS No. 31 (Notes 1 and 15)	–	(11,909)
Net Cash Provided/(Used)	$ 126,593	$ (122,562)
Fund Balance with Treasury and Cash, Beginning of Year	$ 1,313,038	$ 1,435,600
Net Cash Provided/(Used)	126,593	(122,562)
Fund Balance with Treasury and Cash, End of Year	$ $1,439,631	$ 1,313,038

The accompanying notes are an integral part of these consolidated financial statements.

UNITED STATES PATENT AND TRADEMARK OFFICE NOTES TO FINANCIAL STATEMENTS

As of and for the years ended September 30, 2010 and 2009

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reporting Entity

The United States Patent and Trademark Office (USPTO) is an agency of the United States within the U.S. Department of Commerce. The USPTO administers the laws relevant to patents and trademarks and advises the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection, and trade-related aspects of intellectual property.

These financial statements include the USPTO's three core business activities – granting patents, registering trademarks, and intellectual property policy, protection, and enforcement – that promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks.

These financial statements report the accounts for salaries and expenses (13X1006), special fund receipts (135127), customer deposits from the public and other Federal agencies (13X6542), Patent Cooperation Treaty collections (13X6538), and the Madrid Protocol Collections (13X6554) that are under the control of the USPTO. The Federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have custodial responsibility, nor does it have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

Tax Status

The USPTO is not subject to federal, state, or local income taxes. Accordingly, no provision for income taxes is recorded.

Basis of Presentation

As required by the Chief Financial Officers' Act of 1990 and 31 U.S.C. §3515(b), the accompanying financial statements present the financial position, net cost of operations, budgetary resources, and cash flows for the USPTO's core business activities. The books and records of the USPTO serve as the source of this information.

These financial statements were prepared in accordance with accounting principles generally accepted in the United States (GAAP) and the form and content for entity financial statements specified by the Office of Management and Budget (OMB) in Circular A-136, *Financial Reporting Requirements*, as amended, as well as the accounting policies of the USPTO. Therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the USPTO's budgetary resources. The GAAP for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official body for setting the accounting standards of the Federal Government.

Throughout these financial statements, assets, liabilities, revenues, and costs have been classified according to the type of entity with which the transactions are associated. Intra-governmental assets and liabilities are those from or to other Federal entities. Intra-governmental earned revenues are collections or accruals of revenue from other Federal entities and intra-governmental costs are payments or accruals to other Federal entities.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

The USPTO had previously received allocation transfers from another Federal agency as a receiving (child) entity. Allocation transfers are legal delegations by one department of its authority to obligate budget authority and outlay funds to another department. A separate fund account (allocation account) is created in the U.S. Treasury as a subset of the parent fund account for tracking and reporting purposes. All allocation transfers of balances are credited to this account, and subsequent obligations and outlays incurred by the child entity are charged to this allocation account as they execute the delegated activity on behalf of the parent entity. Generally, all financial activity related to these allocation transfers (e.g. budget authority, obligations, and outlays) is reported in the financial statements of the parent entity, from which the underlying legislative authority, appropriations, and budget apportionments are derived. The USPTO received allocation transfers, as the child, from the General Services Administration. Activity relating to these child allocation transfers is not reported in the USPTO's financial statements.

Basis of Accounting

Transactions are recorded on the accrual basis of accounting, as well as on a budgetary basis. Accrual accounting allows for revenue to be recognized when earned and expenses to be recognized when goods or services are received, without regard to the receipt or payment of cash. Budgetary accounting allows for compliance with the requirements for and controls over the use of Federal funds. The accompanying financial statements are presented on the accrual basis of accounting.

Earmarked Funds

Statement of Federal Financial Accounting Standard 27, *Identifying and Reporting Earmarked Funds*, requires separate identification of the earmarked funds on the *Consolidated Balance Sheets* (Net Position section), *Consolidated Statements of Changes in Net Position*, and further disclosures in a footnote (Note 10).

Earmarked funds are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the Government's general revenues. At the USPTO, earmarked funds include the salaries and expenses fund (13X1006) and the special fund receipts (135127).

Fiduciary Activities

Statement of Federal Financial Accounting Standard 31, *Accounting for Fiduciary Activities*, requires that, starting in FY 2009, fiduciary activities will no longer be recognized on the financial statements, but will be reported on schedules in the notes to the financial statements (Note 15).

Fiduciary cash and other assets are not assets of the Federal Government. Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. At the USPTO, fiduciary activities are recorded in the Patent Cooperation Treaty fund (13X6538) and the Madrid Protocol fund (13X6554).

Budgets and Budgetary Accounting

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. In FY 2010, the USPTO was appropriated up to $1,887,000 thousand for fees collected during the fiscal year. However, as the fiscal year progressed, fee collections exceeded the anticipated amounts. As a result, the OMB issued a supplemental appropriation (H.R. 5874) to the USPTO, thereby increasing the available amount of fee collections for use to $2,016,000 thousand. In FY 2009, the USPTO was appropriated up to $2,010,100 thousand for fees collected during the fiscal year. However, as the fiscal year progressed, fee collections were not being received as they had been anticipated. As a result, the OMB issued a reapportionment to the USPTO, thereby decreasing the available amount of fee collections for use to $1,900,950 thousand. For the year ended September 30,

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

2010, the USPTO collected $46,082 thousand more than the amount apportioned through September 30, 2010 (over-collections of fees of $52,543 thousand and under-collections of other budgetary resources of $6,461 thousand). For the year ended September 30, 2009, the USPTO collected $26,724 thousand less than the amount apportioned through September 30, 2009.

The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment.

Funding Limitations

Pursuant to the *Patent and Trademark Office Fee Fairness Act of 1999* (35 U.S.C. §42(c)), all fees available to the Director under section 31 of the Trademark Act of 1946 are used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks, as well as to cover a proportionate share of the administrative costs of the USPTO.

Legislation was passed in July 2009 that allows the USPTO to use surplus funds from Trademark revenues to cover any shortfalls that may occur as the result of the decrease in Patent fee collections [H.R. 3114]. The authority to use these funds lasted until June 2010. Should such use of Trademark funds be necessary, the amount must be paid back to the Trademark organization no later than September 30, 2014. As of June 30, 2010, Trademark funds were not used for Patent operations and the authority for Patent operations to use surplus Trademark funds has expired.

In addition, the FY 2009 appropriation language restricted from obligation $5,000 thousand of offsetting collections until "the USPTO has completed a comprehensive review of the assumptions behind the patent examiner expectancy goals and adopted a revised set of expectancy goals for patent examination".

The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2010 are $814,759 thousand. Of this amount, certain USPTO collections of $233,529 thousand were withheld in accordance with the Omnibus Budget Reconciliation Act (OBRA) of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Revenue and Other Financing Sources

The USPTO's fee rates are established by law and, consequently, in some instances may not represent full cost or market price. Since FY 1993, the USPTO's funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when received, with an adjustment to defer revenue for services that have not been performed. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

The USPTO also receives some financial gifts and gifts-in-kind. All such transactions are included in the consolidated Gifts and Bequests Fund financial statements of the U.S. Department of Commerce. These gifts are not of significant value and are not reflected in the USPTO's financial statements. Most gifts-in-kind are used for official travel to further attain the USPTO mission and objectives.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

Entity/Non-Entity

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity's use are termed non-entity assets. Most of the USPTO's assets are entity assets and are available to carry out the mission of the USPTO, as appropriated by Congress, with the exception of a portion of the Fund Balance with Treasury and cash as highlighted in Note 3.

Fund Balance with Treasury

The USPTO deposits fees collected in commercial bank accounts maintained by the Treasury's Financial Management Service (FMS). All moneys maintained in these accounts are transferred to the Federal Reserve Bank on the next business day following the day of deposit. In addition, many customer deposits are wired directly to the Federal Reserve Bank. All banking activity is conducted in accordance with the directives issued by the FMS. Treasury processes all disbursements. (Note 2)

Accounts Receivable

Accounts receivable balances are established for amounts owed to the USPTO from its customers. The USPTO's accounts receivable balances are comprised of amounts due from former employees for the reimbursement of education expenses and other benefits, amounts due from foreign intellectual property offices for the reimbursement of services provided, amounts due from other Federal agencies for the reimbursement of services provided, and other revenue-related receivables. This balance in accounts receivable remains as a very small portion of the USPTO's assets, as the USPTO requires payment prior to the provision of goods or services during the course of its core business activities.

The USPTO has written off, but not closed out, $235 thousand and $154 thousand of accounts receivables that are considered not collectible as of September 30, 2010 and 2009, respectively. These offsets are established for receivables older than two years with little or no collection activity that have been transferred to Treasury, subsequently adjusting the gross amount of its employee-related accounts receivable to the net realizable value. The gross amount of the USPTO's employee-related accounts receivable as of September 30, 2010 and 2009 was $332 thousand and $424 thousand, respectively.

Receivables due from foreign intellectual property offices as of September 30, 2010 and 2009 were $43 thousand and $15 thousand, respectively.

Intragovernmental receivables as of September 30, 2010 and 2009 totaled $608 thousand and $143 thousand, respectively.

Revenue-related receivables as of September 30, 2010 and 2009 totaled $10 thousand.

Advances and Prepayments

On occasion, the USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The USPTO has prepayments and advances with non-governmental, as well as governmental vendors.

Total prepayments and advances to non-governmental vendors as of September 30, 2010 and 2009 were $10,179 thousand and $9,582 thousand, respectively. The largest prepayments as of September 30, 2010 and 2009 were $6,005 and $5,948 thousand for various hardware and software maintenance agreements; and $2,625 thousand and $1,848 thousand for various cooperative efforts with the National Inventors Hall of Fame, the International Intellectual Property Institute, and the World Intellectual Property Organization, respectively. Travel advances to personnel as of September 30, 2010 and 2009 were $6 thousand and $13 thousand, respectively.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

Total prepayments and advances to governmental vendors as of September 30, 2010 and 2009 were $2,988 thousand and $3,480 thousand, respectively. The largest governmental prepayments include the USPTO deposit accounts held with the U.S. Government Printing Office to facilitate recurring transactions. Deposit accounts held with the U.S. Government Printing Office as of September 30, 2010 and 2009 were $1,436 thousand and $1,671 thousand, respectively.

Cash

The USPTO's cash balance primarily consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. As of September 30, 2010, $2,747 thousand were in transit due to the lag time between deposits in commercial bank accounts and the confirmation received from Treasury. Of this balance, $629 thousand were non-entity deposit account assets. As of September 30, 2009, $2,698 thousand were in transit due to the lag time between deposits in commercial bank accounts and the confirmation received from Treasury. Of this balance, $954 thousand were non-entity deposit account assets.

The cash balance also consists of undeposited checks for fees that were not processed at the Balance Sheet date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. As of September 30, 2010 and 2009, the cash balance includes undeposited checks of $451 thousand and $532 thousand, respectively.

Cash is also held outside the Treasury to be used as imprest funds. An imprest fund of $1 thousand was held as of September 30, 2010 and 2009.

Property, Plant, and Equipment, Net

The USPTO's capitalization policies are summarized below:

Classes of Property, Plant, and Equipment	Capitalization Threshold for Individual Purchases	Capitalization Threshold for Bulk Purchases
IT Equipment	$25 thousand or greater	$500 thousand or greater
Software	$25 thousand or greater	$ 25 thousand or greater
Software in Progress	$25 thousand or greater	$ 25 thousand or greater
Furniture	$25 thousand or greater	$ 50 thousand or greater
Equipment	$25 thousand or greater	$500 thousand or greater
Leasehold Improvements	$25 thousand or greater	Not applicable

Costs capitalized are recorded at actual historical cost. Depreciation is expensed on a straight-line basis over the estimated useful life of the asset with the exception of leasehold improvements, which are depreciated over the remaining life of the lease or over the useful life of the improvement, whichever is shorter.

Contractor costs for developing custom internal use software are capitalized when incurred for the design, coding, and testing of the software. Software in progress is not amortized until placed in service. (Note 4)

Property, plant, and equipment acquisitions that do not meet the capitalization criteria are expensed upon receipt.

Workers' Compensation

Claims brought by USPTO employees for on-the-job injuries fall under the Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL). The DOL bills each agency annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process. As of September 30,

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

2010, the USPTO had a $1,692 thousand liability for estimated claims paid on its behalf during the benefit period July 1, 2008 through September 30, 2010. As of September 30, 2009, the USPTO had a $1,622 thousand liability for estimated claims paid on its behalf during the benefit period July 1, 2007 through September 30, 2009.

Unemployment Compensation

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid. As of September 30, 2010 and 2009, the USPTO liability was $186 thousand and $149 thousand, respectively, for estimated claims paid by the DOL on behalf of the USPTO.

Annual, Sick, and Other Leave

Annual leave and compensatory time are accrued as earned, with the accrual being reduced when leave is taken. An adjustment is made each fiscal quarter to ensure that the balances in the accrued leave accounts reflect current pay rates. No portion of this liability has been obligated. To the extent current year funding is not available to pay for leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed as used.

Accrued leave as of September 30, 2010 and 2009 was $71,018 thousand and $67,512 thousand, respectively.

Employee Retirement Systems and Post-Employment Benefits

USPTO employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Public Law 99-335. Pursuant to this law, the FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who had five years of Federal civilian service prior to 1984 and who are rehired after a break in service of more than one year may elect to join the FERS and Social Security system or be placed in the CSRS offset retirement system.

The USPTO's financial statements do not report CSRS or FERS assets, accumulated plan benefits, or liabilities applicable to its employees. The reporting of such amounts is the responsibility of the U.S. Office of Personnel Management (OPM), who administers the plans. While the USPTO reported no liability for future payments to employees under these programs, the Federal Government is liable for future payments to employees through the OPM who administers these programs. The USPTO financial statements recognize a funded expense and an imputed cost for the USPTO's share of the costs to the Federal Government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. The USPTO's appropriation requires full funding of the present costs, as determined by the OPM, of post-retirement benefits for the Federal Employees Health Benefit Program (FEHB), the Federal Employees Group Life Insurance Program (FEGLI), and pensions under the CSRS. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by the OPM, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors. Any difference between the OPM factors for funding purposes and the OPM factors for reporting purposes is recognized as an imputed cost. (Note 9)

For the years ended September 30, 2010 and 2009, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 18.2 percent and 19.1 percent of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors, respectively. For the years ended September 30, 2010 and 2009, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 11.2 percent and 11.5 percent of the employee's basic pay for those employees covered by FERS, based on OPM cost factors, respectively.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

All employees are eligible to contribute to a thrift savings plan. For those employees participating in the FERS, a thrift savings plan is automatically established, and the USPTO makes a mandatory contribution to this plan equal to one percent of the employees' compensation. In addition, the USPTO makes matching contributions ranging from one to four percent of the employees' compensation for FERS-eligible employees who contribute to their thrift savings plans. No matching contributions are made to the thrift savings plans for employees participating in the CSRS. Employees participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

Deferred Revenue

Deferred revenue represents fees that have been received by the USPTO for requested services that have not been substantially completed. Two types of deferred revenue are recorded. The first type results from checks received, accompanied by requests for services, which were not yet deposited due to the lag time between receipt and initial review. The second type of deferred revenue relates primarily to fees for applications that have been partially processed. The deferred revenue calculation is a complex accounting estimate, dependent upon numerous business and administrative processes, workloads, and inventories. (Note 6)

Environmental Cleanup

The USPTO does not have any liabilities for environmental cleanup.

NOTE 2. FUND BALANCE WITH TREASURY

As of September 30, 2010 and 2009, Fund Balance with Treasury consisted of the following:

(Dollars in Thousands)	2010	2009
Fund Balances by Treasury Fund Type:		
Special Funds	$ 233,529	$ 233,529
General Funds	1,101,228	979,154
Deposit Funds	101,675	97,124
Total Fund Balance with Treasury	$ 1,436,432	$ 1,309,807
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	$ 297,324	$ 331,775
Unobligated Balance Available	222,674	118,692
Temporarily Not Available Pursuant to Public Law	581,230	528,687
Non-Budgetary Fund Balance with Treasury	335,204	330,653
Total Fund Balance with Treasury	$ 1,436,432	$ 1,309,807

No discrepancies exist between the Fund Balance reflected in the general ledger and the balance in the Treasury accounts.

As of September 30, 2010 and 2009, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts of $233,529 thousand and non-entity customer deposit accounts of $101,675 thousand and $97,124 thousand, respectively.

NOTE 3. NON-ENTITY ASSETS

Non-entity assets consist of amounts held on deposit for the convenience of the USPTO customers and fees collected on behalf of the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO). Customers have the option of maintaining a deposit account at the USPTO to facilitate the order process. Customers can draw from their deposit account when they place an order and can replenish their deposit account as desired. Funds maintained in customer deposit accounts are not available for the USPTO use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds. Also, in accordance with the Patent Cooperation Treaty and the Madrid Protocol Implementation Act, the USPTO collects international fees on behalf of the WIPO and the EPO.

(Dollars in Thousands)	**2010**	**2009**
Fund Balance with Treasury:		
Intragovernmental Deposit Accounts	$ 5,823	$ 5,419
Other Customer Deposit Accounts	95,852	91,705
Total Fund Balance with Treasury	101,675	97,124
Cash:		
Other Customer Deposit Accounts	629	954
Total Non-Entity Assets	102,304	98,078
Total Entity Assets	1,525,649	1,434,262
Total Assets	$ 1,627,953	$ 1,532,340

NOTE 4. PROPERTY, PLANT, AND EQUIPMENT, NET

As of September 30, 2010, property, plant, and equipment, net consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Depreciation/ Amortization Method	Service Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	SL	3-5	$ 291,893	$ 249,092	$ 42,801
Software	SL	3-5	280,916	246,359	34,557
Software in Progress	—	—	22,763	—	22,763
Furniture	SL	5-7	23,265	18,433	4,832
Equipment	SL	3-8	13,738	12,405	1,333
Leasehold Improvements	SL	5-20	97,218	29,107	68,111
Total Property, Plant, and Equipment			$ 729,793	$ 555,396	$ 174,397

As of September 30, 2009, property, plant, and equipment, net consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Depreciation/ Amortization Method	Service Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	SL	3-5	$ 284,681	$ 235,850	$ 48,831
Software	SL	3-5	271,084	221,858	49,226
Software in Progress	—	—	25,771	—	25,771
Furniture	SL	5	28,315	19,931	8,384
Equipment	SL	3-5	13,730	11,497	2,233
Leasehold Improvements	SL	5-20	94,923	23,566	71,357
Total Property, Plant, and Equipment			$ 718,504	$ 512,702	$ 205,802

NOTE 5. LIABILITIES COVERED AND NOT COVERED BY BUDGETARY RESOURCES

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances as of September 30, 2010. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2010, but become available for spending on October 1, 2010 once apportioned by the OMB. In addition, cash and Fund Balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, undeposited collections, and amounts collected by the USPTO on behalf of other organizations.

Liabilities not covered by budgetary resources include Accrued Workers' Compensation, Accounts Payable, Accrued Payroll and Benefits, Accrued Leave, Deferred Revenue, Actuarial Liability, and Contingent Liability. Although future appropriations to fund these liabilities are probable and anticipated, Congressional action is needed before budgetary resources can be provided.

As of September 30, 2010 and 2009, liabilities covered and not covered by budgetary resources were as follows:

(Dollars in Thousands)	2010	2009
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	$ 4,732	$ 4,852
Accrued Payroll and Benefits	12,974	12,486
Accrued Unemployment Compensation	186	149
Customer Deposit Accounts	5,823	5,419
Total Intragovernmental	23,715	22,906
Accounts Payable	65,382	85,174
Accrued Payroll and Benefits	58,114	49,771
Customer Deposit Accounts	96,481	92,659
Deferred Revenue	223,125	119,224
Total Liabilities Covered by Resources	$ 466,817	$ 369,734
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	$ 1,692	$ 1,622
Total Intragovernmental	1,692	1,622
Accounts Payable	—	162
Accrued Payroll and Benefits	36,359	26,987
Accrued Leave	71,018	67,512
Deferred Revenue	551,263	681,032
Actuarial Liability	8,299	8,097
Contingent Liability	200	1,400
Total Liabilities Not Covered by Resources	$ 668,831	$ 786,812
Total Liabilities	$ 1,135,648	$ 1,156,546

NOTE 6. DEFERRED REVENUE

As of September 30, 2010, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	$ 710,807	$ 63,130	$ 773,937
Undeposited Checks	403	48	451
Total Deferred Revenue	$ 711,210	$ 63,178	$ 774,388

As of September 30, 2009, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	$ 741,829	$ 57,895	$ 799,724
Undeposited Checks	470	62	532
Total Deferred Revenue	$ 742,299	$ 57,957	$ 800,256

NOTE 7. ACTUARIAL LIABILITY

The FECA provides income and medical cost protection to covered Federal civilian employees injured on the job and for those who have contracted a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits under the FECA for the USPTO's employees are administered by the DOL and are paid ultimately by the USPTO.

The DOL estimated the future workers compensation liability by applying actuarial procedures developed to estimate the liability for FECA benefits. The actuarial liability estimates for FECA benefits include the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases, plus a component for incurred but not reported claims. The actuarial liability is updated annually.

The DOL method of determining the liability uses historical benefit payment patterns for a specific incurred period to predict the ultimate payments for that period. Consistent with past practice, these projected annual benefit payments have been discounted to present value using the OMB's economic assumptions for ten-year Treasury notes and bonds. Interest rate assumptions utilized for discounting were as follows:

2010	2009
3.65 % in year 1, 4.30 % in year 2, and thereafter	4.22% in year 1, 4.72% in year 2, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2010 and 2009 was $8,299 thousand and $8,097 thousand, respectively.

NOTE 8. LEASES

Operating Leases:

The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings expire at various dates between FY 2014 and FY 2024. During the years ended September 30, 2010 and 2009, the USPTO paid $91,876 thousand and $90,533 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2010 are as follows:

Fiscal Year	(Dollars in Thousands)
2011	$ 67,630
2012	67,630
2013	67,630
2014	65,721
2015	64,827
Thereafter	516,169
Total Future Minimum Lease Payments	$ 849,607

The commitments shown above relate primarily to the operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in FY 2004 and extending to FY 2024.

NOTE 9. POST-EMPLOYMENT BENEFITS

For the years ended September 30, 2010 and 2009, the post-employment benefit expenses were as follows:

(Dollars in Thousands)	2010			2009		
	Funded	Imputed	Total	Funded	Imputed	Total
CSRS	$ 12,610	$ 3,435	$ 16,045	$ 14,790	$ —	$ 14,790
FERS	96,424	15,711	112,135	97,778	—	97,778
FEHB	48,253	2,621	50,874	50,389	—	50,389
FEGLI	160	—	160	155	—	155
FICA	66,811	—	66,811	63,857	—	63,857
Total Cost	$ 224,258	$ 21,767	$ 246,025	$ 226,969	$ —	$ 226,969

NOTE 10. EARMARKED FUNDS

Earmarked funds are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the Government's general revenues. At the USPTO, earmarked funds include the salaries and expenses fund and the special fund receipts. Non-entity funds, as disclosed in Note 3, are not earmarked funds and are therefore excluded from the below amounts.

The following tables provide the status of the USPTO's earmarked funds as of and for the years ended September 30, 2010 and 2009.

(Dollars in Thousands)	Salaries and Expenses Fund	Surcharge Fund	Total Earmarked Funds
Balance Sheet as of September 30, 2010			
Fund Balance with Treasury	$ 1,101,228	$ 233,529	$ 1,334,757
Cash	2,570	—	2,570
Accounts Receivable, Net	758	—	758
Other Assets	187,564	—	187,564
Total Assets	$ 1,292,120	$ 233,529	$ 1,525,649
Total Liabilities	$ 1,033,344	$ —	$ 1,033,344
Cumulative Results of Operations	258,776	233,529	492,305
Total Liabilities and Net Position	$ 1,292,120	$ 233,529	$ 1,525,649
Statement of Net Cost For the Year Ended September 30, 2010			
Total Program Cost	$ 2,006,938	$ —	$ 2,006,938
Less Earned Revenue	(2,101,682)	—	(2,101,682)
Net Income from Operations	$ (94,744)	$ —	$ (94,744)
Statement of Changes in Net Position For the Year Ended September 30, 2010			
Net Position, Beginning of Year	$ 142,265	$ 233,529	$ 375,794
Other Financing Sources:			
Imputed Financing	$ 21,767	$ —	$ 21,767
Net Income from Operations	94,744	—	94,744
Change in Net Position	$ 116,511	$ —	$ 116,511
Net Position, End of Year	$ 258,776	$ 233,529	$ 492,305

NOTE 10. EARMARKED FUNDS *(Continued)*

(Dollars in Thousands)	Salaries and Expenses Fund	Surcharge Fund	Total Earmarked Funds
Balance Sheet as of September 30, 2009			
Fund Balance with Treasury	$ 979,154	$ 233,529	$ 1,212,683
Cash	2,277	—	2,277
Accounts Receivable, Net	438	—	438
Other Assets	218,864	—	218,864
Total Assets	$ 1,200,733	$ 233,529	$ 1,434,262
Total Liabilities	$ 1,058,468	$ —	$ 1,058,468
Cumulative Results of Operations	142,265	233,529	375,794
Total Liabilities and Net Position	$ 1,200,733	$ 233,529	$ 1,434,262
Statement of Net Cost For the Year Ended September 30, 2009			
Total Program Cost	$ 1,981,940	$ —	$ 1,981,940
Less Earned Revenue	(1,927,130)	—	(1,927,130)
Net Cost of Operations	$ 54,810	$ —	$ 54,810
Statement of Changes in Net Position For the Year Ended September 30, 2009			
Net Position, Beginning of Year	$ 199,075	$ 233,529	$ 432,604
Budgetary Financing Sources	$ (2,000)	$ —	$ (2,000)
Net Cost of Operations	(54,810)	—	(54,810)
Change in Net Position	$ (56,810)	$ —	$ (56,810)
Net Position, End of Year	$ 142,265	$ 233,529	$ 375,794

The **Salaries and Expenses Fund** contains moneys used for the administering of the laws relevant to patents and trademarks and advising the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection, and trade-related aspects of intellectual property. This fund is used for the USPTO's three core business activities – granting patents, registering trademarks, and intellectual property policy, protection, and enforcement – that promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks. The USPTO may use moneys from this account only as authorized by Congress via appropriations.

The **Surcharge Fund** was created in FY 1992 through the Patent and Trademark Office Surcharge provision in the OBRA of 1990 (Section 10101, Public Law 101-508). This required that the USPTO impose a surcharge on certain patent fees and set in statute the amounts of money that the USPTO should deposit in a special fund receipt account at the U.S. Department of the Treasury. This surcharge was eliminated in FY 1999. The USPTO may use moneys from this account only as authorized by Congress, and only as made available by the issuance of a Treasury warrant.

NOTE 11. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Total intragovernmental costs and exchange revenue, by Strategic Goal, for the years ended September 30, 2010 and 2009 were as follows:

(Dollars in Thousands)	2010			
	Patent	Trademark	Intellectual Property Protection	Total
Strategic Goal 1: Optimize Patent Quality and Timeliness				
Intragovernmental Gross Cost	$ 377,272	$ —	$ —	$ 377,272
Gross Cost with the Public	1,400,599	—	—	1,400,599
Total Program Cost	1,777,871	—	—	1,777,871
Intragovernmental Earned Revenue	(8,652)	—	—	(8,652)
Earned Revenue from the Public	(1,878,886)	—	—	(1,878,886)
Total Program Earned Revenue	(1,887,538)	—	—	(1,887,538)
Net Program Income	$ (109,667)	$ —	$ —	$ (109,667)
Strategic Goal 2: Optimize Trademark Quality and Timeliness				
Intragovernmental Gross Cost	$ —	$ 38,741	$ —	$ 38,741
Gross Cost with the Public	—	143,824	—	143,824
Total Program Cost	—	182,565	—	182,565
Intragovernmental Earned Revenue	—	(723)	—	(723)
Earned Revenue from the Public	—	(213,421)	—	(213,421)
Total Program Earned Revenue	—	(214,144)	—	(214,144)
Net Program Income	$ —	$ (31,579)	$ —	$ (31,579)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide				
Intragovernmental Gross Cost	$ —	$ —	$ 9,868	$ 9,868
Gross Cost with the Public	—	—	36,634	36,634
Total Program Cost	—	—	46,502	46,502
Net (Income)/Cost from Operations	$ (109,667)	$ (31,579)	$ 46,502	$ (94,744)
Total Entity				
Total Program Cost (Notes 12 and 13)	$ 1,777,871	$ 182,565	$ 46,502	$ 2,006,938
Total Earned Revenue	(1,887,538)	(214,144)	—	(2,101,682)
Net (Income)/Cost from Operations	$ (109,667)	$ (31,579)	$ 46,502	$ (94,744)

NOTE 11. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE *(Continued)*

(Dollars in Thousands)	2009			
	Patent	Trademark	Intellectual Property Protection	Total
Strategic Goal 1: Optimize Patent Quality and Timeliness				
Intragovernmental Gross Cost	$ 356,328	$ —	$ —	$ 356,328
Gross Cost with the Public	1,388,348	—	—	1,388,348
Total Program Cost	1,744,676	—	—	1,744,676
Intragovernmental Earned Revenue	(7,163)	—	—	(7,163)
Earned Revenue from the Public	(1,690,269)	—	—	(1,690,269)
Total Program Earned Revenue	(1,697,432)	—	—	(1,697,432)
Net Program Cost	$ 47,244	$ —	$ —	$ 47,244
Strategic Goal 2: Optimize Trademark Quality and Timeliness				
Intragovernmental Gross Cost	$ —	$ 39,456	$ —	$ 39,456
Gross Cost with the Public	—	153,731	—	153,731
Total Program Cost	—	193,187	—	193,187
Intragovernmental Earned Revenue	—	(280)	—	(280)
Earned Revenue from the Public	—	(229,418)	—	(229,418)
Total Program Earned Revenue	—	(229,698)	—	(229,698)
Net Program Income	$ —	$ (36,511)	$ —	$ (36,511)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide				
Intragovernmental Gross Cost	$ —	$ —	$ 9,002	$ 9,002
Gross Cost with the Public	—	—	35,075	35,075
Total Program Cost	—	—	44,077	44,077
Net Cost/(Income) from Operations	$ 47,244	$ (36,511)	$ 44,077	$ 54,810
Total Entity				
Total Program Cost (Notes 12 and 13)	$ 1,744,676	$ 193,187	$ 44,077	$ 1,981,940
Total Earned Revenue	(1,697,432)	(229,698)	—	(1,927,130)
Net Cost/(Income) from Operations	$ 47,244	$ (36,511)	$ 44,077	$ 54,810

Intragovernmental expenses relate to the source of the goods or services, not the classification of the related revenue.

NOTE 12. PROGRAM COSTS

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2010 and 2009 by cost category were as follows:

(Dollars in Thousands)		2010	
	Direct	Allocated	Total
Personnel Services and Benefits	$ 1,303,805	$ 95,599	$ 1,399,404
Travel and Transportation	1,877	720	2,597
Rent, Communications, and Utilities	86,042	28,887	114,929
Printing and Reproduction	77,742	309	78,051
Contractual Services	181,474	113,850	295,324
Training	569	846	1,415
Maintenance and Repairs	4,145	35,727	39,872
Supplies and Materials	9,736	961	10,697
Equipment not Capitalized	1,309	3,860	5,169
Insurance Claims and Indemnities	308	89	397
Depreciation, Amortization, or Loss on Asset Dispositions	33,269	25,814	59,083
Total Program Costs	$ 1,700,276	$ 306,662	$ 2,006,938

(Dollars in Thousands)		2009	
	Direct	Allocated	Total
Personnel Services and Benefits	$ 1,224,763	$ 96,794	$ 1,321,557
Travel and Transportation	2,230	641	2,871
Rent, Communications, and Utilities	83,643	34,631	118,274
Printing and Reproduction	58,688	312	59,000
Contractual Services	224,999	131,952	356,951
Training	3,350	1,048	4,398
Maintenance and Repairs	2,374	32,912	35,286
Supplies and Materials	7,980	799	8,779
Equipment not Capitalized	3,584	7,622	11,206
Insurance Claims and Indemnities	198	75	273
Depreciation, Amortization, or Loss on Asset Dispositions	39,044	24,301	63,345
Total Program Costs	$ 1,650,853	$ 331,087	$ 1,981,940

The unfunded portion of personnel services and benefits for the years ended September 30, 2010 and 2009 was $13,149 thousand and $2,540 thousand, respectively.

NOTE 13. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT

The program costs for the years ended September 30, 2010 and 2009 by cost category and business line were as follows:

(Dollars in Thousands)	2010			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	$ 1,172,190	$ 111,862	$ 19,753	$ 1,303,805
Travel and Transportation	195	105	1,577	1,877
Rent, Communications, and Utilities	76,690	6,725	2,627	86,042
Printing and Reproduction	77,611	119	12	77,742
Contractual Services	160,082	10,671	10,721	181,474
Training	306	225	38	569
Maintenance and Repairs	2,274	1,777	94	4,145
Supplies and Materials	9,183	336	217	9,736
Equipment not Capitalized	880	384	45	1,309
Insurance Claims and Indemnities	292	16	—	308
Depreciation, Amortization, or Loss on Asset Dispositions	28,848	4,081	340	33,269
Subtotal Direct Costs	$ 1,528,551	$ 136,301	$ 35,424	$ 1,700,276
Allocated Costs				
Automation	$ 131,047	$ 25,176	$ 2,640	$ 158,863
Resource Management	118,273	21,088	8,438	147,799
Subtotal Allocated Costs	$ 249,320	$ 46,264	$ 11,078	$ 306,662
Total Program Costs	$ 1,777,871	$ 182,565	$ 46,502	$ 2,006,938

The unfunded portion of personnel services and benefits for the year ended September 30, 2010 was $13,149 thousand.

NOTE 13. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT *(Continued)*

(Dollars in Thousands)	2009			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	$ 1,098,854	$ 107,900	$ 18,009	$ 1,224,763
Travel and Transportation	325	87	1,818	2,230
Rent, Communications, and Utilities	73,424	7,631	2,588	83,643
Printing and Reproduction	58,249	430	9	58,688
Contractual Services	202,956	13,252	8,791	224,999
Training	3,002	306	42	3,350
Maintenance and Repairs	1,735	562	77	2,374
Supplies and Materials	7,441	246	293	7,980
Equipment not Capitalized	2,296	1,049	239	3,584
Insurance Claims and Indemnities	167	31	—	198
Depreciation, Amortization, or Loss on Asset Dispositions	34,409	4,183	452	39,044
Subtotal Direct Costs	$ 1,482,858	$ 135,677	$ 32,318	$ 1,650,853
Allocated Costs				
Automation	$ 126,254	$ 31,612	$ 2,812	$ 160,678
Resource Management	135,564	25,898	8,947	170,409
Subtotal Allocated Costs	$ 261,818	$ 57,510	$ 11,759	$ 331,087
Total Program Costs	$ 1,744,676	$ 193,187	$ 44,077	$ 1,981,940

The unfunded portion of personnel services and benefits for the year ended September 30, 2009 was $2,540 thousand.

NOTE 14. COMMITMENTS AND CONTINGENCIES

COMMITMENTS

In addition to the future lease commitments discussed in Note 8, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total undelivered orders for all of the USPTO's activities were $169,709 thousand and $192,549 thousand as of September 30, 2010 and 2009, respectively. Of these amounts, $156,542 thousand and $179,487 thousand, respectively, were unpaid.

CONTINGENCIES

The USPTO is a party to various routine administrative proceedings, legal actions, and claims brought by or against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the Federal Government.

As of September 30, 2010, management expects it is reasonably possible that approximately $85,612 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2009, management expects it is reasonably possible that approximately $82,676 thousand may be owed for awards or damages involving labor relations claims.

The USPTO is subject to suits where adverse outcomes are probable and claims are $200 thousand and $1,400 thousand as of September 30, 2010 and 2009, respectively.

For the year ended September 30, 2010, the USPTO was not required to make any payments to the Judgment Fund. For the year ended September 30, 2009, the USPTO was required to make one payment totaling $5 thousand to the Judgment Fund.

NOTE 15. FIDUCIARY ACTIVITIES

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. Fiduciary cash and other assets are not assets of the Federal Government and accordingly are not recognized on the proprietary financial statements.

The Patent Cooperation Treaty authorized the USPTO to collect patent filing and search fees on behalf of the WIPO, EPO, Korean Intellectual Property Office, and the Australian Patent Office from U.S. citizens requesting an international patent. The Madrid Protocol Implementation Act authorized the USPTO to collect trademark application fees on behalf of the International Bureau of the WIPO from U.S. citizens requesting an international trademark.

Schedule of Fiduciary Activity
For the Years ended September 30, 2010 and 2009

	2010			2009		
(Dollars in Thousands)	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds
Fiduciary Net Assets, Beginning of Year	$ 9,134	$ 452	$ 9,586	$ 11,598	$ 311	$ 11,909
Contributions	121,679	9,923	131,602	116,818	8,618	125,436
Disbursements To and on Behalf of Beneficiaries	(121,361)	(9,799)	(131,160)	(119,282)	(8,477)	(127,759)
Increase/(Decrease) in Fiduciary Net Assets	318	124	442	(2,464)	141	(2,323)
Fiduciary Net Assets, End of Year	$ 9,452	$ 576	$ 10,028	$ 9,134	$ 452	$ 9,586

Fiduciary Net Assets
As of September 30, 2010 and 2009

	2010			2009		
(Dollars in Thousands)	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds
Cash and Cash Equivalents	$ 9,452	$ 576	$ 10,028	$ 9,134	$ 452	$ 9,586
Total Fiduciary Net Assets	$ 9,452	$ 576	$ 10,028	$ 9,134	$ 452	$ 9,586

NOTE 16. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

Most entity transactions are recorded in both budgetary and proprietary accounts. However, because different accounting bases are used for budgetary and proprietary accounting, some transactions may appear in only one set of accounts. The following reconciliation provides a means to identify the relationships and differences that exist between the aforementioned budgetary and proprietary accounts.

The reconciliation of net cost of operations to budget for the years ended September 30, 2010 and 2009 is as follows:

(Dollars in Thousands)	2010	2009
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated:		
Obligations Incurred	$ 1,938,958	$ 1,862,512
Spending Authority from Offsetting Collections and Recoveries	(2,095,483)	(1,911,125)
Net Obligations	(156,525)	(48,613)
Other Resources		
Imputed Financing from Cost Absorbed by Others	21,767	—
Total Resources Used to Finance Activities	(134,758)	(48,613)
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered but not yet Provided	22,840	149,246
Resources that Fund Costs Recognized in Prior Periods	(1,363)	(4,913)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	(26,161)	(47,128)
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(27,678)	(64,963)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	(32,362)	32,242
COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Components Requiring or Generating Resources in Future Periods:		
Costs that will be Funded by Resources in Future Periods	13,148	7,615
Net (Increase)/Decrease in Revenue Receivables not Generating Resources until Collected	(28)	77
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	13,120	7,692
Components not Requiring or Generating Resources:		
Depreciation, Amortization, or Loss on Asset Dispositions	59,083	63,345
Other Costs that will not Require Resources	173	144
Total Components of Net Cost of Operations that will not Require or Generate Resources	59,256	63,489
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	72,376	71,181
Net (Income)/Cost from Operations	$ (94,744)	$ 54,810

Independent Auditors' Report

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

November 12, 2010

MEMORANDUM FOR: David Kappos, Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office

Todd J. Zinser

FROM: Todd J. Zinser

SUBJECT: FY 2010 Financial Statements
Final Report No. 11-009-FS

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on the U.S. Patent and Trademark Office's fiscal year 2010 financial statements. KPMG LLP, an independent public accounting firm, performed the audit in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget Bulletin 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

In its audit of USPTO, KPMG found

- that the financial statements were fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles;
- one significant deficiency related to controls over general information technology, which was not considered a material weakness in internal control as defined in the report; and
- no instances of reportable noncompliance with applicable laws, regulations, and contracts.

My office oversaw the audit performance. We reviewed KPMG's report and related documentation, and made inquiries of its representatives. Our review disclosed no instances where KPMG did not comply, in all material respects, with generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with these standards; it was not intended to enable us to express—nor do we express—any opinion on USPTO's financial statements, conclusions about the effectiveness of internal controls, or conclusions on compliance with laws, regulations, and contracts. KPMG is solely responsible for the attached audit report, dated November 9, 2010, and the conclusions expressed in the report.

An audit action plan is not required to address the significant deficiency reported by KPMG. We have asked the Chief Information Officer to provide a plan that addresses the related specific recommendations included in the separate, limited-distribution information technology general controls report (report no. 11-009-IT) in accordance with Department Administrative Order 213-5, *Audit Resolution and Follow-up*.

If you wish to discuss the contents of this report, please call me at (202) 482-4661, or Ann C. Eilers, Principal Assistant Inspector General for Audit and Evaluation, at (202) 482-2754.

We appreciate the cooperation and courtesies USPTO extended to KPMG and my staff during the audit.

Attachment

cc: Scott B. Quehl, Chief Financial Officer and Assistant Secretary for Administration
Anthony P. Scardino, Chief Financial Officer, USPTO
John B. Owens II, Chief Information Officer, USPTO

KPMG LLP
2001 M Street, NW
Washington, DC 20036-3389

Independent Auditors' Report

Inspector General, U.S. Department of Commerce and
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office:

We have audited the accompanying consolidated balance sheets of the United States Patent and Trademark Office (USPTO) as of September 30, 2010 and 2009, and the related consolidated statements of net cost, and changes in net position and combined statements of budgetary resources for the years then ended (hereinafter referred to as "consolidated financial statements"). The objective of our audits was to express an opinion on the fair presentation of these consolidated financial statements. In connection with our fiscal year 2010 audit, we also considered the USPTO's internal control over financial reporting and tested the USPTO's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on these consolidated financial statements.

Summary

As stated in our opinion on the consolidated financial statements, we concluded that the USPTO's consolidated financial statements referred to above are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

Our consideration of internal control over financial reporting resulted in identifying certain deficiencies relating to general information technology controls that we consider to be, collectively, a significant deficiency, as defined in the Internal Control Over Financial Reporting section of this report.

We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined in the Internal Control Over Financial Reporting section of this report.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* and OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

The following sections discuss our opinion on the USPTO's consolidated financial statements; our consideration of the USPTO's internal control over financial reporting; our tests of the USPTO's compliance with certain provisions of applicable laws, regulations, and contracts; and management's and our responsibilities.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of the United States Patent and Trademark Office as of September 30, 2010 and 2009, and the related consolidated statements of net cost and changes in net position and the combined statements of budgetary resources for the years then ended.

KPMG

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In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the United States Patent and Trademark Office as of September 30, 2010 and 2009, and its net costs, changes in net position, and budgetary resources for the years then ended, in conformity with U.S. generally accepted accounting principles.

The information in the Management's Discussion and Analysis and Required Supplementary Information sections is not a required part of the consolidated financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The consolidated statements of cash flow for the years ended September 30, 2010 and 2009 are presented for purposes of additional analysis of the consolidated financial statements and are not a required part of the consolidated financial statements. The consolidated statements of cash flow for the years ended September 30, 2010 and 2009 have been subjected to the auditing procedures applied in the audits of the consolidated financial statements and, in our opinion, are fairly stated, in all material respects, in relation to the consolidated financial statements taken as a whole. The information in the Other Accompanying Information section and the information on pages 3 and 64 through 65 are presented for purposes of additional analysis and are not required as part of the consolidated financial statements. This information has not been subjected to auditing procedures and, accordingly, we express no opinion on it.

Internal Control Over Financial Reporting

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the Responsibilities section of this report and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. In our fiscal year 2010 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting described in Exhibit I that we consider to be a significant deficiency in internal control over financial reporting. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

> General information technology controls. We found that although the USPTO has taken corrective actions to address certain information technology (IT) control weaknesses, general IT weaknesses still exist. Despite the positive efforts made by the USPTO, the USPTO needs to make continued improvement in its IT general control environment to fully ensure that financial data being processed on the USPTO's systems is complete, reliable, and has integrity.

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Exhibit II presents the status of the prior year significant deficiency.

We noted certain additional matters that we have reported to management of the USPTO in a separate letter.

Compliance and Other Matters

The results of our tests of compliance described in the Responsibilities section of this report disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 07-04.

* * * * * * *

Responsibilities

Management's Responsibilities. Management is responsible for the consolidated financial statements; establishing and maintaining effective internal control; and complying with laws, regulations, and contracts applicable to the USPTO.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2010 and 2009 consolidated financial statements of the USPTO based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin No. 07-04. Those standards and OMB Bulletin No. 07-04 require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control over financial reporting. Accordingly, we express no such opinion.

An audit also includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall consolidated financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2010 audit, we considered the USPTO's internal control over financial reporting by obtaining an understanding of the USPTO's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control over financial reporting. We did not test all controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

As part of obtaining reasonable assurance about whether the USPTO's fiscal year 2010 consolidated financial statements are free of material misstatement, we performed tests of the USPTO's compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of the consolidated financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 07-04. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to the USPTO. However, providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

The USPTO's response to the finding identified in our audit is presented in Exhibit I. We did not audit the USPTO's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the USPTO management, the U.S. Department of Commerce management, the U.S. Department of Commerce Office of Inspector General, OMB, the U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

November 9, 2010

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Exhibit I – Significant Deficiency

Financial Management Systems Need Improvement (Repeat Condition)

Effective Information Technology (IT) general controls add assurance that data used to prepare and report financial information and statements is complete, reliable, and has integrity. Our fiscal year 2010 IT assessment, performed in support of the fiscal year 2010 financial statement audit, was focused on the IT general controls over the USPTO's major financial management systems and supporting network infrastructure, using GAO's Federal Information System Controls Audit Manual (FISCAM). The five FISCAM IT general control review areas, and our related findings, are as follows:

- **Security management**. These controls provide a framework and continuing cycle of activity for assessing risk, developing and implementing effective security procedures, assigning responsibilities, and monitoring the effectiveness of these procedures. The Office of Management and Budget (OMB) Circular A-130, *Management of Federal Information Resources*, provides key guidance for establishing and maintaining an entity-wide information security program. The Department of Commerce IT Security Program Policy and Minimum Implementation Standards reiterates OMB Circular A-130 guidance and implements key elements of such guidance as Department-wide policy.

  During our fiscal year 2010 audit, we did not identify weaknesses related to security management controls.

- **Access controls**. In close concert with an organization's security management, access controls for general support systems and financial systems should provide reasonable assurance that computer resources such as data files, application programs, and computer-related facilities and equipment are protected against unauthorized modification, disclosure, loss, or impairment. Access controls are facilitated by an organization's entity-wide security program. Such controls include physical controls and logical controls.

  The objectives of limiting access are to ensure that users have only the access needed to perform their duties; that access to very sensitive resources, such as security software programs, is limited to very few individuals; and that employees are restricted from performing incompatible functions or functions beyond their responsibility. This is reiterated by Federal guidelines. For example, OMB Circular A-130 and supporting NIST Special Publications provide guidance related to the maintenance of technical access controls. In addition, the Department of Commerce IT Security Program Policy and Minimum Implementation Standards contain many requirements for operating Department IT devices in a secure manner.

  During fiscal year 2010, we noted that USPTO should improve access controls by (1) appropriately removing and periodically re-certifying viewing data center access, (2) strengthening network and financial database password controls, (3) preventing the use of shared user accounts and passwords, (4) disabling inactive network and database user accounts, (5) defining auditable events and activities and consistently monitoring audit logs, (6) strengthening access authorizations and recertification efforts, (7) strengthening session locks, and (8) implementing, monitoring, tracking, and documenting incident response training to Computer Incident Response Team (CIRT) contractors. We recognize that USPTO has certain compensating controls in place to help reduce the risk of the identified

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Exhibit I – Significant Deficiency, continued

vulnerabilities, and we have considered such compensating controls as part of our financial statement audit.

- **Configuration management**. Configuration management involves the identification and management of security features for all hardware, software, and firmware components of an information system at a given point and systematically controls configuration changes throughout the system's life cycle. Establishing controls over modifications to information system components and related documentation helps to ensure that only authorized systems and related program modifications are implemented. This is accomplished by instituting policies, procedures, and techniques to help ensure that hardware, software and firmware programs and program modifications are properly authorized, tested, and approved, and that access to and distribution of programs is carefully controlled. Without proper controls, there is a risk that security features could be inadvertently or deliberately omitted or turned off, or that processing irregularities or malicious code could be introduced into the IT environment.

  Effective configuration management prevents unauthorized changes to information system resources and provides reasonable assurance that systems are configured and operating securely and as intended. Without effective configuration management, users do not have adequate assurance that the system and network will perform as intended and to the extent needed to support missions.

  During fiscal year 2010, we noted that configuration management controls should be improved by (1) consistently applying patches and configuring devices for the protection against external and internal vulnerabilities, (2) implementing documented and approved configuration management policy and procedures, (3) configuring audit settings so that they are consistent with approved baselines, and (4) conducting vulnerability scans as frequently as set in the Department's policy.

- **Segregation of duties**. Work responsibilities should be segregated so that an individual does not control more than one critical function within a process. Inadequately segregated duties increase the risk that erroneous or fraudulent transactions could be processed, improper program changes could be implemented, and computer resources could be damaged or destroyed. Key areas of concern for segregation of duties involve duties among major operating and programming activities, including duties performed by users, application programmers, and data center staff. Policies outlining individual responsibilities should be documented, communicated, and enforced. The prevention and/or detection of unauthorized or erroneous actions by personnel require effective supervision and review by management, as well as formal operating procedures.

  During fiscal year 2010, we noted that segregation of duties controls should be improved by preventing developers and programmers from having conflicting access to the production environment.

- **Contingency planning**. Losing the capability to process, retrieve, and protect information maintained electronically can significantly affect an agency's ability to accomplish its mission. For this reason, an agency should have: (1) procedures in place to protect information resources and minimize the risk of unplanned interruptions, and (2) a plan to recover critical operations should interruptions occur.

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Exhibit I – Significant Deficiency, continued

During fiscal year 2010, we noted that contingency planning controls should be improved by continuing to develop an alternate processing site.

Recommendations

Specific recommendations are included in a separate limited distribution IT general controls report, issued as part of the fiscal year 2010 financial statement audit.

Management's Response

We agreed with our findings, conclusions, and recommendations related to improving the USPTO's financial management systems controls. The USPTO is in the process of developing corrective action plans to address the recommendations presented in the separate limited distribution IT general controls report.

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Exhibit II – Status of Prior Year Significant Deficiency

Reported Issue	Prior Year Recommendation	Fiscal Year 2010 Status
Financial Management Systems Need Improvement		
Weaknesses in general controls were identified in four FISCAM review areas.	The USPTO should monitor actions to ensure effective implementation of our recommendations.	Still considered a significant deficiency (see comments in Exhibit I).

Other Accompanying Information

Inspector General's Top Management Challenges Facing the USPTO

Each year, the Inspector General provides the management challenges for the Department of Commerce in accordance with the provisions of the Reports Consolidation Act of 2000 (PL 106-531). The IG's statement of management challenges can be found below. The USPTO is solely responsible for resolving one of the management challenges – USPTO: Improving the Efficiency of the Patent Office and Mitigating Financial Vulnerabilities. Reducing the Patent application backlog will help to support the Departments' overarching goals of advancing economic growth and creating job opportunities. The USPTO is also responsible for strengthening and enhancing information technology security on its infrastructure in support of resolving the Department-wide management challenge. In addition, while the USPTO does not issue grants, the USPTO has a shortage of skilled, specially trained contract personnel, which is a part of the overall Department-wide management challenge of managing acquisition and contract operations.

The Inspector General's Statement of Management Challenges

As FY 2011 begins, advancing economic growth and creating job opportunities remain two of the Department of Commerce's overarching goals. For the upcoming fiscal year, the Department plans to spend about $9 billion on a wide range of programs and initiatives to meet these objectives, and the Office of Inspector General (OIG) continues to support its efforts through our audits, evaluations, and investigations. In late November 2010, we will issue our annual report on the Department's top management challenges. The purpose of the report is to identify what we consider, from our oversight perspective, the most significant management and performance issues facing the Department in the coming fiscal year.

In the November 2010 report, we will identify eight management challenges. Several of these challenges are longstanding concerns. They include strengthening Department-wide information security, managing the cost and technical performance of the National Oceanic and Atmospheric Administration's (NOAA) environmental satellite acquisition programs, and reducing patent and trademark application backlogs. At the same time, the Department must address new concerns, such as overseeing the rapid disbursement of billions of dollars to stimulate the economy as a result of the American Recovery and Reinvestment Act (ARRA) of 2009. We are performing an ongoing body of work, and planning additional efforts, to help the Department effectively manage these and other emerging issues. The table on the following page compares the FY 2011 management challenges with those identified in FY 2010.

(continued)

Additionally, as required by the Office of Management and Budget (OMB) Circular A-136, our top management challenges report from FY 2010 briefly assessed the Department's progress in addressing the challenges identified. This statement contains a summary of the challenges from FY 2010. Our FY 2010 management challenge report is available on our Web site at *www.oig.doc.gov*.

The management challenges are not easily resolved; they may require the Department or its operating units to invest in new technologies or substantially change such areas as procedures, program activities, or organizational culture. To completely address a management challenge typically takes several fiscal years. The Department has been proactive in its efforts to address several challenges we have identified in previous years. For example, we recognize the commitment of the Secretary and his staff to the Office of the Secretary's restructuring initiatives, including establishing new leadership positions for performance management and program evaluation. Additionally, the Secretary recently began a comprehensive review of Department-wide acquisition processes to identify ways to strengthen and improve the quality of its acquisitions. While these initiatives should help to improve performance accountability, sustained leadership attention is needed to ensure desired results are achieved.

We welcome the opportunity to discuss these challenges and any comments you might have.

Inspector General
Todd J. Zinser

Comparison of FY 2011 and FY 2010 Top Management Challenges

Challenge	FY 2011	FY 2010
Department-wide: Strengthening Information Security	✓	✓
NOAA: Development and Acquisition of Environmental Satellite Programs	✓	✓
Department-wide: Managing Acquisition and Contract Operations1	✓	✓
ARRA: Enhancing Accountability and Transparency	✓	✓
USPTO: Improving the Efficiency of the Patent Office and Mitigating Financial Vulnerabilities	✓	✓
NOAA: Protecting Environment while Promoting Fishing Industry	✓	
Department-wide: Commerce Headquarters Renovation	✓	✓
Census: 2020 Decennial Planning	✓	✓
Census: Mitigate Issues with the 2010 Decennial		✓
Department-wide: Centralized Management and Oversight		✓
NOAA: Headquarters Leadership Structure		✓
Department-wide: Major Systems Acquisitions		✓
Department-wide: Grant and Contract Management Workforce		✓

[1] *This FY 2011 challenge combines elements from two FY 2010 challenges:* Major Systems Acquisitions and Grant and Contract Management Workforce.

TOP MANAGEMENT CHALLENGES FOR FY 2010

Challenge 1: Decennial Census – Mitigate Issues with the 2010 Decennial While Addressing Future Census Challenges

The mission of the 2010 Census—to succeed in counting each of the over 300 million people in more than 130 million households in the United States once, only once, and in the right place—is a massive undertaking with many moving parts. With a projected life-cycle cost estimate of $14.7 billion, the Bureau must integrate 44 separate operations (with a total of some 9,400 program- and project-level activities).

U.S. residents have by now received their forms, and the Census Bureau has built an extensive communications campaign and partnership program to encourage a prompt and accurate decennial response. The rate at which responses are returned will be critical in determining the overall cost of the census. Households that do not mail back forms will be visited by an enumerator during nonresponse follow-up (NRFU) operations. The most expensive decennial operation, NRFU is now estimated to cost $2.3 billion. The Bureau cannot predict with certainty the public's response rate and thus the total number of housing units that will have to be visited during this phase. Census estimates that costs will increase by about $85 million for every percentage point of addresses that census takers have to visit.

While much of the Bureau's plan appears to be on schedule, the efficiency and accuracy of NRFU are at some risk, and final decennial costs remain uncertain. The Bureau's ability to manage NRFU effectively, and thus control its cost, hinges on two systems: the paper-based operations control system (PBOCS) and the Decennial Applicant, Personnel, and Payroll System (DAPPS). Described by the Bureau as the "nerve center" of its field offices, PBOCS manages enumerator assignments and provides current information on enumerator productivity. DAPPS supports recruiting, applicant, personnel, and payroll processing and is therefore also critical to the smooth functioning of NRFU. Both systems support smaller early field operations such as those in rural areas where Census leaves a form for households to mail back (known as update/leave), doorstep interviews occurring in places such as Native American reservations (update/enumerate), and counting residents living in group situations and nontraditional households (group quarters enumeration, service-based enumeration, and enumeration of transitory locations). Both systems have experienced problems in testing and, more importantly, during field operations.

Census is on a very tight schedule to complete the PBOCS capabilities needed for NRFU and to resolve existing problems. Once NRFU begins, the system has no margin for error. Yet PBOCS development and testing remain behind schedule, and frequent outages and slow performance are impacting early operations. If not revamped for NRFU, these problems place the schedule and cost of this massive operation at serious risk. As a core requirement with a high level of uncertainty late in the decennial life cycle, PBOCS is one of the most significant decennial challenges facing the Department. While DAPPS also experienced outages and slow performance in early operations, a recent hardware upgrade appears to have significantly improved performance.

To contain decennial costs, better management of census fieldwork is essential. We found inefficiencies in wages, travel, and training during the address canvassing operation. Given the significantly larger scale of NRFU, Census must have effective internal controls in place and ensure that managers meticulously follow them during this operation.

Calendar year 2010 is also a critical time for the 2020 Census. The Bureau must begin to develop its 2020 decennial Census plans even though its workforce is already stretched thin by 2010 operations. Our work throughout the decade demonstrates that Census needs to identify more cost-effective approaches to the decennial and seriously consider using such alternatives as administrative records, the Internet, and targeted address canvassing. These and other possible approaches could contain costs while increasing accuracy and efficiency.

Challenge 2: IT Security – Continue Enhancing the Department's Ability to Defend its Systems and Data Against Increasing Cyber Security Threats

Cyber attacks and other security threats persistently challenge the Department in ensuring information confidentiality, integrity, and availability. Commerce continues to invest in and otherwise enhance IT security, but more work is needed. The annual *Performance and Accountability Report* has reported IT security as a material weakness since FY 2001. Based on our FY 2009 FISMA assessments, we again recommended—and the Department agreed—that the material weakness remain until more improvements are made.

We completed two United States Patent and Trademark Office (USPTO) assessments during this reporting period. While both revealed improvements, we did not have sufficient evidence of consistent, effective security practices to support removing USPTO's IT security material weakness. However, USPTO's management concluded that IT security issues had been resolved and did not report the material weakness in its FY 2009 PAR.

Our evaluations have focused on the Department's process for planning, implementing, and assessing security controls, including continuous monitoring, for the more than 300 systems employed by various operating units (including USPTO), each with its own management structure. We found deficiencies in security planning (including defining security requirements and implementing controls), assessments (leaving risks inadequately understood), vulnerability remediation (through required plans of action and milestones), and continuous monitoring. In recent years we have increased our efforts to independently assess technical security controls and have consistently found vulnerabilities requiring remediation.

We also found, in an FY 2009 audit, that the Department needs to improve the development, guidance, and performance management of its IT security workforce. The Department has taken positive steps in response, including plans to enhance employee development and training as well as to require professional certifications for employees with significant IT security responsibilities.

Challenge 3: NOAA Environmental Satellites – Effectively Manage Technical, Budgetary, and Governance Issues Surrounding the Acquisition of NOAA's Two Environmental Satellite Systems

The National Oceanic and Atmospheric Administration (NOAA) is modernizing its environmental monitoring capabilities, in part by spending an estimated total of nearly $20 billion on two critical satellite systems: the Joint Polar Satellite System (JPSS) and the Geostationary Operational Environmental Satellite-R Series (GOES-R). Both JPSS' predecessor program, the National Polar-orbiting Operational Environmental Satellite System (NPOESS), and GOES-R have a history of cost overruns, schedule delays, and reduced performance capabilities.

As a result of the fall 2009 decision to significantly restructure the NPOESS program, JPSS was established as NOAA's component of the polar environmental satellite system, which is designed to provide global environmental data to monitor Earth, support the Nation's economy, and protect lives and property. JPSS is intended to meet a portion of the requirements originally established under the NPOESS program. NPOESS was managed jointly by NOAA, the National Aeronautics and Space Administration (NASA), and the Department of Defense, with NOAA and Defense equally sharing NPOESS costs. Under the restructuring, NOAA/NASA and Defense will acquire satellites separately. The life-cycle cost estimate for JPSS is $11.9 billion.

At its 1995 inception, NPOESS planned to purchase six satellites at a $6.5 billion cost, with a first launch in 2008. But problems with a key sensor raised costs and delayed the date of the first launch, even as the number of satellites in the system was reduced to four. In March 2009, with estimated life-cycle costs totaling $14 billion, the first launch was delayed to 2014 because of continuing sensor problems; the NASA-led NPOESS Preparatory Project (NPP) launch date was also delayed, from 2010 to 2011. NPP was planned as a risk-reduction effort to test NPOESS' new instruments in flight, but will now be used operationally as a gap-filler between the current NOAA polar-orbiting operational environmental satellite and the first JPSS satellite.

The transition to the restructured program will continue into FY 2011. The JPSS program will continue to develop instruments needed to fulfill NOAA's responsibilities. The JPSS management structure will be similar to GOES-R, in which NOAA manages the overall program with assistance from NASA. NOAA will acquire two JPSS satellites and will continue climate sensor acquisitions under the NOAA climate program. Defense is evaluating the best approach for maintaining continuity of its polar satellites. It is critical that NOAA and Defense implement their satellite programs on schedule to reduce the risk of gaps in coverage.

Budget increases, capability reductions, and delays have also plagued the GOES-R program. The projected cost has increased from $6.2 billion to $7.7 billion; a major sensor was removed; the number of satellites to be purchased was reduced from four to two; and the launch readiness dates for the first two satellites have slipped by 6 months to October 2015 and February 2017. The GOES-R system is intended to offer an uninterrupted flow of high-quality data for short-range weather forecasting and warning, as well as provide climate research data through 2028. Working with NASA, NOAA is responsible for managing the entire program and for acquiring the ground segment, which is used to control satellite operations and to generate and distribute instrument data products.

According to program documentation, overall GOES-R program acquisition is on track and within budget to meet the revised launch schedule. However, any further delays in the satellite's launch readiness will increase NOAA's risk of not meeting its requirement to have an on-orbit spare and two operational GOES satellites available to monitor the Pacific and Atlantic basins in 2015.

Both the JPSS and GOES-R programs will continue to require close oversight to minimize further disruption to programs and prevent any satellite coverage gaps, which could compromise the United States' ability to forecast weather and monitor climate. Such a compromise would have serious consequences for the Nation's safety and security.

Challenge 4: American Recovery and Reinvestment Act – Meet the Challenges of Accountability and Transparency with Effective Oversight of Program Performance, Compliance, Spending, and Reporting

The Department continues to implement programs under the American Recovery and Reinvestment Act (ARRA) of 2009, which provided Commerce with $7.9 billion. The Office of Inspector General (OIG) ARRA oversight priorities include agency and recipient reporting, the Broadband Technology Opportunities Program (BTOP), and National Institute of Standards and Technology (NIST) and NOAA construction contracts and grants.

The sheer amount of ARRA money received by the Department, coupled with the act's unique requirements, makes ensuring appropriate spending—while also providing economic stimulus as quickly as possible—a particular challenge. The Department's operating units must spend funds appropriately with little time to prepare for the many new and expanded programs, grants, and contracts established under the act.

As of March 31, 2010, the Department had obligated approximately $2.8 billion and spent approximately $890 million. Although spending volumes are relatively low, all funds must be obligated by September 30, 2010. The need to distribute funds quickly to communities and businesses increases the risks of fraud, waste, and abuse in both ARRA-funded activities and those Department operations with more traditional funding mechanisms. ARRA operating units need sufficient resources to ensure that programs deliver as intended, while providing oversight to guard against misuse of funds.

The ARRA substantially increases the Department's contracting and grants workload, particularly at NIST and NOAA, whose grants and contracts offices must manage not only the more than $1.4 billion they received under ARRA, but the $4.7-billion BTOP program as well. NTIA relies on NIST and NOAA for grants administration because it does not have its own staff and systems for this purpose. Such increases place added pressure on these operating units to hire and retain qualified personnel.

The ARRA provided a relatively significant funding increase for NIST and NOAA construction projects. To complete them successfully, NIST and NOAA need to dedicate construction managers across ARRA grants, contracts, and regular appropriation-funded projects. Our oversight will focus on this high-risk area, including assessments of compliance with contract and grant requirements and project results.

We recently reviewed the adequacy of key IT and operational controls of the primary (source) grants, contracts, and/or financial systems for Census, the Economic Development Administration (EDA), NIST, NOAA, and NTIA to determine whether their controls ensure that the Department reports posted on *Recovery.gov* are complete, accurate, and reliable. Generally, the Department systems we reviewed had adequate data input/edit controls. However, the lack of automated data transmission or interfaces from the grants systems to the Department's financial system could lead to errors.

Without additional automation, it will be more difficult for Department operating units to effectively manage their own reporting with the increased volume of grants and contracts. Ensuring complete and accurate recipient reporting will also be difficult. Additional automation would add reporting process efficiencies and would decrease the risks of reporting errors and delays.

We identified several concerns in the BTOP pre-award process and expressed concern with whether NTIA has identified and obtained needed resources to execute a grant program of BTOP's magnitude in the ARRA's timeframe. According to the act, BTOP must spend all of its $4.7 billion in grant funding by September 30, 2010. Over the next 6 months, NTIA must address several challenges as it concurrently monitors first-round grant awards and issues new awards. Challenges include (1) coordinating with other federal organizations supporting contract and grants management and (2) overseeing contractors implementing BTOP. In the next semiannual period, we will issue a report detailing our concerns with BTOP's program management and pre-award process.

Challenge 5: USPTO – Address the Patent Office's Resource and Process Issues

With an enacted budget of $1.7 billion in FY 2010 and a $2 billion FY 2011 budget request for patent operations, USPTO continues to struggle with increasing patent backlogs and the need to improve patent examination efficiency and quality.

Since FY 2000, the number of patent examiners has more than doubled, from 2,900 to 6,200. But the length of time to process a patent has increased 40 percent from 25 to 35 months. Further, the backlog of applications awaiting review increased 139 percent, from 308,000 to 736,000.

Over the years, USTPO has increased the number of patent examiners to address the growing backlog; however, simply adding to the workforce will not suffice. USPTO must consider how to reform and reengineer various components of the patent application process and must update its IT systems to ensure timely and high-quality application review.

USPTO must also address funding mechanisms and fee structure challenges. USPTO is now funded entirely by application, maintenance, and other fees paid by patent and trademark applicants and owners. Congress sets many of the fees legislatively and establishes a ceiling, through the appropriations process, for the maximum amount of fees USTPO can spend in a given year. For FY 2011, the Administration proposes a 15-percent increase in certain patent fees to generate additional revenue to cover operating expenses. It also proposes that USTPO have authority to set fees and to establish an operating reserve to manage operations on a multiyear basis.

In November 2008, our *Top Management Challenges* report suggested that USTPO's unique financing structure could become increasingly risky. Subsequent downturns in the U.S. and global economies quickly showed the structure's vulnerabilities. In the President's FY 2009 budget, USPTO estimated that it would collect over $1.8 billion in patent fees. However, by the end of that year, patent fee collections totaled just over $1.6 billion. Multiple factors contributed to the difference, including a reduction in the number of patent applications filed and a decline in maintenance fees collected for existing patents. To align expenses with actual patent fee collections, USTPO deferred hiring patent examiners and curtailed or suspended overtime and training. USPTO currently projects a FY 2010 surplus, but does not have authority to spend above its legislatively mandated appropriation ceiling.

Potential fee shortfalls and fluctuations introduce inherent instability to the funding structure. This unstable structure increases the risk to USTPO's ability to operate effectively in current and future years, and its capacity to ensure that America's intellectual property (IP) system encourages investment in innovation and contributes to a strong global economy. More immediately, USTPO may not be able to process as many patent applications, which will add to the backlog instead of working toward reducing it. In effect, fewer maintenance fees will be available to collect in the future because fewer patents are being issued today.

The Under Secretary of Commerce for IP, who is also the Director of USPTO, has publicly acknowledged these and other difficulties. A 5-year plan in the President's FY 2011 budget sets forth bold goals, such as reducing the time it takes for initial patent application review to 10 months (from the present 26 months) by FY 2013. Similarly, by FY 2014, USPTO's goal to decide a patent application is 20 months, down from the present 35.

OTHER ISSUES REQUIRING SIGNIFICANT MANAGEMENT ATTENTION

Centralized Management and Oversight

It will be a complex, but necessary, organizational challenge for the Department to establish consistent internal operations to support all of its operating units. However, by doing so, it will be better positioned to provide efficient and reliable support to the Secretary's priorities. The Department needs to continue its efforts to centralize management and oversight in order to make the whole organization more efficient, consistent, and productive. The Department's operating units have long-standing and independent business models, cultures, and practices. This decentralized structure has created obstacles to Department efforts to integrate and administer internal processes like financial services, human resources, grant and contract management, and major acquisitions.

For example, the administrative management structure of the Department gives its Chief Information Officer (CIO) little authority over the IT security operations of the Department's operating units, making the cyber security challenge (Challenge 2, above) even more difficult to manage. In addition, prior to the ARRA, the Department awarded an average of $1.5 billion in grants to over 1,600 recipients annually and approximately $2 billion in contracts to nearly 6,000 contractors annually. Yet the Department's Office of Acquisition Management has similarly limited authority over the various operating units' grants and procurement offices, resulting in inconsistent approaches to grant and contract management across the Department and adding to the difficulty in overseeing the effectiveness of these operations and programs.

Efforts to achieve greater consistency have been slow. To illustrate, grants are managed by three of the Department's seven grant-making agencies, which cross-service the other grant agencies using three different IT systems. The Department has been working since 2003 to migrate all Department grants management operations to NOAA's Grants Online system, but this effort is not projected to be completed until 2011.

Major Systems Acquisition

In a related challenge, the Department and its operating units must develop effective processes for planning, managing, and overseeing major system acquisitions. In FY 2010, the Department plans to spend $3 billion on IT investments (excluding grants). The lack of cohesive policies and procedures for program and project management and oversight has contributed to many of these acquisitions—such as the decennial handheld computers, as well as the NPOESS and GOES-R environmental satellite programs—becoming mired in cost overruns and developmental delays. This weakness also leaves the Department without adequate visibility into progress and risks on major system acquisitions, which results in costly delays in identifying and correcting problems.

The Department has not been successful in updating its policies and oversight approach for major systems acquisition. The effort was begun in 2006 in response to OIG and GAO recommendations, and while some improvements in Departmental oversight have been made, formal policies and governance have yet to be established. The Deputy Secretary recently convened a steering committee to develop a Department-wide major investment oversight policy. Developing formal, unified policies and procedures for complicated acquisitions will ultimately save time, money, and effort for all the Department's operating units. The Department must exercise effective oversight to ensure system acquisitions are adequately planned and conducted according to best practices, and that they meet their cost, schedule and performance goals.

Contracts and Grants Management Workforce

Sufficient contracts and grants management workforce staffing has been a long-standing issue for the Department. Now, primarily as a result of the ARRA, the Department and its operating units issue more grants and contracts than ever.

According to Department data, more than 1,500 Commerce employees hold certifications in various acquisition positions. While the Department does not track the number of grants personnel, we recently conducted a survey of the sufficiency and qualifications of the Recovery Act acquisition and grants workforce. Based on our survey, the grants workforce for the five Department operating units receiving ARRA funding totaled over 800 employees. This includes grant officers, grants program managers, and grants specialists.

Despite these numbers, however, a serious shortage of skilled, specially trained staff hampers the Department's ability to appropriately issue and oversee grants and contracts. To ensure that grants and contracts are issued effectively and funds are properly spent, the Department must build up the size and skill of this workforce and improve its oversight processes.

NOAA Headquarters Leadership Structure

NOAA continues to face the challenge of carrying out its multifaceted mission to understand and predict changes in Earth's environment and to conserve and manage coastal and marine resources to meet our Nation's economic, environmental, and recreational needs. NOAA is realigning its headquarters leadership structure to streamline decision making and provide greater policy-level attention to day-to-day management and oversight of its programs. The realignment is intended to provide additional strategic guidance and leadership direction for NOAA's stewardship responsibilities, including fisheries.

One of the key mission components is management, research, and services related to the protection and rational use of living marine resources. Our 2008 *Top Management Challenges* report discussed NOAA's need to balance conservation and commercial fishing. Over the past 18 months, we have issued several reports that demonstrate, in particular, the difficulty of achieving this balance. In a 2009 report, we evaluated a series of issues regarding the work and scientific methods of the National Marine Fisheries Service's (NMFS) Northeast Fisheries Science Center. In 2010, we issued three reports on the programs and operations of the Office of Law Enforcement within NMFS and NOAA's Office of General Counsel for Enforcement and Litigation.

Department Headquarters Renovation

The Department's headquarters, the General Services Administration (GSA)-owned Herbert C. Hoover Building in Washington, D.C., is undergoing an extensive renovation. The renovation will take about 13 years and is estimated to cost almost $960 million. The project is being funded mostly by GSA and the ARRA. Because of its scale, the renovation has the potential to disrupt Commerce operations and affect its workforce. Accordingly, the Department has a primary interest in ensuring that the renovation is completed on time, within budget, and free of fraud. To meet this goal, Commerce and GSA need to provide comprehensive oversight throughout the project's life cycle.

Improper Payments Information Act (IPIA) Reporting Details

During FY 2010, the USPTO did not have any erroneous payments that exceeded the ten million dollar threshold. The USPTO continuously seeks to identify overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions.

In FY 2008, the USPTO participated in the Department of Commerce Consolidated Risk Assessment. The USPTO was assessed as low risk in all categories: Program/Activity Inherent Risk, Program/Activity Specific Risk Factors, Corporate Control Environment, and Procurement Management Functions. The Risk Assessment was reviewed in FY 2009 and FY 2010 and resulted in no changes being needed to the assessment.

Improper Payment Reduction Outlook *(Dollars in Millions)*

	FY 2009			FY 2010			FY 2011		
Program	Outlays	Improper Payment Percent	Improper Payment Dollars	Outlays	Improper Payment Percent	Improper Payment Dollars	Estimated Outlays	Improper Payment Percent	Improper Payment Dollars
Patent	$1,749	0.03%	$ 0.53	$ 1,730	0.01%	$ 0.02	$ 2,009	0.01%	$ 0.17
Trademark	192	0.03%	0.06	178	0.01%	–	217	0.01%	0.02
Intellectual Property	43	0.03%	0.01	45	0.01%	–	57	0.01%	0.00
Total	$1,984	0.03%	$ 0.60	$ 1,953	0.01%	$ 0.02	$ 2,283	0.01%	$ 0.19

Improper Payment Reduction Outlook *(Dollars in Millions) continued*

	FY 2012			FY 2013		
Program	Estimated Outlays	Improper Payment Percent	Improper Payment Dollars	Estimated Outlays	Improper Payment Percent	Improper Payment Dollars
Patent	$ 2,273	0.01%	$ 0.17	$ 2,435	0.01%	$ 0.17
Trademark	235	0.01%	0.02	253	0.01%	0.02
Intellectual Property	67	0.01%	0.00	71	0.01%	0.00
Total	$ 2,575	0.01%	$ 0.19	$ 2,759	0.01%	$ 0.19

During FY 2005, the USPTO entered into an agreement with the DOC to use an existing contract for recovery audit services. The audit was limited to closed obligations greater than $0.1 million. Further excluded were grants, travel payments, purchase card transactions, inter-agency agreements, government bills of lading, and gift and bequest transactions.

The audit was completed in FY 2006 and resulted in three invoices that were identified as recoverable improper payments, which are insignificant. The improper payments identified of $0.1 million were recovered during FY 2006. No recovery audit services were conducted during FY 2007, FY 2008, FY 2009, or FY 2010.

Summary of Recovery Audit Effort *(Dollars in Millions)*	
Amount subject to review ***# of invoices***	$ 159.4 4,433
Actual amount reviewed ***# of invoices***	$107.3 985

During FY 2008, the USPTO initiated an internal recovery audit program. Under this program, a letter similar to that sent by our recovery audit contractor is sent to vendors on a rotational basis. There were no items identified as recoverable. This program excludes grants, travel payment, purchase card transactions, inter-agency agreements, government bills of lading, and gift and bequest transactions. This program continued through FY 2010.

In FY 2010, the USPTO continued its reporting procedures to senior management and to the Department of Commerce on improper payments, identifying the nature and magnitude of any improper payments, along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified.

Summary of Financial Statement Audit and Management Assurances

Table 1. – Summary of Financial Statement Audit

Audit Opinion	**Unqualified**				
Restatement	No				
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
NONE	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

Table 2. – Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unqualified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unqualified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Conformance with Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0

Compliance with Federal Financial Management Improvement Act (FFMIA)		
	Agency	**Auditor**
Overall Substantial Compliance	Yes	Yes
1. System Requirements	Yes	Yes
2. Accounting Standards	Yes	Yes
3. USSGL at Transaction Level	Yes	Yes

The Nature of the Training Provided to USPTO Examiners

Examiner training is a key driver for achieving organizational excellence. Examiner training is focused on delivering high quality work products and providing customer service excellence. Patent examiners and Trademark examining attorneys received extensive legal, technical, and automation training in FY 2010. The USPTO has comprehensive training programs for new patent examiners and trademark examining attorneys, embedding a well-established curriculum including initial legal training, automation training, and training in examination practice and procedure. Automation training is provided to all examiners as new systems are deployed and existing systems are enhanced. New technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focuses on practices particular to a technology or was developed to address training needs identified through patent and trademark examination reviews or staff requests.

The USPTO training staff works with the Patent and Trademark organizations to address specific training concerns and serve as consultants to design specific internal programs to fit the education needs of each business unit. Training is reviewed and evaluated on an ongoing basis to ensure it is up-to-date and that coursework reflects developments and changes that have taken place in the industry.

In FY 2010, the Office of Patent Training (OPT) was awarded the DOC Silver Medal for the ISO 9001:2008 Certification of the new examiner training program in 2009. The OPT implemented two new examiner training programs: 20 day training program for new examiners with prior IP experience and a redesigned eight-month new examiner program into a two-phased 12-month program. OPT also developed a Refresher Training Program and delivered legal and procedural refresher training to experienced patent examiners.

The IP Experienced Examiner Training program is a 20-day program for new examiners with at least one year of IP experience. Training consists of high level legal training, with emphasis on procedural and automation training. Each class can accommodate up to 128 examiners that are placed in labs of 16 for small group discussions and tailored training in their specific fields of study.

A two-phased 12 month New Examiner Training Program is for new examiners with no prior IP experience. The first phase includes four months of training at the Patent Training Academy (PTA) before transitioned to the TCs. Phase 2 includes months five-12 when they return to the PTA each month to complete the first year training. Each Academy class can accommodate up to 144 examiners that are placed in labs of 16 for large group lectures and small group workshops. Examiners have access to tutors, library and search assistance, and automation guidance. In addition to extensive lecture and lab training, attendees spend considerable time learning their jobs through the examination of real patent applications in a setting that provides immediate assistance when needed. The training is structured to provide new examiners with advanced entry-level competencies, as well as providing instruction in a variety of skills that will produce well-rounded, motivated employees.

<table>
<tr><th colspan="2">PATENT EXAMINER TRAINING</th></tr>
<tr><td>U.S. Patent Training Academy
– Mandatory training for first year examiners</td><td>Training in the Academy

Two training programs: Intellectual Property (IP) Experienced Examiner Training and a two-phase 12-month program.

■ Intellectual Property (IP) Experienced Examiner Training Curriculum
This training includes enhanced instruction in automation, including classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications, areas such as: Classification Systems, Searching (classification, text), Claim Interpretation, Advanced Text Searching, training on TC Specific tools such as STN and Dialog, Writing an Effective Examiner's Answer, Appeal Procedure and Practice (Appeal Conference & Pre-Conference; Prevent Administrative Remand).

■ Two-Phased 12 Month New Examiner Training Curriculum
The legal and procedural training includes enhanced instruction in areas such as: Classification Systems, Searching (classification, text), Claim Interpretation, and Advanced Text Searching, Writing an Effective Examiner's Answer, Appeal Procedure and Practice (Appeal Conference & Pre-Conference; Prevent Administrative Remand).

Technical training includes: Introduction to examining applications in specific areas of technology, the current state of specific technologies, ongoing technology topics, etc.

Automation training includes classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications.

Life skills training includes: time management, physical security, ethics, stress management, balancing quality and production, professionalism, balancing work and personal life, diversity training, dealing with conflict and difficult situations, and benefits and financial planning basics.

Individual Development Plan

Examiners in both the IP Experienced and two-phased 12-month training programs have an Individual Development Plan (IDP). The IDP is composed of formal training courses, development assignments, and on-the-job training. The IDP is designed to assist the examiner from day one, through the first 24 months of employment. When the examiner transitions to the Technology Center from the program and graduates from the Academy the IDP will continue to enable the examiner to acquire the competencies essential to perform assigned duties and to prepare for further development.</td></tr>
</table>

PATENT EXAMINER TRAINING *(Continued)*	
Programs for all Examiners	**Legal, Practice & Procedure Training** ■ ***Examiner Refresher Training*** Courses developed to enhance examiners' knowledge and skills in procedural and legal topics pertaining to patent examination. Participants may enroll in one or more courses in consultation with their supervisor. ■ ***Legal Lecture Series*** Training offered periodically to Examiners based on major court decisions and office policies ■ ***In-House Patent Law and Evidence Course*** Training for Examiners on authoritative court decisions on statutory issues under 35 U.S.C. 101, 102, 103 and 112 and the handling of evidence during the examination of applications. **Continuing Education Series** Training for Patent examiners to enhance their technical and legal knowledge in the examination of patent applications. ***Courses Offered:*** ■ Non-Duty Hours Legal Studies Program (Budget Dependent) * ■ Non-Duty Hours Technical Training Program (Budget Dependent) * ■ Examiner Education Program (Budget Dependent) * ■ Technology Center Specific Technology Training (Budget Dependent) * ■ Updated Automation Tools Training (in coordination with SIRA)

* *These programs were suspended in FY 2010 due to budget constraints.*

TRADEMARK EXAMINING ATTORNEY TRAINING

In FY 2010 in the Trademark organization, using data gathered from the results of quality reviews that were analyzed, were used to prepare the content of on-line e-learning training materials for trademark examining attorneys. Live and Web cast Training Sessions and Modules were developed and released covering the following list of topics.

- Examining Claims of Acquired Distinctiveness Under Section 2(f)
- Examination Procedures for Section 2(a) Deceptiveness Refusals for Non-Geographic Marks
- Examination of Trade Dress Issues
- Unauthorized Practice in Trademark Cases
- Discussion of Revisions in the TMEP
- Industry training on trademark issues in the Ag-Chem industry sponsored by the International Trademark Association (INTA)
- Industry training on trademark issues regarding Famous Marks sponsored by the INTA
- Examiner-Led Mutilation of Mark Workshop

Law Office Presentations and Computer-Based Training Modules were developed and released covering the following list of topics.

- Evidence for Refusals/Requirements - When Needed, Types Available, and Strategies for Gathering
- Top Amendment Entry Issues in Trademark Examination
- X-SEARCH - Truncation, Pattern Matching and Limiting by Class
- Genericness issues
- Resources Index/Annotated TMEP
- Color Marks

Two Exam Guides and One Exam Note was published:

- Examination Guide 1-10 – Marks with Designs Replacing Letters
- Examination Guide 2-10 – Examination Procedures for Section 2(f) Claims in Part
- Examination Note 4-10 – EA-PA Examiner's Amendments and Priority Actions

Other Guidance covering the following topics was also published and released.

- TMEP Sixth Edition, Revision 2
- TMEP Sixth Edition – Answers to Follow-up Questions
- Highlights for TMEP Sixth Edition
- Rules of Practice & Federal Statutes
- Summary of Requirements For Signature, Recognition Of Representatives And Changing The Correspondence Address In Trademark Cases
- Series of Five Guides on Examination of Trade Dress Issues

Measures that Have Been Either Discontinued or Changed Since the FY 2009 PAR

Strategic Goal	Optimize patent quality and timeliness
Corresponding Measures	■ ***Patent in-process examination compliance rate*** ■ ***Patent allowance compliance rate***
Change	USPTO replaced these measures with: ■ Patent non-final in-process examination compliance rate ■ Patent final rejection/allowance compliance rate
Justification	The USPTO is seeking input from stakeholders on how quality should be measured. A Federal Register Notice has been published, asking for stakeholders' comments on quality. New quality measures will be introduced based on this feedback. In the meantime, the Agency shifted resources from end-process review to place more emphasis on front-end quality and reviewing non-final actions in order to prevent unnecessary re-work. This approach also allows the Agency to focus on final disposition of applications including final rejections.
Strategic Goal	**Provide domestic and global leadership to improve intellectual property policy, protection and enforcement worldwide**
Corresponding Measures	■ ***Percentage of counties on the USTR 301 list, awaiting WTO accession, or targeted by OIPPE for improvements that have positively amended or improved their IP system*** ■ ***Number of countries that implemented at least 75% of action steps which improve IP protections in the joint cooperation, action or work plans***
Change	USPTO replaced these measures with: ■ Percentage of prioritized countries that 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 IPR 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms
Justification	To better track USPTO's efforts in accomplishing the ***2010-2015 Strategic Plan***.

Fiscal Year 2010 USPTO Workload Tables

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TABLE 1

SUMMARY OF PATENT EXAMINING ACTIVITIES (FY 2006 - FY 2010)

(PRELIMINARY FOR FY 2010)[1]

Patent Examining Activity	2006	2007	2008	2009	2010
Applications filed, total[1,2]	**445,613**	**468,330**	**496,886**	**486,499**	**509,367**
Utility[3]	417,453	439,578	466,258	458,901	478,649
Reissue	1,204	1,057	1,080	1,035	1,144
Plant	1,103	1,002	1,331	988	1,015
Design	25,853	26,693	28,217	25,575	28,559
Provisional applications filed[2,4]	**121,471**	**132,459**	**143,034**	**134,438**	**140,551**
First actions					
Design	23,291	29,029	28,756	27,858	26,051
Utility, Plant, and Reissue	320,349	367,953	422,065	469,946	447,485
PCT/Chapter	25,034	24,741	51,300	20,797	15,574
Patent application disposals, total	**332,535**	**362,227**	**396,228**	**487,140**	**553,549**
Allowed patent applications, total	**186,593**	**195,530**	**187,607**	**214,523**	**264,119**
Design	20,721	25,747	24,735	25,403	23,681
Utility, Plant, and Reissue	165,872	169,783	162,872	189,120	240,438
Abandoned, total	**145,912**	**166,690**	**208,610**	**272,607**	**289,419**
Design	2,125	2,661	2,936	3,840	3,101
Utility, Plant, and Reissue	143,787	164,029	205,674	268,767	286,318
Statutory invention registration disposals, total	**30**	**7**	**11**	**10**	**11**
PCT/Chapter II examinations completed	**7,295**	**5,336**	**2,937**	**3,468**	**2,265**
Applications published[5]	**291,259**	**302,678**	**309,194**	**325,988**	**338,452**
Patents issued[2,6]	**183,187**	**184,376**	**182,556**	**190,122**	**233,127**
Utility	162,509	160,306	154,699	165,213	207,915
Reissue	500	548	662	398	861
Plant	1,106	979	1,179	1,096	978
Design	19,072	22,543	26,016	23,415	23,373
Pendency time of average patent application[7]	31.1	31.9	32.2	34.6	35.3
Reexamination certificates issued	329	367	575	698	776
PCT international applications received by USPTO as receiving office	52,524	54,214	54,488	47,572	45,701
National requirements received by USPTO as designated/elected office	48,158	52,339	57,345	57,879	61,587
Patents renewed under Public Law (Pub.L.) 102-204 [8]	324,913	343,894	353,923	304,096	361,668
Patents expired under Pub.L. 102-204 [8]	72,654	67,122	67,127	66,330	79,993

1 *FY 2010 data are preliminary and will be finalized in the FY 2011 PAR.*

2 *FY 2009 application data has been updated with final end of year numbers.*

3 *Utility patents include chemical, electrical and mechanical applications.*

4 *Provisional applications provided for in Pub.L. 103-465.*

5 *Eighteen-month publication of patent applications provided for in the American Inventors Protection Act of 1999, Pub.L.106-113.*

6 *Excludes withdrawn numbers. Past years' data may have been revised from prior year reports.*

7 *Average time (in months) between filing and issuance or abandonment of utility, plant, and reissue applications. This average does not include design patents.*

8 *The provisions of Pub.L.102-204 regarding the renewal of patents superseded Pub.L. 96-517 and Pub.L. 97-247.*

TABLE 2

PATENT APPLICATIONS FILED (FY 1990 - FY 2010)

(PRELIMINARY FOR FY 2010)[1]

Year	Utility	Design	Plant	Reissue	Total
1990	162,708	11,140	395	468	174,711
1991	166,765	10,368	414	536	178,083
1992	171,623	12,907	335	581	185,446
1993	173,619	13,546	362	572	188,099
1994	185,087	15,431	430	606	201,554
1995	220,141	15,375	516	647	236,679
1996	189,922	15,160	557	637	206,276
1997	219,486	16,272	680	607	237,045
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004	353,319	23,457	1,212	996	378,984
2005	381,797	25,304	1,288	1,143	409,532
2006	417,453	25,853	1,204	1,103	445,613
2007	439,578	26,693	1,002	1,057	468,330
2008	466,258	28,217	1,331	1,080	496,886
2009[2]	458,901	25,575	988	1,035	486,499
2010[1]	**478,649**	**28,559**	**1,015**	**1,144**	**509,367**

[1] *FY 2010 data are preliminary and will be finalized in the FY 2011 PAR.*

[2] *FY 2009 application data has been updated with final end of year numbers.*

TABLE 3 PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCE[1] (FY 1990 - FY 2010)

Year	Awaiting Action by Examiner	Total Applications Pending[2]
1990	104,179	244,964
1991	104,086	254,507
1992	112,201	269,596
1993	99,904	244,646
1994	107,824	261,249
1995	124,275	298,522
1996	139,943	303,720
1997	112,430	275,295
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
2007	760,924	1,112,517
2008	771,529	1,208,076
2009	735,961	1,207,794
2010	**726,331**	**1,163,751**

[1] *Includes patent applications pending at end of period indicated, and includes utility, reissue, plant, and design applications. Does not include allowed applications.*

[2] *Applications under examination, including those in preexamination processing.*

TABLE 4 PATENT PENDENCY STATISTICS (FY 2010)

UPR Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
Total UPR Pendency	**25.7**	**35.3**
Tech Center 1600 - Biotechnology & Organic Chemistry	22.8	36.0
Tech Center 1700 - Chemical and Materials Engineering	25.7	37.4
Tech Center 2100 - Computer Architecture, Software & Information Security	29.3	42.5
Tech Center 2400 - Networks, Multiplexing, Cable & Security	27.5	42.7
Tech Center 2600 - Communications	32.0	42.9
Tech Center 2800 - Semiconductor, Electrical, Optical Systems & Components	20.7	30.6
Tech Center 3600 - Transportation, Construction, Agriculture & Electronic Commerce	25.2	35.7
Tech Center 3700 - Mechanical Engineering, Manufacturing & Products	27.7	38.4

TABLE 5 SUMMARY OF TOTAL PENDING PATENT APPLICATIONS (FY 2010)

Stage of Processing	Utility, Plant and Reissue Applications	Design Applications	Total Patent Applications
Pending patent applications, total	**1,216,226**	**29,348**	**1,245,574**
In preexamination processing, total	**89,867**	**3,561**	**93,428**
Under examination, total	**1,050,266**	**19,386**	**1,069,652**
Undocketed	167,549	2,850	170,399
Awaiting first action by examiner	451,119	11,385	462,504
Subtotal applications awaiting first action by examiner[3]	708,535	17,796	726,331
Rejected, awaiting response by applicant	281,797	4,044	285,841
Amended, awaiting action by examiner	109,886	956	110,842
In interference	207	4	211
On appeal, and other[1]	39,708	147	39,855
In post-examination processing, total	**76,093**	**6,401**	**82,494**
Awaiting issue fee	58,335	5,226	63,561
Awaiting printing[2]	14,550	1,174	15,724
D-10s (secret cases in condition for allowance)	3,208	1	3,209

[1] *Includes cases on appeal and undergoing petitions.*

[2] *Includes withdrawn cases.*

[3] *Sub-category not previously reported; sub total is not included in the overall total of applications pending.*

TABLE 6

PATENTS ISSUED (FY 1990 - FY 2010)[1]

Year	Utility[2]	Design	Plant	Reissue	Total
1990	88,972	7,176	295	282	96,725
1991	91,819	9,387	318	334	101,858
1992	99,406	9,612	336	375	109,729
1993	96,675	9,946	408	302	107,331
1994	101,270	11,138	513	346	113,267
1995	101,895	11,662	390	294	114,241
1996	104,900	11,346	338	291	116,875
1997	111,977	10,331	400	267	122,975
1998	139,297	14,419	577	284	154,577
1999	142,852	15,480	436	393	159,161
2000	164,486	16,718	453	561	182,218
2001	169,571	17,179	563	504	187,817
2002	160,839	15,096	912	465	177,312
2003	171,493	16,525	1,178	394	189,590
2004	169,295	16,533	998	343	187,169
2005	151,077	13,395	816	195	165,483
2006	162,509	19,072	1,106	500	183,187
2007	160,306	22,543	979	548	184,376
2008	154,699	26,016	1,179	662	182,556
2009	165,213	23,415	1,096	398	190,122
2010[3]	**207,915**	**23,373**	**978**	**861**	**233,127**

[1] *Past years' data may have been revised from prior year reports.*

[2] *Includes chemical, electrical, and mechanical applications.*

[3] *FY 2010 data is preliminary.*

TABLE 7 PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES[1] (FY 2006 - FY 2010)[2]

State/Territory	2006	2007	2008	2009[2]	2010[3]	State/Territory	2006	2007	2008	2009[2]	2010[3]
Total	**236,012**	**247,898**	**257,818**	**246,777**	**N/A**	Nebraska	532	689	592	504	N/A
						Nevada	1,426	1,629	1,996	1,680	N/A
Alabama	837	886	996	912	N/A	New Hampshire	1,474	1,450	1,564	1,510	N/A
Alaska	86	82	88	95	N/A	New Jersey	8,973	8,649	9,428	9,622	N/A
Arizona	4,123	4,486	4,460	3,927	N/A	New Mexico	802	960	857	814	N/A
Arkansas	365	406	420	418	N/A	New York	14,595	15,518	16,838	15,098	N/A
California	57,608	63,027	66,370	66,132	N/A	North Carolina	5,427	5,841	7,008	5,803	N/A
Colorado	4,889	4,918	4,898	5,019	N/A	North Dakota	217	218	178	207	N/A
Connecticut	4,368	4,281	4,326	4,009	N/A	Ohio	7,508	8,104	7,791	7,528	N/A
Delaware	897	954	922	904	N/A	Oklahoma	1,079	1,129	1,048	1,052	N/A
District of Columbia	223	250	262	261	N/A	Oregon	5,197	4,841	4,487	3,911	N/A
Florida	7,896	8,184	8,480	7,839	N/A	Pennsylvania	7,448	7,811	7,951	7,568	N/A
Georgia	4,906	4,818	4,946	5,051	N/A	Rhode Island	652	716	740	666	N/A
Hawaii	245	294	300	293	N/A	South Carolina	1,541	1,506	1,585	1,596	N/A
Idaho	3,114	2,495	1,905	1,544	N/A	South Dakota	170	198	193	220	N/A
Illinois	9,108	9,323	9,340	8,985	N/A	Tennessee	2,357	2,320	2,010	2,034	N/A
Indiana	3,085	3,178	3,345	3,181	N/A	Texas	14,803	15,886	17,339	15,667	N/A
Iowa	1,580	1,490	1,641	1,481	N/A	Utah	2,304	2,391	2,516	2,594	N/A
Kansas	1,355	1,475	1,587	1,671	N/A	Vermont	983	1,001	1,309	616	N/A
Kentucky	1,184	1,129	1,215	1,132	N/A	Virginia	3,242	3,554	3,532	3,402	N/A
Louisiana	808	838	709	795	N/A	Washington	10,444	11,163	12,602	12,619	N/A
Maine	382	415	411	344	N/A	West Virginia	309	294	274	300	N/A
Maryland	3,731	3,840	3,694	3,503	N/A	Wisconsin	4,453	4,631	4,341	4,054	N/A
Massachusetts	10,506	11,218	11,534	11,417	N/A	Wyoming	147	198	183	158	N/A
Michigan	7,964	8,249	8,447	7,881	N/A	Puerto Rico	75	70	70	82	N/A
Minnesota	7,755	7,997	8,164	7,805	N/A	Virgin Islands	7	10	10	11	N/A
Mississippi	367	329	320	337	N/A	U.S. Pacific Islands[4]	2	3	-	1	N/A
Missouri	2,166	2,273	2,335	2,285	N/A	United States[5]	6	2	3	-	N/A
Montana	291	281	258	239	N/A						

- *Represents zero.*

1 *Data include utility, plant, design, and reissue applications.*

2 *Finalized data for FY 2006 to 2009 provided.*

3 *FY 2010 data should be finalized in the FY 2011 PAR.*

4 *Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.*

5 *State/Territory information not available.*

TABLE 8

PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES[1] (FY 2009 - FY 2010)

State/Territory	2009[4]	2010	State/Territory	2009[4]	2010
Total	**93,727**	**115,866**	Nebraska	231	235
			Nevada	408	612
Alabama	345	492	New Hampshire	567	780
Alaska	48	43	New Jersey	3,273	4,164
Arizona	1,853	2,079	New Mexico	309	449
Arkansas	132	210	New York	6,217	7,383
California	22,973	28,563	North Carolina	2,277	2,810
Colorado	1,933	2,381	North Dakota	82	118
Connecticut	1,645	2,024	Ohio	2,989	3,837
Delaware	335	399	Oklahoma	426	551
District of Columbia	64	85	Oregon	2,094	2,288
Florida	2,804	3,585	Pennsylvania	3,020	3,689
Georgia	1,616	2,108	Rhode Island	314	340
Hawaii	94	119	South Carolina	572	613
Idaho	1,044	1,125	South Dakota	54	76
Illinois	3,567	4,235	Tennessee	791	975
Indiana	1,205	1,591	Texas	6,417	7,618
Iowa	692	789	Utah	829	1,119
Kansas	519	687	Vermont	545	618
Kentucky	435	606	Virginia	1,153	1,627
Louisiana	288	383	Washington	4,632	5,884
Maine	129	196	West Virginia	93	131
Maryland	1,420	1,614	Wisconsin	1,830	2,170
Massachusetts	3,880	5,003	Wyoming	59	79
Michigan	3,525	4,194	Puerto Rico	18	26
Minnesota	2,902	3,773	Virgin Islands	3	3
Mississippi	126	183	U.S. Pacific Islands[2]	-	1
Missouri	850	1,110	United States[3]	1	2
Montana	99	91			

- *Represents zero.*

[1] *Data include utility, design, plant, and reissue patents.*

[2] *Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.*

[3] *No State indicated in database.*

[4] *Finalized data for FY 2009 provided.*

TABLE 9 UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES[1] (FY 2006 - FY 2010)

Residence	2006	2007	2008	2009[2]	2010[3]
Total	**209,601**	**220,432**	**239,068**	**239,722**	**N/A**
Afghanistan	-	-	-	1	N/A
Albania	-	-	-	1	N/A
Algeria	2	3	1	-	N/A
Andorra	-	5	8	5	N/A
Anguilla	1	-	-	3	N/A
Antigua & Barbuda	-	2	1	1	N/A
Argentina	133	166	139	151	N/A
Armenia	10	3	9	2	N/A
Australia	3,078	3,612	4,194	4,211	N/A
Austria	1,200	1,417	1,785	1,713	N/A
Azerbaijan	4	1	1	3	N/A
Bahamas	18	13	20	16	N/A
Bahrain	1	1	-	2	N/A
Bangladesh	-	-	1	-	N/A
Barbados	2	6	7	6	N/A
Belarus	13	15	11	7	N/A
Belgium	1,578	1,700	1,748	1,917	N/A
Belize	-	-	4	1	N/A
Benin	-	-	1	-	N/A
Bermuda	8	4	8	8	N/A
Bolivia	2	2	3	4	N/A
Bosnia & Herzegovina	-	3	6	-	N/A
Brazil	333	385	499	497	N/A
British Virgin Islands	7	11	10	11	N/A
Brunei Darussalam	-	1	-	1	N/A
Bulgaria	52	49	83	114	N/A
Burkina Faso	-	1	-	-	N/A
Burundi	-	-	1	-	N/A
Cameroon	1	3	1	9	N/A
Canada	10,243	10,788	11,436	11,250	N/A
Cayman Islands	2	4	6	10	N/A
Chad	1	-	-	-	N/A
Chile	50	105	63	65	N/A
China (Hong Kong)	1,318	1,447	1,419	1,254	N/A
China (Macau)	5	3	5	5	N/A
China (People's Republic)	3,838	4,422	5,148	5,301	N/A
Colombia	15	27	35	28	N/A
Costa Rica	25	33	20	18	N/A
Croatia	37	32	39	35	N/A
Cuba	9	16	38	23	N/A
Cyprus	11	5	8	12	N/A
Czech Republic	102	129	180	245	N/A
Denmark	1,259	1,232	1,654	1,783	N/A
Dominican Republic	8	7	9	5	N/A
Ecuador	12	5	5	9	N/A
Egypt	17	33	53	33	N/A
El Salvador	-	3	-	1	N/A
Estonia	14	18	35	36	N/A
Ethiopia	1	1	-	-	N/A
Fiji[4]	-	-	-	1	N/A
Finland	2,310	2,517	2,782	2,793	N/A
France	7,228	8,204	9,281	9,726	N/A
French Polynesia	1	-	-	-	N/A
Georgia	10	14	5	2	N/A
Germany	22,263	23,535	26,331	26,855	N/A
Ghana	-	3	1	3	N/A
Gibraltar	10	3	3	7	N/A
Greece	81	86	128	118	N/A
Greenland	-	3	4	-	N/A
Guatemala	7	3	2	2	N/A
Guinea[4]	-	-	-	1	N/A
Haiti	-	1	-	-	N/A
Honduras	1	1	1	1	N/A
Hungary	172	193	203	234	N/A
Iceland	47	37	41	49	N/A
India	1,862	2,280	2,869	2,878	N/A
Indonesia	31	37	25	19	N/A
Iran	10	18	28	29	N/A
Iraq	1	-	1	1	N/A
Ireland	528	561	740	711	N/A
Israel	3,617	4,114	4,916	4,772	N/A
Italy	3,691	3,832	4,273	4,460	N/A
Jamaica	4	4	12	11	N/A
Japan	76,940	79,725	84,473	86,456	N/A
Jordan	7	12	8	14	N/A
Kazakhstan	4	1	2	3	N/A
Kenya	7	9	4	4	N/A
Korea, Dem. Republic of	-	1	2	1	N/A
Korea, Republic of	21,963	23,589	25,507	24,066	N/A
Kuwait	36	25	18	39	N/A
Latvia	8	10	6	15	N/A
Lebanon	14	12	11	17	N/A
Libya[4]	-	-	-	1	N/A
Liechtenstein	27	26	35	42	N/A
Lithuania	10	11	13	13	N/A
Luxembourg	84	118	102	94	N/A

TABLE 9 CONT.

UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES[1] (FY 2006 - FY 2010)

Residence	2006	2007	2008	2009[2]	2010[3]
Macedonia	-	1	-	2	N/A
Madagascar	-	1	-	-	N/A
Malaysia	392	378	326	325	N/A
Malta	13	5	10	11	N/A
Mauritius	-	2	1	-	N/A
Mexico	229	216	269	244	N/A
Moldova	1	1	1	1	N/A
Monaco	21	15	16	21	N/A
Morocco	2	2	11	6	N/A
Namibia	-	-	1	-	N/A
Nepal[4]	-	-	-	2	N/A
Netherlands	4,098	4,249	4,240	4,510	N/A
Netherlands Antilles	-	1	1	4	N/A
New Zealand	449	474	580	579	N/A
Nigeria	2	5	1	2	N/A
Norway	593	662	856	871	N/A
Oman	1	2	5	4	N/A
Pakistan	12	10	21	7	N/A
Panama	6	7	12	6	N/A
Paraguay	1	-	1	-	N/A
Peru	3	9	9	5	N/A
Philippines	85	87	72	61	N/A
Poland	93	104	122	150	N/A
Portugal	43	66	91	87	N/A
Qatar	-	4	-	4	N/A
Romania	31	39	47	58	N/A
Russian Federation	377	443	531	498	N/A
Samoa	5	-	4	1	N/A
San Marino	-	1	-	3	N/A
Saudi Arabia	51	69	90	153	N/A
Saudi Arabia	51	69	90	153	N/A
Serbia	7	12	16	5	N/A
Seychelles	1	-	1	1	N/A
Singapore	1,183	1,192	1,376	1,278	N/A
Slovakia	29	32	36	30	N/A
Slovenia	47	53	71	69	N/A
South Africa	243	280	319	323	N/A
Spain	868	1,080	1,294	1,224	N/A
Sri Lanka	9	9	16	12	N/A
Sweden	2,793	3,132	3,508	3,610	N/A
Switzerland	2,968	3,138	3,681	3,714	N/A
Syria Arab Rep	-	-	1	2	N/A
Taiwan	21,165	20,447	19,733	17,974	N/A
Thailand	82	111	127	116	N/A
Trinidad & Tobago	3	4	6	8	N/A
Tunisia	3	7	9	5	N/A
Turkey	68	86	103	113	N/A
Turkmenistan[4]	-	-	-	1	N/A
Turks and Caicos Islands	1	5	2	1	N/A
Ukraine	32	35	46	61	N/A
United Arab Emirates	22	22	30	54	N/A
United Kingdom	9,127	9,185	10,795	11,205	N/A
Uruguay	18	8	13	27	N/A
Uzbekistan	1	-	-	1	N/A
Vanuatu (New Hebrides)	1	-	4	-	N/A
Venezuela	33	37	27	32	N/A
Vietnam	4	3	13	4	N/A
West Bank/Gaza	1	-	-	-	N/A
Zimbabwe	-	3	2	2	N/A

- *Represents zero.*

1 *Data include utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless listed separately in the table. Data are subject to minor revisions.*

2 *FY 2009 data are updated and final.*

3 *FY 2010 data should be finalized in the FY 2011 PAR.*

4 *Countries/Territories not previously reported.*

5 *Country of origin information not available.*

TABLE 10 PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES[1,3] (FY 2006 - FY 2010)[2]

Residence	2006	2007	2008	2009	2010
Total	**87,014**	**89,760**	**90,713**	**96,395**	**117,261**
Algeria	1	-	-	-	1
Andorra	-	1	1	2	8
Anguilla	-	1	-	1	-
Antigua and Barbuda	-	-	1	-	1
Argentina	39	52	46	47	60
Armenia	3	1	1	1	2
Australia	1,413	1,493	1,485	1,717	1,940
Austria	575	553	572	729	850
Azerbaijan	1	2	2	-	-
Bahamas	7	3	5	6	9
Bahrain[4]	-	-	-	-	1
Bangladesh	-	-	1	-	-
Barbados	2	2	2	3	2
Belarus	3	7	8	6	7
Belgium	665	629	602	677	853
Belize	-	-	-	1	-
Benin	-	1	-	-	-
Bermuda	-	6	1	-	2
Bolivia	-	-	1	-	1
Bosnia and Herzegovina	-	-	-	2	-
Brazil	152	112	131	146	209
British Virgin Islands	5	1	1	4	-
Brunei Darussalam	-	-	-	1	-
Bulgaria	4	3	18	31	57
Burkina Faso	-	-	-	1	-
Cameroon	-	1	-	1	4
Canada	3,743	3,974	4,052	4,361	5,223
Cayman Islands	-	12	2	1	3
Chad	-	-	1	-	-
Chile	12	25	19	28	23
China (Hong Kong)	717	733	738	576	725
China (Macau)	3	-	2	1	2
China (Mainland)	868	1,139	1,684	2,195	3,060
Colombia	7	8	9	11	10
Costa Rica	29	14	17	14	13
Croatia	17	15	14	19	9
Cuba	2	2	6	5	8
Cyprus	4	4	1	2	5
Czech Republic	28	39	58	48	79
Denmark	547	494	573	512	706
Dominican Republic	3	2	3	5	3
Ecuador	2	5	3	3	5
Egypt	3	10	6	2	14
El Salvador	2	-	-	-	1
Estonia	4	10	2	4	11
Ethiopia	-	1	-	-	-
Fiji	-	1	-	-	-
Finland	946	967	894	974	1,223
France	3,542	3,757	3,683	3,836	4,835
French Polynesia	-	1	-	1	-
Gabon	-	1	-	-	-
Georgia	2	7	3	1	2
Germany	10,083	10,256	9,794	10,279	12,916
Ghana	-	1	-	-	1
Gibralter	-	1	3	1	-
Greece	22	26	25	26	59
Greenland	-	-	-	3	-
Guatemala	1	-	4	1	2
Honduras	-	2	-	-	-
Hungary	41	55	68	53	92
Iceland	22	20	23	26	22
India	470	560	650	678	1,076
Indonesia	11	16	21	20	5
Iran	-	4	3	6	7
Iraq	-	-	1	-	-
Ireland	186	174	174	180	260
Israel	1,231	1,218	1,322	1,426	1,828
Italy	1,817	1,791	1,890	1,842	2,149
Jamaica	-	1	2	4	4
Japan	36,482	36,658	35,847	37,879	44,893
Jordan	1	1	1	1	-
Kazakhstan	1	3	-	2	1
Kenya	4	1	2	6	4
Korea, Republic of	5,835	6,882	8,410	9,401	11,811
Kuwait	6	7	12	12	17
Kyrgyzstan	-	-	1	-	-
Latvia	2	2	2	4	5
Lebanon	2	2	5	4	5
Liechtenstein	13	14	15	20	18
Lithuania	6	9	13	4	7
Luxembourg	48	58	40	55	50
Macedonia	-	-	-	1	-
Malaysia	124	154	179	173	230
Malta	1	1	2	7	3
Mauritius	-	-	1	-	-
Mexico	93	89	78	82	105
Monaco	9	13	9	8	9
Morocco	4	1	3	4	1
Namibia	-	-	1	-	-
Netherlands	1,504	1,594	1,670	1,634	1,822
Netherlands Antilles	-	1	-	-	1
New Zealand	159	157	180	179	243
Nigeria	-	1	1	-	-
Norway	250	285	288	303	414
Oman	1	-	2	4	2
Pakistan	3	4	6	5	2
Panama	-	-	1	3	4
Paraguay	1	-	-	-	1

TABLE 10 CONT.

PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES[1,3] (FY 2006 - FY 2010)[2]

Residence	2006	2007	2008	2009	2010	Residence	2006	2007	2008	2009	2010
Peru	2	2	1	8	1	Sweden	1,255	1,298	1,249	1,230	1,509
Philippines	30	26	22	24	33	Switzerland	1,295	1,283	1,340	1,428	1,833
Poland	26	37	64	50	48	Syrian Arab Rep	3	1	-	-	-
Portugal	18	16	30	18	28	Taiwan	7,356	7,569	7,424	7,958	9,202
Qatar	2	-	1	1	1	Tanzania	-	-	-	-	-
Romania	11	11	11	7	17	Thailand	38	29	38	32	58
Russian Federation	169	183	186	206	246	Trinidad & Tobago	3	1	-	3	5
Saint Kitts & Nevis	-	-	1	-	-	Tunisia	1	1	2	-	2
Samoa	-	4	-	-	2	Turkey	24	19	35	32	49
Saudi Arabia	21	23	28	20	51	Turks and Caicos Islands	1	1	1	-	-
Senegal[4]	-	-	-	-	1	Ukraine	27	14	16	21	12
Serbia[2]	2	6	2	5	4	United Arab Emirates	7	5	6	10	7
Seychelles	-	2	1	-	-	United Kingdom	3,978	4,100	3,882	3,904	4,830
Singapore	424	457	426	496	591	Uruguay	1	3	3	5	5
Slovakia	2	8	13	13	15	Uzbekistan	1	-	-	-	-
Slovenia	21	23	17	27	26	Venezuela	14	13	19	11	16
South Africa	123	117	111	148	143	Vietnam	-	1	-	2	2
Spain	373	350	386	415	484	Zimbabwe	1	1	-	4	-
Sri Lanka	1	5	1	6	4						

- *Represents zero.*

1 *Data includes utility, design, plant, and reissue patents. Country listings include possessions and territories of that country unless separately listed in the table.*

2 *Past years' data may have been revised from prior year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.*

3 *Each patent grant is listed under only one country of residence.*

4 *Countries/Territories not previously reported.*

TABLE 11

STATUTORY INVENTION REGISTRATIONS PUBLISHED (FY 2006 - 2010)

Assignee	2006	2007	2008	2009	2010
Air Force	8	7	3	2	-
Army	-	-	-	-	-
Energy	-	-	-	-	-
Navy	13	4	6	3	5
Health & Human Services	-	-	-	-	-
USA[1,2]	-	-	-	-	-
Other Than U.S. Government	20	16	12	4	12
Total	**41**	**27**	**21**	**9**	**17**

- *Represents zero.*

1 *United States of America - no agency indicated in database.*

2 *Past year's data may have been revised from prior year reports.*

TABLE 12

UNITED STATES GOVERNMENT AGENCY PATENTS[1] (FY 2006 - FY 2010)[3]

Activity	2006	2007	2008	2009	2010	TOTAL
Agriculture	35	30	27	24	39	155
Air Force	58	33	36	45	51	223
Army	167	155	134	119	136	711
Attorney General	1	-	-	-	1	2
Commerce	5	2	3	5	10	25
Energy	23	22	20	17	42	124
EPA	11	9	10	9	9	48
FCC	-	-	-	-	-	0
HEW/HHS	108	116	101	105	128	558
Interior	2	6	1	4	4	17
NASA	74	65	72	86	89	386
Navy	267	255	241	230	284	1,277
NSA	16	11	16	15	24	82
NSF	0	1	0	-	1	2
Postal Service	14	15	19	14	37	99
State Department	-	-	0	-	-	0
Transportation	-	-	0	-	1	1
TVA	1	-	1	-	1	3
USA[2]	2	1	3	3	5	14
VA	2	5	8	10	9	34
Total	**786**	**726**	**692**	**686**	**871**	**3,761**

- *Represents zero.*

1 *Data in this table represent utility patents assigned to agencies at the time of patent issue. Data subject to minor revisions.*

2 *United States of America - no agency indicated in database.*

3 *Past years' data may have been revised from prior year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.*

TABLE 13A

EX PARTE REEXAMINATION (FY 2006 - FY 2010)

Activity	2006	2007	2008	2009	2010
Requests filed, total	**511**	**643**	**680**	**658**	**780**
By patent owner	129	124	87	67	63
By third party	382	519	593	591	717
Commissioner ordered	-	-	-	-	-
Determinations on requests, total	**458**	**594**	**666**	**614**	**662**
Requests granted:					
By examiner	422	575	626	574	606
By petition	5	2	-		1
Requests denied	31	17	40	40	55
Requests known to have related litigation	**229**	**369**	**316**	**372**	**347**
Filings by discipline, total	**511**	**643**	**680**	**658**	**780**
Chemical	118	133	138	120	137
Electrical	228	275	305	335	414
Mechanical	165	235	237	203	229

\- *Represents zero.*

TABLE 13B

INTER PARTES REEXAMINATION (FY 2006 - FY 2010)

Activity	2006	2007	2008	2009	2010
Requests filed, total	**70**	**126**	**168**	**258**	**281**
Determinations on requests, total	**47**	**119**	**150**	**229**	**231**
Requests granted:	43	118	142	218	224
By examiner	43	118	142	217	224
By petition	-	-	-	1	-
Requests denied	4	1	8	11	7
Requests known to have related litigation	**32**	**81**	**115**	**220**	**196**
Filings by discipline, total	**70**	**126**	**168**	**258**	**281**
Chemical	17	30	38	35	45
Electrical	27	53	67	153	174
Mechanical	26	43	63	70	62

\- *Represents zero.*

TABLE 14

SUMMARY OF CONTESTED PATENT CASES (Within the USPTO, as of September 30, 2010)

Item	Total
Ex parte cases	
Appeals	
Cases pending as of 9/30/09	12,581[1]
Cases filed during FY 2010	12,582
Disposals during FY 2010, total	
Decided, total	7,312
Affirmed	3,565
Affirmed-in-Part	1,044
Reversed	2,158
Dismissed/Withdrawn	180
Remanded	365
Cases pending as of 9/30/10	**17,851**
Rehearings	
Cases pending as of 9/30/10	44
Inter partes cases	
Cases pending as of 9/30/09	44
Cases declared or reinstituted during FY 2010	52
Inter partes cases, FY 2010 total	**96**
Cases terminated during FY 2010	50
Cases pending as of 9/30/10	**46**

1 Past years data has been revised from prior year reports.

TABLE 15

SUMMARY OF TRADEMARK EXAMINING ACTIVITIES (FY 2006 - FY 2010)

Item	2006	2007	2008	2009	2010
Applications for Registration:					
Applications including Additional Classes	354,775	394,368	401,392	352,051	368,939
Applications Filed	275,790	298,796	302,253	266,939	280,649
Disposal of Trademark Applications:					
Registrations including Additional Classes	188,899	194,327	274,250	241,637	221,090
Abandonments including Additional Classes	126,884	129,200	156,093	189,687	151,027
Trademark First Actions including Additional Classes	405,998	455,802	415,896	372,830	367,027
Applications Approved for Publication including Additional Classes	288,042	344,617	345,067	320,246	307,001
Certificates of Registration Issued:[1]					
1946 Act Principal Register	95,188	98,564	120,173	102,607	93,238
Principal Register					
ITU-Statements of Use Registered	45,720	44,108	81,387	69,920	64,086
1946 Act Supplemental Register	6,210	7,392	8,344	7,993	7,006
Total Certificates of Registration	147,118	150,064	209,904	180,520	164,330
Renewal of Registration:*					
Section 9 Applications Filed	36,939	40,786	42,388	43,953	48,214
Section 8 Applications Filed**	36,952	40,798	42,395	43,868	48,275
Registrations Renewed	37,305	47,336	42,159	42,282	46,734
Affidavits, Sec. 8/15:					
Affidavits Filed	48,444	49,241	68,470	65,322	61,499
Affidavits Disposed	45,676	55,888	65,222	63,483	58,510
Amendments to Allege Use Filed	10,007	9,646	9,140	8,633	7,629
Statements of Use Filed	67,543	76,866	96,415	90,493	80,927
Notice of Allowance Issued	164,752	172,422	220,333	181,702	169,085
Total Active Certificates of Registration	**1,322,155**	**1,380,150**	**1,497,131**	**1,547,168**	**1,614,121**
Pendency - Average Months:					
Between Filing and Examiner's First Action	4.8	2.9	3	2.7	3.0
Between Filing, Registration (Use Applications)					
Abandonments and NOAs - including suspended and inter partes proceedings	18.0	15.1	13.9	13.5	13.0
Between Filing, Registration (Use Applications)					
Abandonments and NOAs - excluding suspended and inter partes proceedings	15.5	13.4	11.8	11.2	10.5

- Represents zero.

[1] *With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.*

"Applications filed" refers simply to the number of individual trademark applications received by the USPTO. There are, however, 47 different classes of items in which a trademark may be registered. An application must request registration in at least one class, but may request registration in multiple classes. Each class application must be individually researched for registerability. "Applications filed, including additional classes" reflects this fact, and therefore more accurately reflects the Trademark business workload. With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

* *Renewal of registration is required beginning 10 years following registration concurrent with 20 - year renewals coming due.*

** *Section 8 Affidavit is required for filing a renewal beginning October 30, 1999 (FY 2000) with the implementation of the Trademark Law Treaty.*

TABLE 16

TRADEMARK APPLICATIONS FILED FOR REGISTRATION AND RENEWAL AND TRADEMARK AFFIDAVITS FILED (FY 1990 - FY 2010)

Year	For Registration	For Renewal[1]	Section 8 Affidavit
1990	127,294	6,602	20,636
1991	120,365	5,634	25,763
1992	125,237	6,355	20,982
1993	139,735	7,173	21,999
1994	155,376	7,004	20,850
1995	175,307	7,346	23,497
1996	200,640	7,543	22,169
1997	224,355	6,720	20,781
1998	232,384	7,413	33,231
1999	295,165	7,944	33,104
2000	375,428	24,435	28,920
2001	296,388	24,174	33,547
2002	258,873	34,325	39,484
2003	267,218	35,210	43,151
2004	298,489	32,352	41,157
2005	323,501	39,354	47,752
2006	354,775	36,939	48,444
2007	394,368	40,786	49,241
2008	401,392	42,388	68,470
2009	352,051	43,953	65,322
2010	**368,939**	**48,214**	**61,499**

[1] *Renewal of registration term changed with implementation of the Trademark Law Reform Act (P.L. 100-667) beginning November 16, 1989 (FY1990).*

TABLE 17 — SUMMARY OF PENDING TRADEMARK APPLICATIONS (FY 2010)

Stage of Processing	Application Files	Classes
Pending applications, total	**413,804**	**575,720**
In preexamination processing	**61,551**	**76,701**
Under examination, total	**274,658**	**392,702**
Applications under initial examination	**84,673**	**123,625**
Amended, awaiting action by Examiner	81,691	119,904
Awaiting first action by Examiner	2,982	3,721
Intent-To-Use applications pending Use	**148,164**	**207,021**
Applications under second examination	**8,785**	**11,894**
Administrative processing of Statements of Use	79	94
Undergoing second examination	2,709	3,560
Amended, awaiting action by Examiner	5,997	8,240
Other pending applications[1]	**33,036**	**50,162**
In post-examination processing (Includes all applications in all phases of publication and issue and registration)	**77,595**	**106,317**

[1] *Includes applications pending before the Trademark Trial and Appeal Board, and suspended cases.*

TABLE 18

TRADEMARKS REGISTERED, RENEWED, AND PUBLISHED UNDER SECTION 12(C)[1] (FY 1990 - FY 2010)

Year	Certificates of Regis. Issued	Renewed[2]	Registrations *(Incl. Classes)*
1990	56,515	7,122	-
1991	43,152	6,416	-
1992	62,067	5,733	-
1993	74,349	6,182	86122
1994	59,797	6,136	68,853
1995	65,662	6,785	75,372
1996	78,674	7,346	91,339
1997	97,294	7,389	112,509
1998	89,634	6,504	106,279
1999	87,774	6,280	104,324
2000	106,383	8,821	127,794
2001	102,314	31,477	124,502
2002	133,225	29,957	164,457
2003	143,424	34,370	185,182
2004	120,056	34,735	155,991
2005	112,495	32,279	143,396
2006	147,118	37,305	188,899
2007	150,064	47,336	194,327
2008	209,904	42,159	274,250
2009	180,520	42,282	241,637
2010	**164,330**	**46,734**	**221,090**

- *Represents zero.*

[1] *Includes withdrawn numbers.*

[2] *Includes Renewal of registration term changed with implemention of the Trademark Law Reform Act (P.L. 100-667) beginning November 16, 1989 (FY 1990).*

TABLE 19 TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES (FY 2010)

State/Territory	2010	State/Territory	2010	State/Territory	2010
Total	**289,275**	Kentucky	1,590	Oklahoma	1,345
		Louisiana	1,632	Oregon	3,128
Alabama	1,496	Maine	742	Pennsylvania	8,609
Alaska	219	Maryland	4,907	Rhode Island	1,221
Arizona	5,350	Massachusetts	7,878	South Carolina	1,823
Arkansas	1,059	Michigan	5,605	South Dakota	425
California	61,589	Minnesota	5,979	Tennessee	3,862
Colorado	6,057	Mississippi	598	Texas	17,044
Connecticut	4,413	Missouri	4,003	Utah	3,206
Delaware	2,757	Montana	641	Vermont	604
District of Columbia	2,554	Nebraska	1,273	Virginia	6,715
Florida	20,228	Nevada	4,936	Washington	5,993
Georgia	7,622	New Hampshire	1,125	West Virginia	322
Hawaii	804	New Jersey	11,948	Wisconsin	3,807
Idaho	833	New Mexico	822	Wyoming	305
Illinois	12,975	New York	29,416	Puerto Rico	393
Indiana	3,252	North Carolina	5,481	Virgin Islands	29
Iowa	1,349	North Dakota	218	U.S. Pacific Islands[1]	26
Kansas	1,474	Ohio	7,438	United States[2]	155

[1] *Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.*

[2] *No state indicated in database, includes APO filings.*

TABLE 20

TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES[1] (FY 2010)

State/Territory	2010	State/Territory	2010	State/Territory	2010
Total	**132,475**	Kentucky	493	Oklahoma	575
		Louisiana	550	Oregon	1,276
Alabama	501	Maine	339	Pennsylvania	2,679
Alaska	76	Maryland	1,535	Rhode Island	326
Arizona	1,657	Massachusetts	2,004	South Carolina	551
Arkansas	218	Michigan	2,140	South Dakota	189
California	15,059	Minnesota	2,377	Tennessee	1,147
Colorado	1,994	Mississippi	176	Texas	5,007
Connecticut	1,060	Missouri	1,523	Utah	1,185
Delaware	25,726	Montana	253	Vermont	204
District of Columbia	810	Nebraska	449	Virginia	2,022
Florida	6,227	Nevada	3,039	Washington	2,154
Georgia	2,487	New Hampshire	310	West Virginia	128
Hawaii	289	New Jersey	3,134	Wisconsin	1,614
Idaho	305	New Mexico	250	Wyoming	231
Illinois	3,959	New York	7,644	Puerto Rico	93
Indiana	1,272	North Carolina	1,756	Virgin Islands	26
Iowa	621	North Dakota	139	U.S. Pacific Islands[2]	21
Kansas	648	Ohio	2,830	United States[3]	19,197

1 *When a trademark is registered, the trademark database is corrected to indicate the home state of the entity registering the trademark.*

2 *Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.*

3 *No state indicated in database, includes APO filings.*

TABLE 21

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2006 - FY 2010)

Residence	2006	2007	2008	2009	2010
Total	**71,551**	**84,072**	**86,882**	**77,448**	**79,664**
Afghanistan	3	2	2	9	3
Albania	19	1	3	-	-
Algeria	-	1	-	-	-
Andorra	7	2	1	8	7
Angola	-	-	-	-	11
Anguilla	8	4	7	23	3
Antarctica	-	-	1	-	-
Antigua & Barbuda	97	2	20	4	18
Argentina	228	253	266	223	279
Armenia	22	5	4	10	7
Aruba	-	18	1	3	3
Australia	2,593	3,685	3,164	3,025	3,004
Austria	1,125	1,187	1,344	1,181	980
Azerbaijan	-	2	3	-	-
Bahamas	192	218	152	121	99
Bahrain	7	17	11	19	20
Bangladesh	-	10	3	4	1
Barbados	177	322	310	164	274
Belarus	3	16	20	10	46
Belgium	606	804	869	997	788
Belize	52	30	19	20	20
Bermuda	234	353	296	178	164
Bhutan	-	1	-	-	-
Bolivia	-	3	5	8	3
Bosnia & Herzegovinia	-	2	-	1	1
Botswana	-	-	-	3	1
Brazil	445	525	517	477	546
British Virgin Islands	665	625	623	498	558
Brunei Darussalam	2	3	3	8	13
Bulgaria	81	145	101	95	77
Burkina Faso[2]	-	-	-	-	1
Cambodia	1	-	-	2	1
Cameroon	8	-	-	-	-
Canada	8,337	9,127	9,614	8,354	8,707
Cape Verde	1	1	-	-	-
Cayman Islands	134	296	360	390	263
Channel Islands	67	104	68	37	73
Chile	161	201	206	185	193
China (Hong Kong)	1,113	1,305	1,211	1,162	1,190
China (Macau)	-	1	-	-	1
China (mainland)	1,784	2,364	2,262	2,096	2,808
Colombia	185	249	187	183	185
Cook Islands	6	-	-	5	4
Costa Rica	73	68	100	66	91
Croatia	34	12	22	42	33
Cuba	11	3	13	6	1
Cyprus	115	88	101	115	151
Czechoslovakia	164	212	256	266	164
Denmark	886	922	1,197	997	884
Dominica	6	2	9	-	2
Dominican Republic	64	70	77	50	79
Ecuador	15	28	24	32	27
Egypt	8	11	11	14	27
El Salvador	31	69	56	34	36
Estonia	24	26	35	48	64
Ethiopia	-	-	2	1	-
Faroe Islands	-	-	12	1	-
Fiji	1	3	1	-	6
Finland	476	548	526	547	746
France	4,843	5,460	6,254	5,620	6,176
French Polynesia	9	9	3	2	-
Georgia	4	2	3	11	8
Germany	9,896	11,455	12,686	11,345	10,300
Ghana	-	-	2	1	-
Gibraltar	50	59	32	52	30
Greece	120	126	244	137	209
Greenland	5	-	-	-	-
Grenada	1	1	-	-	-
Guadeloupe	-	2	-	-	3
Guatemala	31	56	39	29	27
Guinea	-	-	1	-	3
Guyana	5	2	7	1	-
Haiti	3	2	1	-	5
Honduras	19	5	9	17	15
Hungary	115	135	77	155	118
Iceland	74	140	240	87	67
India	346	412	697	461	645
Indonesia	32	35	62	64	51
Iran	13	9	39	27	38
Iraq	-	-	-	4	-
Ireland	488	634	724	441	567
Isle of Man	59	82	101	36	82
Israel	614	761	764	679	598
Italy	4,057	4,912	4,395	4,203	3,770
Jamaica	55	32	49	53	14
Japan	4,705	5,258	4,764	4,832	4,633
Jordan	14	15	23	21	28
Kazakhstan	-	5	7	-	-
Kenya	13	1	3	2	9
Korea, Dem. Republic of	3	2	-	1	6
Korea, Republic of	1,207	1,599	1,566	1,554	2,069
Kuwait	12	37	37	16	20
Latvia	29	29	20	30	48
Lebanon	14	7	22	24	28

TABLE 21 CONT.

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2006 - FY 2010)

Residence	2006	2007	2008	2009	2010
Liberia	-	-	2	-	-
Liechtenstein	180	202	247	240	99
Lithuania	21	6	25	17	10
Luxembourg	403	403	550	499	888
Macao	4	2	20	12	5
Macedonia	2	8	7	-	8
Madagascar	1	-	-	7	-
Malaysia	81	93	119	126	122
Malta	50	24	48	81	34
Marshall Islands	4	-	5	4	4
Martinique	-	1	-	-	-
Mauritania	-	-	-	1	-
Mauritius	61	63	32	28	39
Mexico	1,487	1,592	1,484	1,393	1,790
Micronesia	2	1	7	2	-
Monaco	147	158	113	81	96
Mongolia	-	1	4	7	2
Morocco	33	26	60	35	48
Mozambique	-	4	-	-	-
Myanmar[2]	-	-	-	-	1
N. Mariana Island	7	-	-	5	9
Namibia	-	-	3	2	-
Nepal	-	-	1	2	-
Netherlands	2,133	2,367	2,618	2,220	2,387
Netherlands Antilles	56	130	76	68	113
New Zealand	513	648	534	486	482
Nicaragua	2	4	7	5	7
Nigeria	5	12	1	25	8
Norway	354	616	630	835	556
Oman	2	1	2	11	5
Pakistan	20	25	27	19	17
Palau	-	-	-	1	-
Panama	131	88	149	114	167
Papua New Guinea	-	-	3	1	3
Paraguay	18	7	11	7	4
Peru	40	46	101	49	38
Philippines	86	55	62	66	54
Poland	189	196	273	300	225
Portugal	309	268	372	318	335
Qatar	10	34	16	10	20
Republic Moldova	16	18	6	9	14
Romania	24	53	73	37	78
Russian Federation	380	441	733	676	650
Rwanda	-	-	-	1	-
Saint Christ-Nevis	10	26	31	16	6
Saint Lucia	4	5	17	12	21
Saint Vincent/Grenadines	2	-	-	6	17
Samoa	11	6	11	5	15
San Marino	4	4	3	17	10
Sao Tome/Principe[2]	-	-	-	-	1
Saudi Arabia	50	71	61	49	61
Scotland	105	93	73	18	27
Senegal, Republic of	2	-	1	-	-
Serbia/Montenegro	-	42	11	14	38
Seychelles	23	24	27	26	19
Singapore	355	503	479	526	470
Slovakia	31	67	82	46	56
Slovenia	67	171	105	152	82
South Africa	285	241	218	183	232
Spain	1,735	1,742	1,864	1,798	1,789
Sri Lanka	21	16	33	15	17
St. Kitts & Nevis	3	-	-	-	-
Suriname[2]	-	-	-	-	1
Sweden	1,127	1,521	1,482	1,222	1,467
Switzerland	3,687	4,692	4,772	3,883	4,750
Syria	3	1	6	7	14
Taiwan	1,427	1,257	1,283	1,221	1,359
Tanzania	-	-	2	-	1
Thailand	80	155	206	146	105
Togo	1	-	5	-	-
Trinidad & Tobago	11	37	1	23	13
Tunisia	3	6	2	7	14
Turkey	461	632	602	511	363
Turks and Caicos Islands	24	4	13	10	30
Uganda	-	-	3	1	-
Ukraine	61	81	90	63	102
United Arab Emirates	150	171	307	212	135
United Kingdom	7,557	9,431	9,463	7,624	7,727
Uruguay	37	57	35	35	47
Uzbekistan	-	-	1	3	-
Vanuatu (New Hebrides)	9	30	-	-	-
Venezuela	61	77	120	35	38
Vietnam	41	40	61	101	71
West Bank/Gaza[2]	-	-	-	-	3
Yemen	6	3	4	-	1
Yugoslavia	36	8	4	-	3
Zimbabwe	-	-	1	1	-
Other[1]	183	35	16	33	11

\- *Represents zero.*
1 *Country of Origin information not available or not indicated in database, includes African Regional Industrial Property Organization filings.*
2 *Countries/Territories not previously reported.*

TABLE 22

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2006 - FY 2009)

Residence	2006	2007	2008	2009	2010
Total	**27,592**	**27,798**	**38,800**	**34,648**	**31,855**
Afghanistan	3	3	5	2	3
Albania	2	7	6	6	4
Algeria	1	4	3	3	3
Andorra	6	2	2	1	1
Angola, Republic of	1	-	1	2	-
Anguilla	5	2	8	5	7
Antarctica	1	1	-	-	-
Antigua & Barbuda	16	20	18	13	4
Argentina	123	130	182	131	127
Armenia	7	7	19	6	8
Aruba	1	2	18	5	-
Australia	1,030	1,076	1,609	1,383	1,295
Austria	267	273	397	367	322
Bahamas	32	52	61	56	44
Bahrain	2	1	-	2	3
Bangladesh	3	3	4	1	3
Barbados	94	84	115	92	62
Belarus	2	6	10	10	6
Belgium	243	283	399	337	309
Belize	7	11	14	5	20
Benelux Convention	7	5	9	13	9
Benin	-	-	2	1	1
Bermuda	130	129	164	197	161
Bhutan	-	-	1	-	-
Bolivia	4	4	4	5	7
Bosnia & Herzegovina	-	-	1	1	-
Brazil	195	164	235	227	188
British Virgin Islands	211	242	381	323	302
Brunei Darussalam	-	1	8	-	1
Bulgaria	30	46	47	26	24
Burundi	-	-	1	-	-
Cambodia	-	1	1	-	1
Cameroon	1	1	-	2	2
Canada	3,562	3,168	4,396	4,084	3,714
Cape Verde	-	1	-	3	-
Cayman Islands	86	129	146	170	151
Channel Islands	22	25	5	2	15
Chile	109	86	145	84	97
China (Hong Kong)	373	424	633	521	502
China (Macau)	-	-	-	2	5
China (mainland)	697	1,020	1,601	1,459	1,356
Colombia	91	79	114	115	105
Congo	-	1	-	-	1
Cook Islands	-	1	3	1	1
Costa Rica	18	16	24	27	36
Cote D'Ivoire	1	-	-	1	-
Croatia	9	8	22	8	10
Cuba	10	3	16	6	7
Cyprus	21	19	41	37	44
Czechoslovakia	26	37	79	69	68
Denmark	326	349	424	424	378
Djibouti	-	-	1	-	-
Dominica	-	4	2	1	1
Dominican Republic	18	29	32	25	26
East Timor	-	2	-	-	-
Ecuador	18	17	17	17	15
Egypt	10	8	5	6	6
El Salvador	26	22	64	38	36
Eritrea	-	1	-	-	-
Estonia	5	12	9	13	16
Ethiopia	1	1	3	1	4
Faroe Islands	-	-	-	1	-
Fiji	2	3	1	2	-
Finland	173	203	218	221	196
France	2,055	2,046	2,638	2,278	2,154
French Guiana	-	1	1	-	-
French Polynesia	20	7	10	2	-
Georgia	1	1	-	-	3
Germany	3,866	3,708	4,674	4,409	3,759
Ghana	1	1	5	2	3
Gibraltar	15	11	32	30	10
Greece	27	40	68	53	52
Greenland	-	1	-	-	1
Grenada	-	1	-	-	-
Guatemala	15	30	-	-	24
Guyana	4	2	4	5	-
Haiti	8	1	6	2	5
Honduras	2	2	12	8	17
Hungary	38	39	45	36	64
Iceland	15	32	62	66	48
India	126	129	186	213	202
Indonesia	22	23	36	29	36
Iran	5	12	16	13	9
Iraq	-	-	-	-	1
Ireland	175	165	264	260	211
Isle of Man	11	12	10	7	-
Israel	233	240	392	319	348
Italy	1,542	1,693	2,281	1,819	1,556
Jamaica	28	26	41	23	24
Japan	2,197	2,216	2,941	2,453	2,344
Jordan	1	3	4	13	7
Kazakhstan	2	-	1	1	-
Kenya	3	2	2	4	5
Korea, Dem. Republic of	2	4	1	7	4
Korea, Republic of	409	496	849	760	773
Kuwait	-	1	3	6	6

TABLE 22 CONT.

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2006 - FY 2010)

Residence	2006	2007	2008	2009	2010	Residence	2006	2007	2008	2009	2010
Kyrgyzstan[2]	-	-	-	-	1	Saint Lucia	2	2	4	8	2
Latvia	6	10	17	6	8	Saint Vincent/Grenadines	4	-	1	2	1
Lebanon	6	7	7	6	12	San Marino	1	3	4	2	7
Liberia	2	4	8	22	12	Saudi Arabia	11	10	19	13	14
Liechtenstein	62	49	85	75	48	Scotland	10	8	30	50	15
Lithuania	-	7	7	8	7	Senegal	-	1	-	-	3
Luxembourg	103	131	168	184	177	Serbia	-	-	-	-	4
Macao	3	1	-	-	-	Serbia/Montenegro	3	2	-	-	-
Macedonia	-	1	6	1	-	Seychelles	1	5	11	8	12
Malaysia	37	52	58	57	63	Sierra Leone	1	-	-	-	-
Mali	-	1	-	-	1	Singapore	110	134	199	174	220
Malta	6	3	12	5	11	Slovakia	11	12	9	26	12
Marshall Islands	1	2	3	3	6	Slovenia	10	14	27	33	15
Mauritius	10	13	33	25	13	South Africa	-	-	125	104	140
Mexico	544	589	952	830	736	Spain	687	709	1,000	821	780
Micronesia	-	1	4	1	3	Sri Lanka	10	13	7	21	13
Monaco	22	25	32	24	19	St. Kitts & Nevis	3	4	-	-	-
Mongolia	-	-	1	1	-	Sudan	-	1	-	-	-
Montenegro	-	-	-	-	1	Swaziland	1	5	1	4	-
Morocco	2	1	3	7	8	Sweden	486	441	644	603	566
Mozambique	-	1	2	-	-	Switzerland	1,427	1,345	1,953	1,672	1,338
N. Mariana Island	4	7	2	-	3	Syria	1	3	2	2	-
Namibia	-	1	-	-	-	Taiwan	768	820	1,096	845	782
Nauru	1	-	2	-	-	Tajikistan	-	-	1	-	-
Nepal	-	-	-	1	-	Thailand	65	57	82	71	53
Netherlands	879	788	1,001	931	883	Togo	-	-	-	1	-
Netherlands Antilles	30	33	47	32	39	Trinidad & Tobago	10	8	13	7	14
New Zealand	228	194	333	265	267	Tunisia	-	-	3	3	3
Nicaragua	4	2	7	5	2	Turkey	127	169	206	169	167
Nigeria	5	4	16	10	4	Turks and Caicos Islands	1	1	5	2	-
Niue	1	-	-	-	-	Uganda	-	-	1	3	1
Norway	90	142	192	175	212	Ukraine	22	19	33	18	30
Oman	-	1	-	-	1	United Arab Emirates	14	21	27	36	56
Pakistan	5	7	19	11	15	United Kingdom	2,384	2,246	3,136	3,098	3,010
Panama	45	63	98	58	68	Uruguay	20	17	21	20	23
Papua New Guinea	-	-	1	1	-	Uzbekistan	-	1	-	2	-
Paraguay	5	-	6	4	5	Vanuatu (New Hebrides)	3	1	4	1	-
Peru	13	26	49	57	26	Vatican City	-	-	1	-	-
Philippines	34	27	42	50	41	Venezuela	34	26	49	45	42
Poland	62	60	104	103	74	Vietnam	50	32	42	34	39
Portugal	70	89	147	136	123	Western Samoa/Samoa	1	4	-	-	8
Qatar	1	1	9	6	9	Yemen	-	-	2	1	1
Republic Moldova	11	4	8	3	2	Yugoslavia	-	-	2	3	1
Romania	18	13	23	20	11	Zimbabwe	-	-	2	2	-
Russian Federation	132	118	168	162	154	Other[1]	11	3	40	55	19
Saint Christ & Nevis	10	10	16	26	26						

- Represents zero.
1 Country of origin information not available.
2 Countries/Territories not previously reported.

TABLE 23

SUMMARY OF CONTESTED TRADEMARK CASES
(Within the USPTO, as of September 30, 2010)

Activity	Ex Parte	Cancellations	Concurrent Use	Interference	Opposition	Total
Cases pending as of 9/30/09, total	**1,533**	**1,518**	**78**	-	**6,125**	**9,254**
Cases filed during FY 2010	**2,895**	**1,374**	**21**	-	**4,513**	**8,803**
Disposals during FY 2010, total	**2,998**	**1,436**	**29**	-	**5,185**	**9,648**
Before hearing	2,677	1,410	28	-	5,076	9,191
After hearing	321	26	1	-	109	457
Cases pending as of 9/30/10, total	**1,430**	**1,456**	**70**	-	**5,453**	**8,409**
Awaiting decision	84	7	-	-	36	127
In process before hearing[1]	1,346	1,449	70	-	5,417	8,282
Requests for extension of time to oppose FY 2010	-	-	-	-	-	**15,424**

- *Represents zero.*

1 *Includes suspended cases.*

TABLE 24

ACTIONS ON PETITIONS TO THE DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE (FY 2006 - FY 2010)

Nature of Petition	2006	2007	2008	2009	2010
Patent matters					
Actions on patent petitions, total	**41,271**	**51,420**	**51,774**	**51,482**	**51,649**
Acceptance of:					
Late assignments	477	619	621	628	773
Late issue fees	1,195	1,787	1,819	1,792	1,720
Late priority papers	16	7	10	13	5
Access	5	12	12	42	14
Certificates of correction	23,129	28,715	26,878	25,527	27,611
Deferment of issue	13	20	21	20	9
Entity Status Change	963	1,389	1,263	1,246	2,567
Filing date	1,129	1,090	975	723	539
Maintenance fees	2,038	2,355	2,774	1,949	2,173
Revivals	6,075	8,279	10,339	11,478	9,326
Rule 47 (37 CFR 1.47)	1,492	1,864	1,837	2,583	2,259
Supervisory authority	163	137	183	347	411
Suspend rules	272	214	228	301	237
Withdrawal from issue	1,996	1,476	1,642	1,423	1,912
Withdrawals of holding of aband.	2,308	3,456	3,172	3,410	2,093
Late Claim for Priority	788	981	986	1,121	1,094
Withdraw as Attorney	3,030	5,246	6,164	6,133	5,237
Matters Not Provided For (37 CFR 1.182)	961	994	1,009	1,334	1,236
To Make Special	2,018	3,913	4,653	4,797	4,264
Patent Term Adjustment/Extension	687	608	476	1,613	28,775
Trademark matters					
Actions on trademark petitions, total	**17,590**	**21,755**	**29,703**	**24,747**	**21,852**
Filing date restorations[1]	65	72	28	20	13
Inadvertently issued registrations	217	173	178	134	116
Letters of Protest	722	735	876	1,011	1,003
Madrid Petitions	13	19	13	21	28
Make special	185	205	121	94	225
Reinstatements[2]	552	575	1,249	851	563
Revive (reviewed on paper)	4,379	4,275	6,524	2,526	1,096
Revive (granted electronically)[3]	10,689	14,850	19,654	18,967	17,686
Waive fees/refunds	7	11	30	18	18
Miscellaneous Petitions to the Director	580	749	940	1,008	971
Board Matters	16	13	9	11	16
Post Registration Matters	165	78	81	86	117
Petitions awaiting action as of 9/30					
Trademark petitions awaiting response	275	166	56	72	51
Trademark petitions awaiting action	177	117	95	3	5
Trademark pending filing date issues	22	2	-	-	-

- Represents zero.
1 Trademark Applications entitled to a particular filing date; based on clear evidence of Trademark organization error.
2 Trademark Applications restored to pendency; inadvertently abandoned by the Trademark organization.
3 The petition to revive numbers were not separated into two categories (paper versus electronic) in previous years.

TABLE 25

CASES IN LITIGATION
(Selected Courts of the United States, as of September 30, 2010)

	Patents	Trademarks	OED	Total
United States District Courts				
Civil actions pending as of 9/30/09, total	*100	1	3	*104
Filed during FY 2010	109	1	1	111
Disposals, total	**96**	**2**	**2**	**100**
Reversed	-	-	-	-
Remanded	68	-	-	68
Dismissed	23	2	1	26
SJ Granted -USPTO	3	-	1	4
SJ Granted - Opposing Party	2	-	-	2
Transfer	-	-	-	-
Civil actions pending as of 9/30/10, total	**113**	**0**	**2**	**115**
United States Courts of Appeals[1]				
Ex parte cases				
Cases pending as of 9/30/09	**29	7	2	**38
Cases filed during FY 2010	68	5	6	79
Disposals, total	**48**	**9**	**5**	**62**
USPTO Affirmed	24	4	-	28
District Court Affirmed	3	-	-	3
Reversed	-	-	-	-
Remanded	8	2	1	11
Dismissed	13	3	2	18
Vacated	-	-	-	-
Transfer	-	-	2	2
Mandamus Denied	-	-	-	-
Mandamus Granted	-	-	-	-
Total ex parte cases pending as of 9/30/10	**49**	**3**	**3**	**55**
Inter partes cases				
Cases pending as of 9/30/09	8	**11	-	**19
Cases filed during FY 2010	5	16	-	21
Disposals, total	**9**	**17**	**-**	**26**
Affirmed	3	5	-	8
Reversed	1	-	-	1
Remanded	-	2	-	2
Dismissed	3	27	-	30
Transferred	-	1	-	1
Total inter partes cases pending as of 9/30/10	**4**	**10**	**-**	**14**
Total United States Courts of Appeals cases pending as of 9/30/10	**53**	**13**	**-**	**69**
Supreme Court				
Ex parte cases				
Cases pending as of 9/30/09	2	1	-	3
Cases filed during FY 2010	5	1	-	6
Disposals, total	5	1	-	6
Cases pending as of 9/30/10, total	**2**	**1**	**-**	**3**
Notices of Suit filed in FY 2010	**1,878**	**2,195**	**-**	**4,073**

- *Represents zero.*

[1] *Includes Federal Circuit and others.*

* *Increase to reflect cases served in FY 2010, but filed in FY 2009.*

** *Decrease to reflect case disposed in FY 2009, but not reported.*

TABLE 26

PATENT CLASSIFICATION ACTIVITY (FY 2006 - FY 2010)

Activity	2006	2007	2008	2009	2010
Original patents professionally reclassified - completed projects	6,264	14,875	13,727	9,955	90,869
Subclasses established	498	1,466	1,037	631	1,429
Reclassified patents clerically processed, total	**33,376**	**192,898**	**111,507**	**60,778**	**156,590**
Original U.S. patents	9,740	4,991	25,903	18,765	52,036
Cross-reference U.S. patents	23,636	187,907	85,604	42,013	104,554

TABLE 27

SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY (FY 2010)

Activity	Quantity
Prior Art Search Services Provided:	
Automated Prior Art Searches Completed	33,521
Genetic Sequence Searches Completed	7,809
Number of Genetic Sequences Searched	25,683
CRF Submissions Processed	19,640
PLUS Searches Completed	54,129
Foreign Patent Searches Completed	5,165
Document Delivery Services Provided:	
Document Delivery/Interlibrary Loan Requests Processed	22,853
Copies of Foreign Patents Provided	9,721
Information Assistance and Automation Services:	
One-on-One Examiner Information Assistance	22,820
One-on-One Examiner Automation Assistance	20,300
Patents Employee Attendance at Automation Classes	4,722
Foreign Patents Assistance for Examiners and Public	8,514
Examiner Briefings on STIC Information Sources and Services	3,965
Translation Services Provided for Examiners:	
Written Translations of Documents	4,434
Number of Words Translated (Written)	15,723,728
Documents Orally Translated	2,305
Total Number of Examiner Service Contacts	240,416
Collection Usage and Growth:	
Print/Electronic (NPL) Collection Usage	1,327,439
Print Books/Subscriptions Purchased	67,686
Full Text Electronic Journal Titles Available	23,653
Full Text Electronic Book Titles Available	45,222
NPL Databases Available for Searching (est.)	1,573

TABLE 28

END OF YEAR PERSONNEL[1] (FY 2006 - FY 2010)

Activity	2006	2007	2008	2009	2010
Business					
Patent Business Line	7,283	7,959	8,582	8,786	8,645
Trademark Business Line	906	954	936	930	862
Total USPTO	**8,189**	**8,913**	**9,518**	**9,716**	**9,507**
Examination Staff					
Patent Examiners					
UPR Examiners	4,779	5,376	5,955	6,143	6,128
Design Examiners	104	101	100	99	97
Total UPR and Design Examiners	4,883	5,477	6,055	6,242	6,225
Trademark Examining Attorneys	413	404	398	388	378

[1] *Number of positions.*

TABLE 29A TOP 50 TRADEMARK APPLICANTS (FY 2010)

Name of Applicant	Classes[1]
JOHNSON & JOHNSON	664
MATTEL, INC.	654
LG Electronics Inc.	442
Disney Enterprises, Inc.	367
Bristol-Myers Squibb Company	344
Sears Brands, LLC	325
Novartis AG	266
Milux Holding S.A.	263
HASBRO, INC.	230
Glaxo Group Limited	226
sanofi-aventis	215
Lidl Stiftung & Co. KG	208
Target Brands, Inc.	203
Twentieth Century Fox Film Corporation	200
The Procter & Gamble Company	195
Cisco Technology, Inc.	185
Hansen Beverage Company	180
Skechers U.S.A., Inc. II	180
S. C. Johnson & Son, Inc.	166
American Express Marketing & Development	161
United Feature Syndicate, Inc.	160
IGT	159
Samsung Electronics Co., Ltd.	155
L'Oreal USA Creative, Inc.	151
Research In Motion Limited	150
The Wine Group LLC	146
Abbott Laboratories	142
Swiss International Air Lines AG	138
Wal-Mart Stores, Inc.	137
FPL Group, Inc.	133
Advance Magazine Publishers Inc.	131
Bally Gaming, Inc.	131
Aldi Inc.	129
Apple Inc.	129
ALOXXI INTERNATIONAL CORPORATION	126
Syngenta Participations AG	126
Akzo Nobel Coatings International B.V.	121
TSA Stores, Inc.	121
Harvey Ball Smile Limited	119
WORLD WRESTLING ENTERTAINMENT, INC.	118
Sony Corporation	116
Lockheed Martin Corporation	115
Source Interlink Magazines, LLC	115
Bath & Body Works Brand Management, Inc.	114
PepsiCo, Inc.	114
Pfizer Inc.	114
Humana Inc.	111
Eli Lilly and Company	109
Eco Product Group, LLC	108
Karsten Manufacturing Corporation	107

[1] *Applications with Additional Classes.*

TABLE 29B TOP 50 TRADEMARK REGISTRANTS (FY 2010)

Name of Registrant	Registrations
MATTEL, INC.	470
Johnson & Johnson	213
Disney Enterprises, Inc.	189
IGT	157
Harvey Ball Smile Limited	107
SANOFI-AVENTIS	96
The Procter & Gamble Company	94
L'Oreal USA Creative, Inc.	91
LF, LLC	82
FPL Group, Inc.	76
Novartis AG	76
AstraZeneca AB	69
Samsung Electronics Co., Ltd.	69
Novo Nordisk A/S	68
Lidl Stiftung & Co. KG	66
L'Oreal	66
Hershey Chocolate & Confectionery Corpor	60
VIACOM INTERNATIONAL INC.	58
AMERICAN INTERNATIONAL GROUP, INC.	57
Conair Corporation	57
Twentieth Century Fox Film Corporation	54
CHURCH & DWIGHT CO., INC.	53
Aristocrat Technologies Australia Pty Lt	50
Callaway Golf Company	50
DEJ HOLDINGS, LLC	50
World Wrestling Entertainment, Inc.	50
Columbia Insurance Company	49
SBE Entertainment Group, LLC	49
Schering-Plough HealthCare Products, Inc	49
Abercrombie & Fitch Trading Co.	48
HEB GROCERY COMPANY, LP	48
Spin Master Ltd.	48
Takeda Pharmaceutical Company Limited	48
For World Peace Pte Ltd	47
Retail Royalty Company	47
Ford Motor Company	46
Nintendo of America Inc.	46
Societe des Produits Nestle S.A.	46
EBSCO Industries, Inc.	45
Frito-Lay North America, Inc.	45
JPMorgan Chase & Co.	45
Konami Gaming, Inc.	45
Video Gaming Technologies, Inc.	45
WMS GAMING INC.	45
Abbott Laboratories	44
Bayer Aktiengesellschaft	44
Product Partners, LLC	44
Boeing Management Company	43
Edible Arrangements, LLC	43
LG Electronics Inc.	43

Glossary of Acronyms and Abbreviation List

Glossary of Acronyms and Abbreviation List

AAO	Agency Administrative Order
ABC	Activity Based Cost
ACTA	Anti-Counterfeiting Trade Agreement
AIPA	American Inventors Protection Act
AIS	Automated Information System
APEC	Asian-Pacific Economic Cooperation
APO	Army Post Office
ASEAN	Association of South East Asian Nations
BPAI	Board of Patent Appeals and Interferences
C&A	Certification and Accreditation
CAFTA	Central American Free Trade Agreement
CAO	Chief Administrative Officer
CFR	Code of Federal Regulations
CFS	Consolidated Financial System
CIPO	Canadian Intellectual Property Office
COOP	Continuity of Operations Plan
COTS	Commercial-off-the-shelf (software)
CPIC	Capital Planning and Investment Control
CS	Commercial Service
CSAM	Cyber Security Assessment and Management
CSRS	Civil Service Retirement System
CSSC	Competitive Sourcing Steering Committee
DEA	Delegated Examining Authority
DIPP	Department of Industrial Policy and Promotion

DKPTO	Danish Patent and Trademark Office
DOC	Department of Commerce
DOJ	Department of Justice
DOL	Department of Labor
DOO	Departmental Organization Order
EAMS	Enterprise Asset Management System
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EFS	Electronic Filing System
EIG	Excellence in Government
ENS	Emergency Notification System
EPA	Environmental Protection Agency
EPO	European Patent Office
ERA	Enterprise Remote Access
eRF	eRed Folder
ESU	Examination Support Unit
EVM	Earned Value Management
FAIP	First Action Interview Program
FAIR	Federal Activities Inventory Reform
FASAB	Federal Accounting Standards Advisory Board
FAST	First Action System for Trademarks
FCIP	Federal Career Intern Program
FECA	Federal Employees' Compensation Act
FEGLI	Federal Employees Group Life Insurance
FEHB	Federal Employees Health Benefit Program
FEIR	Foreign Examiner in Residence
FERS	Federal Employees Retirement System
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contributions Act
FHCS	Federal Human Capital Survey
FIRST	For Inspiration and Recognition of Science and Technology
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FMS	Financial Management Services
FPNG	Fee Processing Next Generation
FTA	Free Trade Agreement
FTC	Federal Trade Commission
FY	Fiscal Year
G8	Group of Eight Countries
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GDP	Gross Domestic Product
GIPA	Global Intellectual Property Academy
GOSL	Government of Sri Lanka
GOTS	Government-off-the-shelf
GPRA	Government Performance and Results Act
GSA	U.S. General Services Administration
H1N1	Influenza A Virus
HCSP	Human Capital Strategic Plan
HR	Human Resources
IACB	Indian Arts Crafts Board (Interior)
ID	Identifications
IDP	Individual Development Plan
IEIR	International Examiners In Residence
IG	Inspector General

IIPI	International Intellectual Property Institute
IMPI	Mexican Institute of Industrial Property
INPI	Chile's IP Office
INTA	International Trademark Association
IP	Intellectual Property
IPAU	IP Australia
IPEC	Intellectual Property Enforcement Coordinator
IPIA	Improper Payments Information Act
IPR	Intellectual Property Rights
ISO	International Organization for Standardization
IT	Information Technology
ITA	Internal Trade Administration
ITU	Intent-To-Use/Division Unit
JPO	Japanese Patent Office
KIPO	Korean Intellectual Property Office
MBDA	Minority Business Development Agency
MOU	Memoranda of Understanding
MTS	Metric Tracking System
N/A	Not Available
NAMM	International Music Products Association
NASA	National Aeronautics and Space Administration
NIST	National Institute of Standards and Technology
NOAA	National Oceanic and Atmospheric Administration
NTEU	National Treasury Employees Union
NTIA	National Telecommunications and Information Administration
OBRA	Omnibus Budget Reconciliation Act
OCAO	Office of the Chief Administration Officer
OCFO	Office of Chief Financial Officer
OCIO	Office of Chief Information Officer
OCR	Office of Civil Rights
OCS	Office of Corporate Services
OGA	Office of Governmental Affairs
OGC	Office of General Counsel
OHIM	Office for Harmonization in the Internal Market
OHR	Office of Human Resources
OIG	Office of the Inspector General
OIPPE	Office of Intellectual Property Policy and Enforcement
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OPT	Office of Patent Training
PALM	Patent Application Location and Monitoring
PAOs	Property Accountability Officers
PAP	Performance Appraisal Plan
PART	Program Assessment Rating Tool
PC	Property Custodians
PCT	Patent Cooperation Treaty
PDF	Portable Document Format
PELP	Patent Examiner Laptop Program
PFW	Patent File Wrapper
PIF	Pacific Island Forum
PMA	President's Management Agenda
POPA	Patent Office Professionals Association
PPAC	Patent Public Advisory Committee
PPH	Patent Prosecution Highway
PTA	Patent Training Academy
PTOS	Patent and Trademark Office Society

Pub.L.	Public Law
QAS	Quality Assurance Statement
RAM	Revenue Accounting and Management System
RCE	Requests for Continued Examinations
Rospatent	Russian Federal Service for IP, Patents and Trademark
S&T	Science and Technology
SCCR	Standing Committee on Copyright and Related Rights
SES	Senior Executive Service
SFFAC	Statements of Federal Financial Accounting Concepts
SFFAS	Statements of Federal Financial Accounting Standards
SHARE	Strategic Handling of Applications for Rapid Examination
SIPO	State Intellectual Property Office of the People's Republic of China
SITP	Strategic Information Technology Plan (USPTO)
SM	Service Mark
SMEs	Small and Medium-sized Enterprises
SOP	Standard Operating Procedure
SPE	Supervisory Patent Examiner
SPECO	Supervisory Patent Examiners and Classifiers Organization
STEM	Science, Technology, Engineering, and Mathematics
STOP!	Strategy Targeting Organized Piracy!
TAC	Trademark Assistance Center
TARR	Trademarks Application and Retrieval (TARR) System
TEAS	Trademark Electronic Application System
TC	Technology Center
TI	Transfer Inquiry
TIFA	Trade and Investment Framework Agreements
TLT	Trademark Law Treaty (WIPO)
TMEP	Trademark Manual of Examining Procedure
TPP	Trans-Pacific Partnership Agreement
TRAM	Trademark Reporting and Application Monitoring
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TTAB	Trademark Trial and Appeal Board
UK	United Kingdom
UK-IPO	United Kingdom Intellectual Property Office
UNECE	United Nations Economic Commission for Europe
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UPRD	Utility, Plant, Reissue, Design
UPOV	(International) Union for the Protection of New Varieties of Plants
U.S.	United States
U.S.C.	United States Code
USG	United States Government
USPTO	United States Patent and Trademark Office
USTR	United States Trade Representative
VOIP	Voice Over Internet Protocol
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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