

# **U.S. Patent and Trademark Office**

**Fiscal Year 2019  
Congressional Justification**

**February 12, 2018**

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**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Fiscal Year 2019**  
**The USPTO Congressional Budget Justification**  
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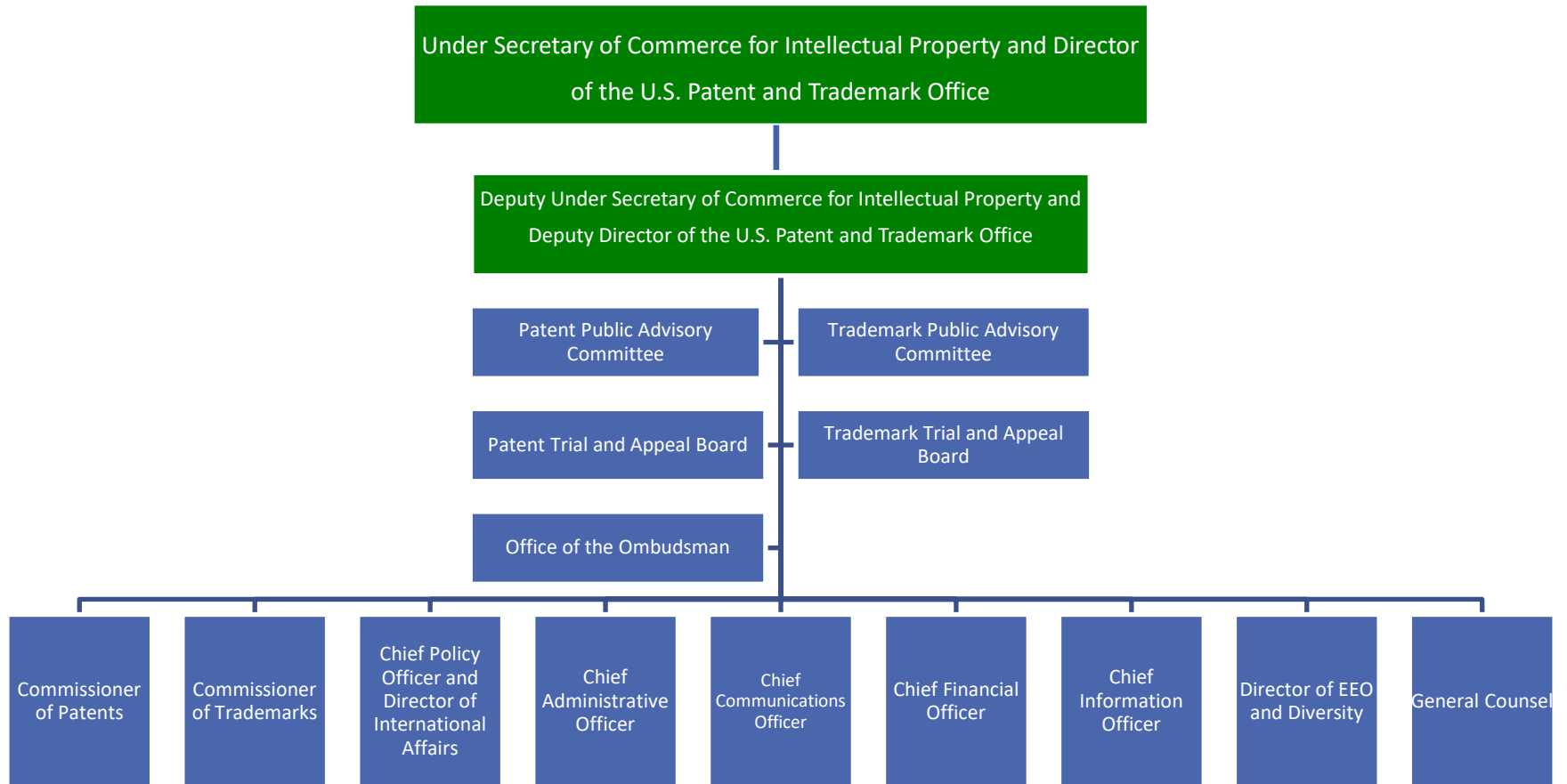
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# INTRODUCTION

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## Exhibit 2 – Organization Chart



## **Description/Scope of Responsibilities**

The United States Patent and Trademark Office (USPTO/Office) is an agency within the United States Department of Commerce (DOC).

The USPTO fosters innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property (IP) policy, and delivering IP information and education worldwide. Two distinct business lines, Patents and Trademarks, administer the patent and trademark laws which provide protection to inventors and businesses for their inventions and corporate and product identifications, and encourage innovation and scientific and technical advancement of United States (U.S.) industry through the preservation, classification, and dissemination of patent and trademark information. The issuance of patents and the registration of trademarks, and providing domestic and global leadership on IP issues are inherently governmental functions, so there are no private sector alternatives to carrying out these activities. However, the USPTO assesses functions routinely and relies heavily on the private sector for those aspects of its operations which are not inherently governmental, for example contracting the processing of the administrative aspects of the patent and trademark examination processes, as well as mission-support activities.

The Office is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC) on Office policies, goals, performance, budget, and user fees. The Patent organization is under the direction of the Commissioner for Patents, and the Trademark organization is under the direction of the Commissioner for Trademarks. The Commissioners each enter into an annual performance agreement with the Secretary of Commerce, which outlines the measurable organizational goals for which each is responsible.

In fiscal year (FY) 2019, the USPTO expects to employ approximately 13,148 federal employees including patent examiners, trademark examining attorneys, computer scientists, attorneys, and administrative staff. Employee engagement, which helps facilitate the recruitment and retention of a highly qualified workforce, is a core component of the Office's business strategy.

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

The USPTO is headquartered in Alexandria, Virginia, and has four regional offices around the country. The USPTO opened the Elijah J. McCoy Midwest Regional Office in Detroit, Michigan in July 2012, the Rocky Mountain Regional Office in Denver, Colorado in June 2014, the Silicon Valley Regional Office in San Jose, California in October 2015, and the Texas Regional Office in Dallas, Texas in November 2015.

In addition, the USPTO has two storage facilities located in Virginia and Pennsylvania.

The USPTO's legislative authorities are included in Exhibit 32/33 (page 99).

## Exhibit 3 – Executive Summary

USPTO’s FY 2019 President’s Budget (Budget) fully supports the Office’s priorities of enhancing patent quality; reducing patent pendency and backlog; maintaining trademark pendency and quality; completing the Patent Trial and Appeal Board proceedings timely; providing domestic and global leadership in intellectual property (IP); investing in modernizing the USPTO’s information technology (IT); and conducting stakeholder and public outreach, including educating small businesses on obtaining and protecting IP.

The USPTO operates like a business by fulfilling requests from around the world for IP products and services in exchange for fee payments. In many instances, these requests with fees are received in one fiscal year and fulfilled in a subsequent year, requiring multi-year planning and budgeting.

The Budget is predicated on workload demand and fee collection estimates derived from production and workload models, including recent fee adjustments and global and domestic indicators of economic activity. Being a demand driven organization poses unique risks that can be mitigated through the ability to react quickly to changes in the global IP environment through retaining the Office’s authority to adjust fees, as was done in January 2018 for patents. The Budget also reflects USPTO’s commitment to fiscal responsibility by making prudent choices when aligning spending priorities with revenue projections and ensuring sufficient operating reserves (OR) to shield mission-critical operations against potential economic or financial disruptions.

The USPTO’s contribution to the Administration’s Reform Agenda is also reflected in the FY 2019 Budget through a focus on effectively and efficiently delivering IP programs to customers and encouraging innovation to create jobs and investment in the U.S. economy. The USPTO uses data modeling to determine the appropriate staffing levels and examination capacity for production based activities to accomplish performance metrics. The USPTO also continues to assess its hiring needs for non-production activities and will remain judicious in the administration’s effort to improve performance, increase accountability and ensure the agency’s workforce aligns with achieving agency priorities.

For FY 2019, the USPTO requests the authority to spend fee collections of \$3,416M. Along with \$39M from other income and \$5M from the OR balance, these fee collections will fund operating requirements of \$3,461M, including 13,148 positions (Pos.); and a transfer of \$2M to the DOC Office of the Inspector General (OIG), as shown in the above table. With full access to its fee collections to offset its funding requirements, the USPTO’s FY 2019 net appropriation would be \$0.

**Highlights Include**<sup>1</sup>: FY 2019 requirements have increased by only \$11.5M above FY 2018 -- \$63.1M less than the \$74.6M in prescribed inflation/adjustments to base, a net decrease of 1.8% below the FY 2019 base. The FY 2019 fee collection estimate is \$3,416.4M, which is based on the most recent analysis and trends, including fee adjustments put in place during FY 2017/FY 2018.

**USPTO Total Budget Requirements**  
(Dollars in Millions)

	FY 2017	FY 2018	FY 2019
Fee Collections	\$3,079	\$3,430	\$3,416
Other income	\$39	\$39	\$39
<b>Total Requirements*</b>	<b>\$3,206</b>	<b>\$3,450</b>	<b>\$3,461</b>
To (-) / From (+) Operating Reserve**	(\$88)	\$20	(\$5)
<b>Net Appropriation</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Budget Authority Temporarily Unavailable**		(\$24)	-
FTE	12,507	12,735	12,884
<b>Positions</b>	<b>12,898</b>	<b>13,011</b>	<b>13,148</b>

\* Total Requirements include an annual transfer of \$2M to the DOC Office of the Inspector General  
 \*\* PTO assumes that when FY 2018 appropriations are finalized, the \$24M additional Budget Authority temporarily reduced due to continuing resolutions in FY 2018 will become available and therefore has not rolled the \$24M loss through the operating reserve balance into FY 2018.

<sup>1</sup> See USPTO FY 2019 Budget and Performance at-a-Glance (BPAG) Chart (pages 8-11) and Appendix II – Two Way Split (page 118)

### Program Changes – Highlights

Net decreases to the following programs:

#### Patent Program – (\$23.8M):

- Optimize the workforce by hiring 390 examiners (or roughly 50 over attrition levels) with production support to align examination capacity with incoming workload, make progress toward pendency targets, and continually improve patent quality.
- Align Patent Trial and Appeal Board (PTAB) capacity with workload projections, meet statutory trial proceeding deadlines, and reduce staffing levels through attrition by 7 positions as the appeal backlog reaches its target level.
- Reduce investments in the Patent IT Portfolio while continuing development and deployment of new IT capabilities and progress toward the retirement of legacy systems.

#### IP Policy, Protection and Enforcement Program – (\$0.03M)

- Decrease investment in the IT Portfolio to manage existing systems for IP performance activities.

#### Management Program – (\$45.6M):

- Decrease investment in the IT Infrastructure and Support Portfolio reflecting completion of the latest refresh of end-user IT equipment (i.e., employee laptops/desktops) and other infrastructure and network improvements in FY 2018.
- Increase cross-cutting services to address work environment and security issues.

Net increases to the following programs:

#### Trademark Program -- \$6.4M:

- Optimize the workforce by filling 66 positions to align trademark application examination capacity with revised growth estimates, while continuing to meet quality and pendency targets.
- Increase Trademark Trial and Appeal Board (TTAB) staffing by 1 position to align capacity with projected workload.
- Increase investment in the Trademark IT Portfolio to reflect the level of FY 2019 modernization plans for the Trademark Next Generation (TMNG) IT systems, and 2 additional staff.

### Sustainable Funding

As a fully fee-funded agency, the USPTO maintains ORs—consistent with standard private sector practices—to mitigate operational risks caused by disruptions to our revenues or workload fluctuations. The reserves provide sufficient resources to continue operations when the revenue stream or funding availability are uncertain and provide supplemental funding when budgetary requirements grow due to unexpected increases in application filings, capital investment needs, or other factors.

The Budget supports a 10 year extension of the authority of the Director of the USPTO to set or adjust any fee under Section 10, subsection (a) of the 2011 Leahy-Smith America Invents Act (AIA). Absent congressional action, the AIA fee setting authority will expire on September 16, 2018. The independent authority to adjust both patent and trademark user fees via the regulatory process enables the Office to set fees at a level to recover the aggregate costs of its operations, including investments in strategic agency goals, and respond to changing market needs. Since enactment of the AIA, patent and trademark fees have each been adjusted via rulemaking twice.

*A full-year 2018 appropriation was not enacted at the time the FY 2019 Budget was prepared; therefore, the Budget assumes the Department is operating under the Continuing Appropriations Act, 2018 (Division D of P.L. 115–56, as amended). The amounts included for 2018 reflect the annualized level provided by the continuing resolution.*

**FY 2019 Budget Plans:**  
**Budget and Performance at a Glance (BPAG) Chart**

As a business-like organization, the USPTO fulfills requests for IP products and services from around the world that are paid for by the customer. Since these requests are frequently received in one fiscal year and fulfilled in a subsequent year, the Office engages in multi-year planning and budgeting. In doing this, the Office reviews indicators of global and domestic economic activity, as well as policies and legislation, process efficiencies, and applicant behavior in forecasting workload and fee collections. These workload variables in turn affect production models that are produced by the Patent and Trademark organizations, as well as by the PTAB. Further details about this process are included in Appendix I.

In formulating its annual budget requirements, the USPTO identifies the performance targets it expects to achieve in order to fulfill its mission, goals, and objectives as described in its strategic plan. It then identifies the budget requirements needed to meet these performance targets and the fee collections and operating reserves needed to fund those requirements.

The Budget and Performance at a Glance (BPAG) Chart that follows reflects the USPTO's multi-year planning activities. Current budget planning must take into consideration prior year actual circumstances and anticipated future year actions. For example, the FY 2019 and out year estimates on the BPAG Chart build off of a lower than planned serialized patent application growth rate in FY 2017 and reflect a lower growth rate for FY 2018 – 2023 than previously projected.

The BPAG Chart summarizes the USPTO's FY 2019 performance commitments through the major performance and workload indicators that will be achieved with the required funding. The performance indicators are a combination of the USPTO's Government Performance and Results Act (GPRA) measures, and those that are used for internal management purposes. Current performance information can be found at the [Data Visualization Center](http://www.uspto.gov/about-us/performance-and-planning/data-visualization-center) at <http://www.uspto.gov/about-us/performance-and-planning/data-visualization-center>. The BPAG Chart also shows the estimated budgetary requirements and FTE for FY 2019 and the out years, along with the projected fee collections and operating reserve activity.

The USPTO is currently updating its strategic plan for FY 2018 through FY 2022, which is expected to be finalized and publically available by the Summer of 2018. Updates to this FY 2019 President's Budget does not reflect newly proposed goals, objectives and initiatives that ultimately will be included in the final 2018-2022 Strategic Plan. The current [USPTO 2014-2018 Strategic Plan](https://www.uspto.gov/sites/default/files/documents/USPTO_2014-2018_Strategic_Plan.pdf) can be found at [https://www.uspto.gov/sites/default/files/documents/USPTO\\_2014-2018\\_Strategic\\_Plan.pdf](https://www.uspto.gov/sites/default/files/documents/USPTO_2014-2018_Strategic_Plan.pdf)

## USPTO FY 2019 Budget and Performance-at-a-Glance

<i>(Dollars in thousands)</i>	FY 2017 Actual	FY 2018 President's Budget	FY 2018 Annualized CR	FY 2019 PB Submission	FY 2020 Estimate	FY 2021 Estimate	FY 2022 Estimate	FY 2023 Estimate
<b>USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS</b>								
Amount	2,875,256	3,130,601	3,069,228	3,078,701	3,138,010	3,278,265	3,373,054	3,443,393
Full Time Equivalent (FTE)	11,296	11,867	11,385	11,480	11,537	11,588	11,639	11,694
Utility, Plant and Reissue (UPR) Applications Filed	605,232	627,300	603,400	602,700	605,400	611,200	616,800	622,100
UPR Applications Filed – Percent Change Over Previous FY	-0.8%	2.1%	-0.3%	-0.1%	0.5%	1.0%	0.9%	0.9%
Average First Action Pendency/UPR (Months)	16.3	15.1	15.4	14.5	14.37	13.9	13.4	12.9
Average Total Pendency/UPR (Months)	24.2	23.0	25.0	23.8	23.2	23.0	22.5	22.0
<i>Patent Correctness (Statutory Compliance metrics):<sup>1</sup></i>								
Statute 35 USC 101 (including utility and eligibility)	96.5%	N/A	>97.0%	TBD	TBD	TBD	TBD	TBD
Statute 35 USC 102 (prior art compliance)	94.4%	N/A	>95.0%	TBD	TBD	TBD	TBD	TBD
Statute 35 USC 103 (prior art compliance)	92.4%	N/A	>93.0%	TBD	TBD	TBD	TBD	TBD
Statute 35 USC 112 (35 USC 112(a),(b) including (a)/(b) rejections related to 35 USC 112(f))	92.6%	N/A	>93.0%	TBD	TBD	TBD	TBD	TBD
Percent of Actions Completed within 14 months	45%	47%	47%	50%	52%	54%	56%	59%
UPR Examiners On-Board at End-of-Year	7,966	8,300	8,022	8,079	8,134	8,187	8,238	8,290
UPR First Actions	603,800	670,300	620,500	606,400	604,100	612,300	619,600	625,800
UPR Disposals	621,700	656,100	620,500	606,400	604,100	612,300	619,600	625,800
UPR Units of Production	612,760	663,200	620,500	606,400	604,100	612,300	619,600	625,800
Obligation Cost Per Patent Production Unit <sup>2</sup>	\$4,744	\$4,786	\$5,074	\$5,142	\$5,260	\$5,420	\$5,510	\$5,569
UPR Issues	317,000	304,600	316,500	311,800	308,700	311,100	314,900	318,300
UPR Unexamined Patent Application Backlog	526,579	430,000	497,500	481,700	470,900	457,600	442,500	426,400
Forward Looking First Action Pendency/UPR (Months)	14.4	10.7	13.9	13.5	13.0	12.5	12.5	9.8

<sup>1</sup> Patent quality metrics program launched metrics on the correctness and clarity of patent work products for use in FY 2017.

<sup>2</sup> Budget requirements are used to calculate the results

<i>(Dollars in thousands)</i>	FY 2017 Actual	FY 2018 President's Budget	FY 2018 Annualized CR	FY 2019 PB Submission	FY 2020 Estimate	FY 2021 Estimate	FY 2022 Estimate	FY 2023 Estimate
<b>USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS</b>								
Amount	281,884	307,107	324,141	323,232	332,210	361,553	383,542	403,388
FTE	1,072	1,201	1,191	1,243	1,330	1,433	1,546	1,662
Applications Received (Includes Extra Classes)	594,107	610,000	646,000	681,000	750,000	843,000	939,000	1,037,000
Applications Received – Percent Change Over Previous FY	12.0%	7.0%	8.7%	5.4%	10.1%	12.4%	11.4%	10.4%
Exceptional Office Action rate	45.0%	45.0%	45.0%	46.0%	47.0%	48.0%	49.0%	50.0%
First Action Compliance Rate	97.3%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate	98.3%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	2.7	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Average Total Pendency (Months) Excluding Suspended and Inter Partes Proceedings	9.5	12	12	12	12	12	12	12
Balanced Disposals	1,163,132	1,219,500	1,278,200	1,357,600	1,480,100	1,668,300	1,862,900	2,061,200
Office Disposals	515,007	604,400	604,000	636,200	689,400	771,000	855,300	941,300
Obligation Cost Per Trademark Disposal <sup>2</sup>	\$576	\$540	\$565	\$536	\$508	\$493	\$470	\$449
Examining Attorneys On-Board at End-of-Year	549	589	591	645	726	807	910	991
<b>USPTO GOAL 3: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE</b>								
Amount	46,852	63,166	54,132	57,069	57,318	58,718	59,940	61,104
FTE	138	181	159	161	161	161	161	161
Percentage of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along four dimensions:								
<ul style="list-style-type: none"> <li>• Institutional improvements of IP office administration</li> <li>• Institutional improvements of IP enforcement entities</li> <li>• Improvements in IP laws and regulations</li> <li>• Establishment of government-to-government cooperative mechanisms</li> </ul>	100.0%	75.0%	65.0%	65.0%	65.0%	65.0%	65.0%	65.0%
Number of foreign officials trained on best practices to protect and enforce IP	4,134	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Amounts not Supporting Goals <sup>3</sup>	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
USPTO Requirements	3,205,992	3,502,874	3,449,501	3,461,001	3,529,538	3,700,536	3,818,536	3,909,886
FTE	12,507	13,249	12,735	12,884	13,027	13,182	13,345	13,518

<sup>2</sup> Budget requirements are used to calculate the results

<sup>3</sup> Amounts transferred to the Department of Commerce Office of the Inspector General.

<i>(Dollars in thousands)</i>	FY 2017 Actual	FY 2018 President's Budget	FY 2018 Annualized CR	FY 2019 PB Submission	FY 2020 Estimate	FY 2021 Estimate	FY 2022 Estimate	FY 2023 Estimate
Fee Collections	3,078,887	3,586,193	3,430,123	3,416,366	3,551,159	3,713,311	3,983,970	4,008,633
Other Income/Recoveries	39,445	29,250	39,445	39,445	39,445	39,445	39,445	39,445
<b>Total Projected Fee Collections and Other Income</b>	<b>\$3,118,332</b>	<b>\$3,615,443</b>	<b>\$3,469,568</b>	<b>\$3,455,811</b>	<b>\$3,590,604</b>	<b>\$3,752,756</b>	<b>\$4,023,415</b>	<b>4,048,078</b>
<b>Less Total Requirements</b>	<b>3,205,992</b>	<b>3,502,874</b>	<b>3,449,487</b>	<b>3,461,001</b>	<b>3,529,538</b>	<b>3,700,536</b>	<b>3,818,536</b>	<b>3,909,886</b>
Funding to(+) / from(-) Operating Reserve <sup>4</sup>	(87,659)	112,569	20,067	(5,191)	61,065	52,219	204,879	138,192
Operating Reserve Balance: Patents	252,926	342,723	271,089	255,738	291,100	315,897	476,405	552,440
Operating Reserve Balance: Trademarks	120,652	119,868	122,553	132,713	158,417	185,840	230,210	292,367
Budget Authority Temporarily Unavailable <sup>4</sup>	-	-	(24,000)	-	-	-	-	-

<sup>4</sup> PTO assumes that when FY 2018 appropriations are finalized, the \$24M additional Budget Authority temporarily reduced due to continuing resolutions in FY 2018 will become available and therefore has not rolled the \$24M loss through the operating reserve balance into FY 2018.

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



## **Patent and Trademark Businesses: Five-Year Horizon**

The USPTO's planning and budget priorities are reflected in the following five-year horizon summary for the USPTO's two business lines and primary revenue sources: Patents and Trademarks.

As a fee-funded organization, the USPTO relies on user fee collections, which fluctuate based on various external and internal factors, to fund operations. Given the uncertainty in both fee collection estimates and budgetary requirements five years out, the USPTO carefully monitors risk factors and financial estimates on a regular basis. A detailed description of how the USPTO develops workload and fee collection estimates for the two business lines is included in Appendix I.

Similar to many businesses, the USPTO maintains operating reserves to mitigate uncertainty and financial risks. The USPTO manages the ORs within a range of acceptable balances. Minimum planning targets are assessed annually and are intended to address immediate unplanned changes in the economic or operating environments as the Office builds its reserves to their optimal levels. The optimal reserve targets, which are reviewed at least biennially, are established based on an assessment of the likelihood and severity of an array of financial risks, including: the broader economic and fiscal climates; uncertainty surrounding changes in IP policy, laws, and regulations; forecasting uncertainty; the balance of the USPTO's fee structure; legislative uncertainty of fee setting authority; the ratio of fixed and variable costs; and the potential for unplanned operating requirements.

### **Patent Business: Five-Year Horizon**

The USPTO continues its mission-critical examination strategy to focus on accurate and consistent results in search and examination, while making progress in first action and total pendency. The budget request assumes continued investments in the time allowed for search and examination, is based on a more modest application filing growth rate during the planning horizon (see Figure #1(a)) than was projected for the FY 2018 President's Budget, continues to optimize the workforce by aligning hiring levels with the examination capacity required to achieve a soft landing when pendency targets are met, and includes a patent fee increase effective January 2018.

The Office has initiated a comprehensive analysis of examination time known as Examiner Time Analysis (ETA). The intent is to enable the Patent Business to have a better comprehension of impacts to examination time and make better informed decisions about the future of examination time. The last comprehensive assignment of expectancies for examination time was over 40 years ago. Since that time, significant changes to the examination process have occurred, including new technologies, growth of available prior art, increased use of electronic tools, transition to a new classification system, and changes in legal landscape or examination practices. The agency is working to gather and evaluate information on the many pieces that impact examination time and the production system. The agency published a Federal Register Notice to gather public input on priorities regarding quality, pendency, cost for services, and related topics. At a summary level the next steps include: continue to evaluate results of the outreach efforts and factors impacting examination time and the production system; consider potential changes to examination time; seek to devise methodologies to streamline future updates to examination time

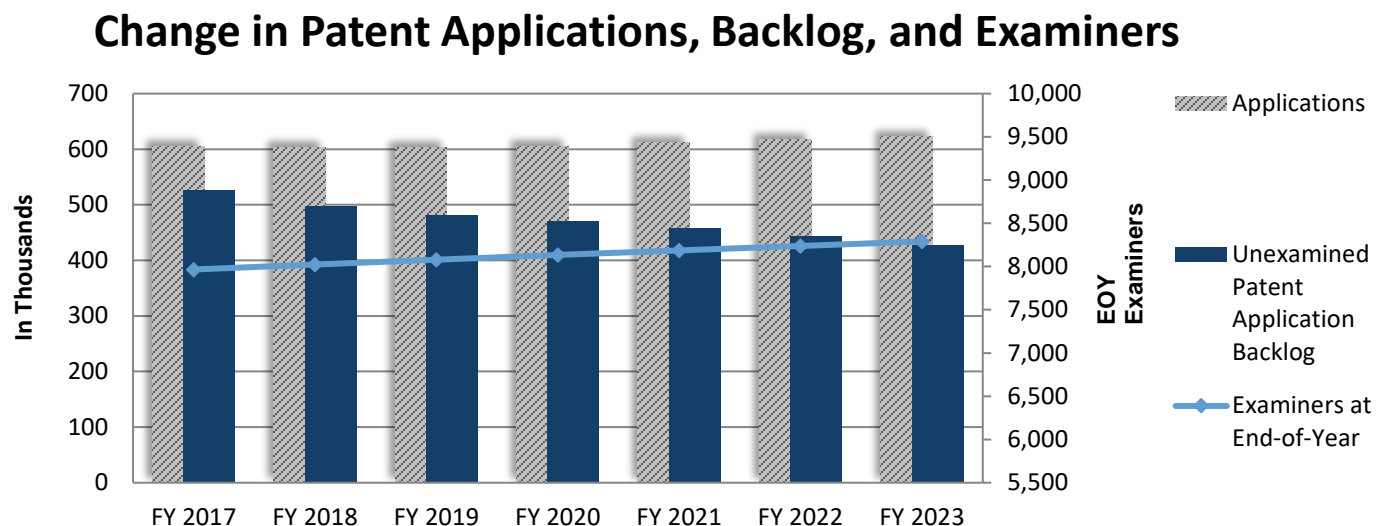
goals so that future adjustments can be more agile in response to changes in the law, court decisions, IT tools, and other factors that may impact examination.

As seen in the chart below, although the FY 2019 Budget projects that overall utility, plant and reissue (UPR) filings will be flat, serialized (original) filings--which are the largest component--are projected to increase 0.8 percent annually through FY 2023. As a result of these variable filing trends, coupled with a freeze in government hiring including patent examiners during FY 2017, the USPTO has modified its patent examiner hiring plans to 390 examiner hires a year from FY 2018 through FY 2023, which represents about 50 new hires above the attrition level of 4 percent each year. Although model assumptions have been revised, the USPTO will continue to work toward improving first action and total pendency.

The staffing plan brings the patent examining capacity to the optimal level needed to address the current patent application inventory and the expected number of new patent applications. Changes to planned hiring levels or other assumptions, will change projected results. Once the USPTO achieves the optimal pendency levels, the agency will continue to closely monitor inventory and application filing levels to continue calibrating the examination capacity to maintain patent pendency goals while optimizing quality.

**Figure #1 – Patent Business Line: Financial and Performance Outlook**

**Figure #1(a) – Patent Performance Outlook**



**Figure #1(b) – Patent Performance Outlook (Continued)**

Utility, Plant and Reissue	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Applications	605,232	603,400	602,700	605,400	611,200	616,800	622,100
Serialized Growth Rate	0.3%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%
Production Units	612,760	620,500	606,400	604,100	612,300	619,600	625,800
Unexamined Patent Application Backlog	526,579	497,500	481,700	470,900	457,600	442,500	426,400
Ideal Backlog (10 months of apps)	336,989	358,600	350,300	348,900	353,700	358,000	361,700
Performance Measures							
Forward Looking First Action Pendency (Months)	14.4	13.9	13.5	13.0	12.5	12.5	9.8
Avg. First Action Pendency (Months)	16.3	15.4	14.5	14.40	13.9	13.4	12.9
Avg. Total Pendency (Months)	24.2	25.0	23.8	23.2	23.0	22.5	22.0
Percent of Actions Completed within 14 months	45%	47%	50%	52%	54%	56%	59%
Examiners at End-of-Year	7,966	8,022	8,079	8,134	8,187	8,238	8,290

To achieve the performance commitments shown above and in the BPAG Chart on pages 8-11, the USPTO has developed its budgetary requirements, and projected its patent fee collections as shown in Figure #1(c).

**Figure #1(c) – Patent Financial Outlook**

	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
(Dollars in Millions)							
Projected Fee Collections	2,775	3,094	3,072	3,182	3,313	3,544	3,531
Other Income	33	33	33	33	33	33	33
Total Projected Fee Collections and Other Income	2,808	3,126	3,104	3,215	3,345	3,577	3,563
Budgetary Requirements	2,909	3,108	3,120	3,179	3,320	3,416	3,487
Funding to (+) and from (-) Operating Reserve	(101)	18	(15)	35	25	161	76
EOY Operating Reserve Balance	253	271	256	291	316	476	552
Over/(Under) \$300M Minimum Level	(47)	(29)	(44)	(9)	16	176	252
Over/(Under) Optimal Level	(474)	(506)	(524)	(504)	(514)	(378)	(319)

- Other Income includes recoveries and agency reimburseable agreements

- The budgetary requirements for each fiscal year include \$1.8 million transfer to the DOC OIG.
- Note: A report showing the Patent and Trademark Split per Two Way Business Line for FY 2017 through FY 2023 is included in Appendix II.

Projected Fee Collections. In November 2017, the USPTO published a final rulemaking to adjust various patent fees—this was the second time that the Office used its AIA authority to adjust patent fees. New fees that reflect adjustments made in response to public comments became effective in January 2018. The new fee schedule will provide modest additional revenue to continue covering the aggregate costs of patent operations. While the serialized patent application growth rates are relatively stagnant in current estimates, which has a direct impact on fee collections, the Office will continue to conduct biennial fee reviews in an effort to ensure the fee structure allows for continuous strategic improvements to address stakeholder needs and maintaining a sustainable funding model to avoid disruptions caused by fluctuations in available financial resources. A combination of the delay in implementing the adjusted patent fee schedule and updated fee projections – which incorporate new information regarding previous assumptions -- indicate that revenue to support patent operations during the next five years may be lower than previously planned. In addition, any new initiatives may place additional constraints on available funding.

Budgetary Requirements With new application filings expected to increase by about 16,900 applications by FY 2023 compared to FY 2017 or a 0.5 percent CAGR, Patent related budgetary requirements are projected to increase at a slightly higher rate at an average 3.1 percent CAGR annually over the budget planning horizon.

Patent Operating Reserve. The OR mitigates operational risk caused by temporary changes in the economy and the USPTO's operating and financial environments. As previously noted, the USPTO manages its ORs within a range of acceptable balances. For the Patent business line, a minimum planning level of approximately \$300 million—just over one month's operating expenses--has been established through FY 2019. In future years, the USPTO aims to build the Patent OR toward an optimal level of three months operating requirements. A recent assessment of the Patent OR relative to the current financial risk environment revalidated the three months optimal level as the appropriate long-range target given various risk factors, such as: the high percentage of fixed costs in the Patent business and recent and potential changes in the legal, judicial, and policy environments.

The OR level is expected to be slightly below the minimum target in FY 2019 as the USPTO continues critical investments in areas such as IT modernization and examination initiatives. However, the USPTO is continuously analysing requirements and anticipates meeting the minimal OR in FY 2021 while working towards reaching the optimal level of three months beyond the current planning horizon.

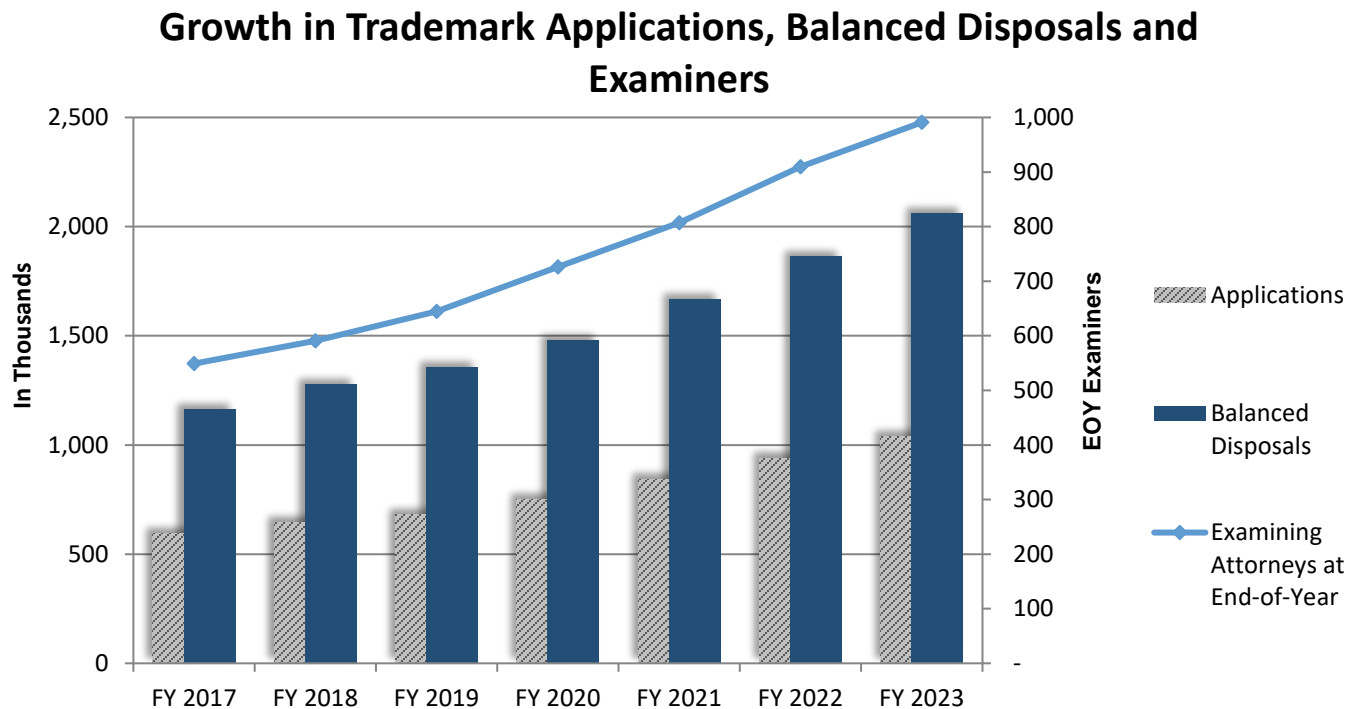
If the projected OR were to exceed the estimated optimal level by 10 percent for two consecutive years, the USPTO would examine the contributing factors and determine whether there is a need to adjust fee rates. However, the Office's ability to do so assumes the approval of a 10 year extension of the AIA authority granting the Director of the USPTO the ability to set or adjust any fee, as supported by the Administration.

## Trademark Business: Five-Year Horizon

The Trademark organization is committed to maintaining an average first action pendency of 2.5 to 3.5 months and an average total pendency of 12 months or less. As shown in Figure # 2(a) below, trademark applications are expected to grow at an average rate of ten percent over the five-year planning horizon. Trademark application filings exhibit a strong correlation with the general state of the economy as measured by the growth of the Gross Domestic Product (GDP) and venture capital. The U.S. economy continues to grow and has proven to be resilient in the face of persistent economic malaise in Europe, the Middle East, and North Africa. The Budget assumes that current economic growth trends will be sustained. International filings have been growing faster than domestic ones. They are fueled by the growth of the world economy, by international trade, and by the enhanced global value of IP rights. International filings are projected to continue to grow and will represent a larger and larger share of total applications. Given this continued growth in applications, the Trademark organization will need to continue increasing its trademark examining attorney staffing levels to maintain its quality and pendency targets.

**Figure #2 – Trademark Business Line: Financial and Performance Outlook**

**Figure #2(a) – Trademark Performance Outlook**



**Figure #2(b) – Trademark Performance Outlook**

Trademarks	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Applications	594,107	646,000	681,000	750,000	843,000	939,000	1,037,000
Growth Rate	12.0%	8.7%	5.4%	10.1%	12.4%	11.4%	10.4%
Balanced Disposals	1,163,132	1,278,200	1,357,600	1,480,100	1,668,300	1,862,900	2,061,200
Performance Measures							
Avg. First Action Pendency (Months)	2.7	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Avg. Total Pendency (Months)	9.5	12.0	12.0	12.0	12.0	12.0	12.0
Examining Attorneys at End-of-Year	549	591	645	726	807	910	991

This five-year framework to achieve these performance targets requires the trademark budgetary resources and projected fee collections as shown in Figure #2(c).

**Figure #2(c) – Trademark Financial Outlook**

	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
(Dollars in Millions)							
Projected Fee Collections	304	336	345	369	401	440	478
Other Income	7	7	7	7	7	7	7
Total Projected Fee Collections and Other Income	311	343	351	376	408	447	485
Budgetary Requirements	297	341	341	350	380	403	423
Funding to (+) and from (-) Operating Reserve	14	2	10	26	27	44	62
EOY Operating Reserve Balance	121	123	133	158	186	230	292
Over/(Under) Minimum Level	66	63	73	98	126	170	232
Over/(Under) Optimal Level	(3)	(20)	(9)	12	27	62	116

- The budgetary requirements for each fiscal year include \$0.2 million transfer to the DOC OIG.
- Note: A report showing the Patent and Trademark Split per Two Way Business Line for FY 2017 through FY 2023 is included in Appendix II.

Projected Fee Collections: Following USPTO's FY 2015 biennial fee review, a final rule adjusting trademark fees was published and then went into effect in January 2017—this was the second time that the Office used its AIA authority to adjust trademark fees. The fee adjustment sought to better align fees with the full cost of the relevant products and services; protect the integrity of the trademark register by incentivizing more timely filing or examination of applications and other filings and more efficient resolution of appeals and trials; and promote the process efficiencies by incentivizing lower-cost electronic filing options. Current revenue projections appear to be sufficient to fully fund current budget plans in trademark operations.

Budgetary Requirements With a sustained economic recovery, new application filings are expected to approach their historical growth patterns and increase by about 443,000 applications (classes) by FY 2023 compared to FY 2017 or a 9.7 percent CAGR. To keep pace with the incremental workloads and to support business development and implementation of new and improved IT systems, the Trademark organization will increase the number of examining attorneys. To fund the aforementioned workload projections, Trademark related budgetary requirements are projected to increase at an average 6.1 percent CAGR over the budget planning horizon.

Trademark Operating Reserve. The USPTO recently completed an assessment of its operating reserve targets relative to the current financial risk environment. This assessment concluded that the financial risk associated with the Trademark business is higher than that of the Patent business. This greater risk is due to factors such as (a) the speed in which the sensitivity and volatility related to economic fluctuations impact trademark operations, (b) the fact that a greater percentage of fees are collected from application and related filings, and (c) the relative size of the trademark program and the comparatively high ratio of mission support services to direct program expenses. In the past, sporadic large magnitude increases in application filings of more than 27 percent have been followed by declines of more than 10 to 20 percent in filings reducing revenues quickly in the short term. The USPTO assessed the potential risks for Trademarks and determined that the optimal OR should be five months of operating expenses which ranges from \$124M to \$176M over the current budget horizon.

The Trademark OR is estimated to stay above the minimum during the planning horizon, and over the optimal level starting in 2020 through the current planning horizon, assuming filing forecast and budget projections hold constant.

When the projected OR exceeds the estimated optimal level by 25 percent for two consecutive years, the USPTO examines the contributing factors and determines whether there is a need to adjust fee rates. This is currently the case. The scenario presented above indicates that the Trademark OR will exceed the optimal reserve level by 37% in FY 2022 and by 66% in FY 2023. These outyear estimates depend on a number of factors playing out as assumed over several years—most notably, consistently strong filing growth rates. Given the level of uncertainty and high degree of variability involved in projecting this far into the future, the USPTO has determined that taking action at this time to try to preemptively right-size the reserve would be premature. The USPTO will continue to monitor the Trademark reserve in the coming years, and may take action in the future if the above estimates are realized.

## The USPTO Information Technology (IT) Portfolio

As a production-oriented entity, the USPTO relies upon IT as a mission-critical enabler for every aspect of its operation. The quality, efficiency, and productivity of patent and trademark operations correlate to the performance of their IT systems. To accomplish its performance-based strategies, the USPTO continuously engages in multi-year efforts to upgrade its business systems, and the IT infrastructure supporting those systems to keep pace with emerging business, legislative, and court needs and technology standards.

The USPTO has produced a *Strategic Information Technology Plan for FY 2015-2018*, which contains additional information for the initiatives and systems described below. The plan can be found at <http://www.uspto.gov/about/offices/cio/strategic2.0-web-508.pdf>

### The IT Portfolio Budget

The USPTO requests \$670.1 million in FY 2019 for its IT portfolio, which will address the following priorities in support of the Office's four programs: Patents; Trademarks; IP Policy, Protection and Enforcement (IP PP&E); and Management (including IT infrastructure and IT support services). This total represents a 7.6 percent decrease from the FY 2018 Current Plan. Of the \$670.1 million, \$440.0 million is associated with operational activities, while \$230.1 million is associated with project and improvement activities.

Operations and Maintenance (Ops) funds are required to sustain the current level of functionality, performance and compliance with Federal laws, regulations, and directives. Funds in this category are used to maintain the USPTO's existing IT capability and includes such items as compensation for all the USPTO mission support staff who have a technology focus, operations contractor services, hardware maintenance and routine service agreements, software license renewal and purchase, telecommunications, and IT support for the nationwide workforce program and the Regional Offices.

IT Capital Improvement Fund (CIF). Also known as the IT project funds, these resources are grouped together in recognition that future success for the USPTO core mission depends upon transparent and continuous funding for IT improvements. CIF funds are administered in accordance with the USPTO's Capital Planning and Investment Control (CPIC) process and formal project management process. The USPTO manages these resources to ensure a sufficient level of funding for IT improvements from year-to-year. As projects are completed, new projects are proposed, reviewed, and approved. The CIF consists of the following three components:

- Business Project funds that directly support development and enhancement of IT supporting business improvement efforts.
- Enterprise Infrastructure Project funds to maintain the USPTO's IT infrastructure at a level that will support the USPTO's strategic goals and objectives.



- Hardware Replacement funds to replace IT equipment on a regular cycle in order to keep operational costs stable and low, to take advantage of vendor releases for Commercial Off-The-Shelf (COTS) products, and to manage capital hardware replacement projects that will improve business capabilities.

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

### Total USPTO IT Portfolio by Program

The following table shows how total IT funds are allocated by USPTO budget program in FY 2017 through FY 2023 through the Information Resources (IR) sub-programs.

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Patent IR	166.4	193.3	171.8	161.9	160.4	160.9	162.1
Trademark IR	43.0	56.4	60.1	50.3	50.6	51.2	49.5
IP PP&E IR	0.1	1.0	1.0	0.8	0.8	0.8	0.8
Management IR	47.6	49.6	46.6	44.1	44.7	45.5	46.3
Management - IT Infrastructure and IT Support Services	356.9	424.7	390.7	380.8	457.4	469.9	471.4
<b>TOTAL</b>	<b>614.0</b>	<b>725.0</b>	<b>670.1</b>	<b>637.9</b>	<b>714.0</b>	<b>728.3</b>	<b>730.1</b>

For additional information about all IT investments, please see the U.S. IT Dashboard at <https://itdashboard.gov/>.

### PATENT PROGRAM

A key USPTO objective focuses on providing optimal IT service delivery to all users, including continued development and implementation of the Patent End-to-End (PE2E) IT capability. This will be done by expanding upon the initial end-to-end processing capability including “specialized” processing to enable the Patent Program to phase-out its legacy systems and existing IT capabilities; expanding the amount and use of intelligent data in end-to-end processing; and continuing development of tools for sharing patent processes and work products among global IP stakeholders.

The PE2E development has continued to provide releases of new functionality to its designated audiences. Planned activities include the following:

- Document and Application Viewer (DAV): DAV is fully operational and is used by all Patent Employees that assist in application processing and the legacy system, eDAN was retired in December 2016. The USPTO continued to implement enhancements of messaging functionality, and Global Dossier (GD) features. These enhancements will improve workflow in order to retire MADRAS (customer access and services) in FY 2018. In FY 2019, additional business-related enhancements will take place for this mission-critical patent examination product including providing examiner relevant prior art of related patent applications before the examiner reviews the application.
- PE2E Official Correspondence: The USPTO deployed the tool into production and began a phased deployment to the entire patent examination corps in FY 2017 which is scheduled for completion in FY 2018. Also in FY 2018 and into FY 2019, the functionality associated with all the parity items in the legacy Office Action Correspondence Subsystem (OACS) to allow for a FY 2019 decommission.
- PE2E Search – The Examiner Search tool is a modern, scalable enterprise search for patent examiners. Development is taking longer than expected due to the complexity of the search algorithms, performance and scalability. Performance and quality improvements continue to be made and will continue through FY 2018. It is anticipated that a pilot will be released to examiners by the end of FY 2018. The tool will address quality, performance and scalability to allow examiner's to use for examination. In FY 2019, the USPTO will assess its plans to retire EAST and WEST (customer access and services).
- Cooperative Patent Classification (CPC): The USPTO will replace the existing electronic forum with an enhanced Classification Revision Management System, a web-based workflow system to support CPC member offices and integrate with PE2E search in FY 2018. Also, in FY 2018 and FY 2019, the Office will implement additional enhancements to advanced editors and dashboards to assist in revision projects and assist other member offices.
- Patent Center: In FY 2017, deployed a pilot production release of Patent Center Text in EFS-Web/Private Patent Application Information Retrieval (PAIR), allowing text filing of initial application for non-provisional utility applications. The USPTO will expand and deploy enhancements to Patent Center which will allow applicants to file, view, and retrieve patent applications in text-based documents; and will achieve functional parity with legacy systems (EFS-Web/Private PAIR) in FY 2018 and FY 2019.

Patent Legacy Systems. The Patent organization currently relies on over 35 legacy systems that support nearly every aspect of Patent business operations. These applications are grouped into patent capture and processing systems, which focus on initial processing and examination support, and patent search systems, which focus on both primary and specialized search and retrieval. In addition, extensive commercial databases are accessed by patent examiners as part of their application review process.

The IT goals are to retire these legacy systems as quickly as practicable. However, until that milestone is achieved, the USPTO must ensure stability of the legacy systems to meet both internal and external user needs; improve their scalability to support a growing user base and data requirements; upgrade legacy systems to meet legislative and federal mandates and international treaty agreements; and develop legacy system retirement plans.

Patent Information Activities. The modernization, development, and management of patent IT systems are coordinated under the Patent Information Resources sub-program. This includes patent support personnel who serve as business process experts in working with IT

experts by providing technical expertise and project management in the development of Patent Program systems supporting electronic filing and patent business operations.

Patent Trial and Appeal Board (PTAB). The AIA called for many changes in PTAB operations. As a result, the IT goal is to support the PTAB's ability to provide timely and high quality decisions. Planned activities include the following:

Continue deployment of PTAB End-to-End (PTAB E2E):

- In FY 2017, the USPTO completed deployment of internal and external functionality for Derivations, began development of Appeals functionality, provided data migration from the legacy Adjudicated Case Tracking System (ACTS) database to the PTAB E2E database, retired legacy Patent Review Processing System (PRPS) system, and integrated PTAB E2E with Fee Processing Next Generation (FPNG) for AIA trial fee payment processing.
- In FY 2018, the USPTO is continuing development and deployment of Appeals functionality, provide production support for the four AIA trial types, provide Appeals capability to send notifications to stakeholders on their trial cases that involve re-examination procedures, and complete appeals and interferences development in PTAB E2E; and retire ACTS.
- In FY 2019, the USPTO plans to deliver critical enhancements to the AIA trial types, Appeals, and Interferences; as well as continue to integrate with other enterprise products, such as MyUSPTO, PE2E, and Big Data.

## TRADEMARK PROGRAM

A key USPTO objective is to modernize IT systems by developing and implementing the TMNG IT system to create full electronic workflow and state-of-the-art IT resources for external and internal users. Combined with the deployment of new systems that enhance access for external trademark customers and stakeholders, operational gains will strengthen the IP system. These gains will allow for a broader public base to apply for and register trademarks and continue to invest and reap the benefits of strong brands, which will ultimately benefit American consumers and sustain economic activities.

Planned activities include the following:

- TMNG Examination: In FY 2018, the USPTO is working diligently to complete deployment of TMNG E; and complete rollout to all Law Offices. In FY 2019, the USPTO plans to address high-priority end user feedback.
- TMNG Madrid: In FY 2017, the USPTO developed an initial set of end-to-end transactions needed to process international trademark applications. In FY 2018 and FY 2019, the USPTO will continue to deliver transactions and capability needed to fully process international trademark applications.
- TMNG eFile: In FY 2017, the Office delivered initial capabilities related to Smart User Interface and an Administrative Console, and will continue development of TMNG eFile capabilities in FY 2018 and FY 2019.
- TTAB Capabilities: The USPTO delivered enhanced TTAB capabilities into production and implemented the FY 2016 rules package in FY 2017. In FY 2018 and FY 2019, it will enhance TTAB capabilities based on updated rules and customer feedback.

- Legacy Systems: The USPTO will take steps toward retiring Trademark legacy capabilities related to the First Actions System for Trademarks (FAST1), and Trademark In-House Photocomposition System (TIPS) in FY 2018. In FY 2019 the Office will retire legacy applications, services, and hardware based on business priorities and progress made with TMNG.

Trademark Legacy Systems. The Trademark organization currently relies on 27 legacy systems that support all areas of Trademark business operations. These legacy systems are categorized under six different groupings that focus on e-government, internal operations, records management, trademark search, trademark reference, and other operational aspects. The IT goals are to plan for and retire these systems beginning in FY 2019 and continuing through the budget planning horizon as replacement functionality is delivered.

Trademark Information Activities. The modernization, development, and management of the trademark IT systems are coordinated under the Trademark Information Resources sub-program. This also includes trademark support personnel who serve as business process experts in working with the IT experts by providing technical expertise and project management in the development of Trademark Program systems supporting electronic filing, and Trademark business operations.

Patent and Trademark Dissemination. The IT goal to provide public access to both patent and trademark information and services supports both the Patent Program and the Trademark Program. Most of the systems that are accessible via the USPTO's public website ([www.uspto.gov](http://www.uspto.gov)) are used to disseminate data about patents (e.g., patent grants, published patent applications, PTAB decisions, and patent classification information) and trademarks (e.g., trademark applications and registered marks, decisions of the TTAB, and trademark assignment data). The USPTO also provides the public with existing bulk electronic files, which companies like Google host using their infrastructure and offers their search capabilities to the public free-of-charge.

Planned activities include the following:

- Continue to enhance the public data and search capabilities separate from internal examination systems in FY 2018 and FY 2019.
- Establish internal processing pipeline for all Trademark documents and all Patent and Trademark published assignments in FY 2018.
- Rebuild stage 1 of Order Entry Management System (OEMS) replacement leveraging FPNG, Role-Based Access Control (RBAC), and MyUSPTO (a personalized homepage for USPTO tasks) to enhance the experience and protect customer's Personally Identifiable Information (PII).
- Provide search, display, and download capability for Patent File Wrapper images to Patent Examination Data Search (PEDS), and enhance user interface, system performance and architecture.
- Enhance the initial application programming interface (API) to provide more automated access to electronic bulk data and data types (FY 2018).
- Enhance improved user interface and security capabilities, and provide improved and advanced searching capabilities to the PAIR bulk data (FY 2017 – 2018).

IP POLICY, PROTECTION, AND ENFORCEMENT PROGRAM (IP PP&E)

The USPTO's Office of Policy and International Affairs (OPIA) has primary responsibility for the agency's IP policy, protection and enforcement functions. The IT goal is to deliver high-quality IT capability supporting the IPP&E goal, as follows:

- Deliver improved IT capability to support the delivery of IP training domestically and internationally.
- Provide technical oversight and direction for international cooperative IT initiatives.

Planned activities include the following:

- Deliver a solution that updates the current system for tracking and reporting training and outreach programs for OPIA in FY 2019.

## MANAGEMENT PROGRAM

The USPTO's seven management offices are the Office of the Under Secretary and Director, Office of the General Counsel (OGC), Office of the Chief Information Officer, Office of the Chief Financial Officer (OCFO), Office of the Chief Administrative Officer (OCAO), Office of Equal Employment Opportunity and Diversity (OEEO&D), and Office of the Chief Communications Officer (OCCO).

A major IT goal is to replace the current fee collection system with 21<sup>st</sup> century technology by implementing the Fee Processing Next Generation (FPNG) that executes fee collection process recommendations. The USPTO will complete the FPNG investment in FY 2018 and will retire the legacy Revenue Accounting and Management system.

Other recently completed and planned activities to support managerial, legal, administrative, communication, human resources and financial management functions including the following:

- Expanded Open Data/Developer Hub tools and products to include more accessible formats and combining demographic, economic and business data with USPTO data. Prototyped the big data reservoir and implemented an initial patent use case; and expanded the reservoir by adding data sets (FY 2017).
- Delivered improved features, and content management capabilities for [www.uspto.gov](http://www.uspto.gov), to include new templates, functionality, integration points, etc. (FY 2017).
- Integrated the Office of Enrollment and Discipline Information System (OEDIS) with FPNG for payment processing for practitioners (FY 2017). Payment processing for applicants is expected to be completed in FY 2018, as well as fully automating the application process to allow applicants to submit their applications and pay fees through OEDIS-CI, developing e-Transcript capability, and MyUSPTO/RBAC for single sign on (SSO).
- Implemented an enterprise acquisition tool and began configuring an enterprise budget tool and. The acquisition tool was used by pilot users throughout FY 2017 for continued improvement prior to full roll-out.

- Develop a web interface that pulls data from the turnstiles/badge readers and the VPN login/out system and provides that information on the desktop of employees and supervisors (FY 2017 and FY 2018) to provide greater openness and transparency around employee time and attendance.
- Improve existing USPTO Unified Telework Database to better incorporate data on patent telework programs (FY 2018).
- Implement a COTS legal document management system for the OGC to migrate from paper-based, stove piped methods of document storage (FY 2018).
- Deliver a new reporting functionality to capture and compare reasonable accommodation data across fiscal years (FY 2018).
- Complete configuration of an enterprise budget tool for compensation projection, budget execution, and budget formulation (FY 2018). Expand usage of the enterprise budget tool to business units for decentralized modeling (FY 2019).
- Roll-out the agency's new acquisition tool to all internal acquisition stakeholders and to provide the acquisition community with a vendor portal for accessing solicitations, posting proposals, accessing awards, and submitting official deliverables and invoices (FY 2018).
- Enhance the design, presentation, and content management capabilities associated with www.uspto.gov based on emerging needs (FY 2018 and FY 2019).
- Select a commercial off-the-shelf (COTS) solution, to integrate with the existing HR Connect product, to provide employee performance management solutions (FY 2019).
- Enhance the external customer experience by adding on-line refund request and deposit account pre-authorization functionality (FY 2019).

### IT Infrastructure Portfolio

As a production-oriented entity, the USPTO relies heavily upon a sophisticated IT infrastructure. The purpose is to provide the infrastructure foundation for the next generation efforts, take advantage of emerging technologies to retain and improve the infrastructure, and deliver compliance with IT mandates.

In FY 2018 through FY 2019, planned activities include the following:

- Complete replacement of universal laptops (ULs) and universal desktops (UDs) and transition USPTO to the Windows 10 operating system and Microsoft Office 2016 software suite in FY 2018.
- Big Data: Deliver a solution to outline the process to develop an overall readiness score for incoming patent applications in FY 2017; and delivering a solution that assigns each incoming patent application with a readiness score with the ability for application text indexing, along with query, retrieval, and analysis capabilities in FY 2018.
- Replacement of obsolete SOHO routers by FY 2019.
- Manage the obsolescence and replacement of IT infrastructure to support a standardized and optimized data center infrastructure in FY 2018 and FY 2019.
- Continue expansion of USPTO's Business Continuity/Disaster Recover (BC/DR) capability in FY 2018 and FY 2019.
- Deployment of the perimeter network (FY 2018).
- Initiate a Remote Call Center for handling IT service requests and problem notifications in FY 2018.

- Implement Security Infrastructure Enhancements to address mandates (FY 2018). Continue Security Infrastructure and Monitoring enhancements (FY 2019).

### Program Changes

Specific IT program changes can be found in the Program Change narrative for the Information Resources Sub-Programs found in each of the four Program sections, plus the IT Infrastructure and Support Services Sub-Program found in the Management Program. The following table shows the total program change amounts for FY 2019 and the out years for each of these sub-programs.

**IT Portfolio Program Changes**  
(Dollars in Millions)

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Patent IR	(25.3)	(39.0)	(44.4)	(48.0)	(51.0)
Trademark IR	2.0	(8.5)	(9.5)	(10.1)	(13.1)
IP PP&E IR	(0.0)	(0.2)	(0.2)	(0.2)	(0.3)
Management IR	(3.5)	(6.9)	(7.3)	(7.6)	(7.8)
Management - IT Infrastructure and IT Support Services	(44.2)	(63.0)	4.6	7.9	0.1
<b>TOTAL</b>	<b>(71.0)</b>	<b>(117.6)</b>	<b>(56.8)</b>	<b>(58.1)</b>	<b>(72.1)</b>

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

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

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# **TOTAL BUDGET AND FINANCING**

## Exhibit 5 – Summary of Resource Requirements

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

	Positions	FTE	Total Obligations
FY 2018 Current Plan	13,011	12,735	3,447,501
FY 2019 Adjustments to base:	-	70	74,596
FY 2019 Base	13,011	12,805	3,522,097
plus: 2019 Program changes	137	79	(63,096)
FY 2019 Estimate	13,148	12,884	3,459,001

		FY 2017 Actual		FY 2018 Annualized CR		FY 2019 Base		FY 2019 Estimate		Increase/(Decrease) over 2019 Base	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Comparison by activity:</b>											
Patents	Pos./Obl	11,553	2,875,256	11,618	3,069,228	11,617.84	3,136,132	11,686.14	3,078,701	68	(57,431)
	FTE	11,296		11,385		11,447		11,480		34	
Trademarks	Pos./Obl	1,179	281,884	1,227	324,141	1,227	328,624	1,296	323,232	69	(5,392)
	FTE	1,072		1,191		1,197		1,243		45	
IP Policy Protection and Enforcement	Pos./Obl	166	46,852	167	54,132	167	57,341	167	57,069	0	(272)
	FTE	138		159		161		161		0	
Total Obligations	Pos./Obl	12,898	3,203,991	13,011	3,447,501	13,011	3,522,097	13,148	3,459,001	137	(63,096)
	FTE	12,507		12,735		12,805		12,884		79	
Adjustments for:											
	Offsetting Fee Collections		(3,078,887)		(3,430,123)		(3,416,366)		(3,416,366)		-
	Other Income / Recoveries		(39,445)		(39,445)		(39,445)		(39,445)		-
	Operating Reserve, start of year		(461,238)		(373,575)		(393,642)		(393,642)		-
	Operating Reserve, end of year		373,580		393,642		325,356		388,452		63,096
	Budget Authority Temporarily Unavailable <sup>1</sup>		-		24,000		-		-		-
<b>Total Budget Authority<sup>1</sup></b>			(2,000)		(26,000)		(2,000)		(2,000)		0
Financing from transfers / other:											
	Amounts Temporarily Unavailable for Spending <sup>1</sup>		-		24,000		-		-		-
	Transfer to other accounts (+)		2,000		2,000		2,000		2,000		-
<b>Total Net Appropriation</b>			0		0		0		0		0

<sup>1</sup> PTO assumes that when FY 2018 appropriations are finalized, the \$24M additional Budget Authority temporarily reduced due to continuing resolutions in FY 2018 will become available and therefore has not rolled the \$24M loss through the operating reserve balance into FY 2018.

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

		FY 2019		FY 2020		FY 2021		FY 2022		FY 2023	
		Estimate		Estimate		Estimate		Estimate		Estimate	
Comparison by activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	11,686	3,078,701	11,737	3,138,010	11,788	3,278,265	11,841	3,373,054	11,893	3,443,393
	FTE	11,480		11,537		11,588		11,639		11,694	
Trademarks	Pos./Obl.	1,296	323,232	1,394	332,210	1,498	361,553	1,618	383,542	1,733	403,388
	FTE	1,243		1,330		1,433		1,546		1,662	
IP Policy Protection and Enforcement	Pos./Obl.	167	57,069	167	57,318	167	58,718	167	59,940	167	61,104
	FTE	161		161		161		161		161	
Total Obligations	Pos./Obl.	13,148	3,459,001	13,297	3,527,538	13,452	3,698,536	13,626	3,816,536	13,792	3,907,886
	FTE	12,884		13,027		13,182		13,345		13,518	
Adjustments for:											
	Offsetting Fee Collections		(3,416,366)		(3,551,159)		(3,713,311)		(3,983,970)		(4,008,633)
	Other Income / Recoveries		(39,445)		(39,445)		(39,445)		(39,445)		(39,445)
	Operating Reserve, start of year		(393,642)		(388,452)		(449,517)		(501,737)		(706,616)
	Operating Reserve, end of year		<u>388,452</u>		<u>449,517</u>		<u>501,737</u>		<u>706,616</u>		<u>844,809</u>
<b>Total Budget Authority</b>			(2,000)		(2,000)		(2,000)		(2,000)		(2,000)
Financing from transfers / other:											
	Transfer to other accounts (+)		2,000		2,000		2,000		2,000		2,000
<b>Total Net Appropriation</b>			0		0		0		0		0

## Exhibit 7 – Summary of Financing

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

	FY 2017 Actual	FY 2018 Annualized CR	FY 2019 Base	FY 2019 Estimate	Increase/ Decrease/ over 2019 Base
Total Obligations	3,203,991	3,447,501	3,522,097	3,459,001	(63,096)
Offsetting collections from:					
Non-Federal sources / User Fee Collections	(3,078,887)	(3,430,123)	(3,416,366)	(3,416,366)	-
Other Income	(6,281)	(6,281)	(6,281)	(6,281)	-
Adjustments for:					
Recoveries	(33,163)	(33,163)	(33,163)	(33,163)	-
Unobligated balance, start of year	(461,238)	(373,575)	(393,642)	(393,642)	-
Unobligated balance, end of year	373,580	393,642	325,356	388,452	63,096
Budget Authority Temporarily Unavailable *		(24,000)			
<b>Total Budget Authority</b>	(2,000)	(26,000)	(2,000)	(2,000)	0
Financing:					
Amounts Temporarily Unavailable for Spending*	-	24,000	-	-	-
Transfer to other accounts (+)	2,000	2,000	2,000	2,000	0
<b>Net Appropriation</b>	0	0	0	0	0

\* PTO assumes that when FY 2018 appropriations are finalized, the \$24M additional Budget Authority temporarily reduced due to continuing resolutions in FY 2018 will become available and therefore has not rolled the \$24M loss through the operating reserve balance into FY 2018.

## Exhibit 8 – Adjustments to Base

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

	<u>FTE</u>	<u>Amount</u>
Non-recurring items, primarily leasehold improvements		(16,417)
<b>Adjustments to Base:</b>		
2018 Pay raise		7,308
2019 Pay raise		-
Full-year cost in 2019 of positions financed for part-year in 2018	70	8,858
Other Compensation Adjustments		36,640
Change in compensable days		8,982
Civil Service Retirement System (CSRS)		(646)
Federal Employees Retirement System (FERS)		1,547
Thrift Savings Plan		185
Federal Insurance Contribution Act (FICA) - OASDI		541
Health insurance		4,308
Post-Retirement Benefits to OPM		4,329
Travel		116
Rental payments to GSA		1,660
Postage		123
Printing and reproduction		2,428
DOC Working Capital Fund		973
General Pricing Level Adjustment		13,662
		13,662
<b>Total, adjustments to base</b>	<b>70</b>	<b>74,596</b>

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# **PATENT PROGRAM**

## Exhibit 10 – Program Performance: Total Obligations

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

Activity: Patent Program  
Subactivity: Patents

Sub-Activity:		FY 2017 Actual		FY 2018 Annualized CR		FY 2019 Base		FY 2019 Estimate		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patent Examining	Pos./Obl	9,937	1,987,801	9,996	2,052,073	9,996	2,108,764	10,071	2,111,018	75	2,254
	FTE	9,867		9,801		9,857		9,894		37	
Patent Trial and Appeals	Pos./Obl	424	81,403	421	86,667	421	87,106	414	86,286	(7)	(820)
	FTE	387		419		415		412		(3)	
Patent Information Resources	Pos./Obl	182	166,398	188	193,323	188	197,057	188	171,780	-	(25,277)
	FTE	168		187		189		189		-	
Subtotal Direct	Pos./Obl	10,543	2,235,602	10,606	2,332,064	10,606	2,392,927	10,674	2,369,083	68	(23,843)
	FTE	10,423		10,407		10,461		10,494		34	
Management Goal - Allocated	Pos./Obl	1,009	639,654	1,012	737,164	1,012	743,205	1,012	709,617	(0)	(33,588)
	FTE	873		978		986		986		0	
<b>Total</b>	Pos./Obl	11,553	2,875,256	11,618	3,069,228	11,618	3,136,132	11,686	3,078,701	68	(57,431)
	FTE	11,296		11,385		11,447		11,480		34	



## Exhibit 12 – Justification of Patent Program and Performance

### Patent Base Program

#### Goal and Objectives:

The Patent Program is dedicated to conducting high quality and timely patent examinations in accordance with laws, regulations and practices, and consistent with the strategies and objectives in the *USPTO 2014-2018 Strategic Plan*. The Patent Program also supports the Department's proposed strategic objective to promote the strong and effective protection of intellectual property – one that is better at inventing, improving, and commercializing products and technologies that lead to higher productivity and competitiveness.

The Patent Program objectives recognize that innovation is the foundation of American economic growth and national competitiveness. Economic growth in advanced economies like that of the United States is driven by creating new and better ways of producing goods and services, a process that triggers new and productive investments.

The goal is being met by achieving the following objectives set forth in the *2014-2018 Strategic Plan*. Proposed revised objectives are currently undergoing internal review, and revisions are expected to be finalized by Summer 2018:

- Refine Optimal Patent Pendency
- Increase Efficiencies and Patent Examination Capacity to Align with the Optimal Pendency
- Increase International Cooperation and Work Sharing
- Continue to Enhance Patent Quality
- Ensure Optimal IT Service Delivery to All Users
- Continue and Enhance Stakeholder and Public Outreach
- Maintain the PTAB's Ability to Provide Timely and High Quality Decisions

Historical and projected metrics can be found in the BPAG Chart on pages 8-11, and on the Data Visualization Center at <http://www.uspto.gov/about/stratplan/dashboards.jsp>

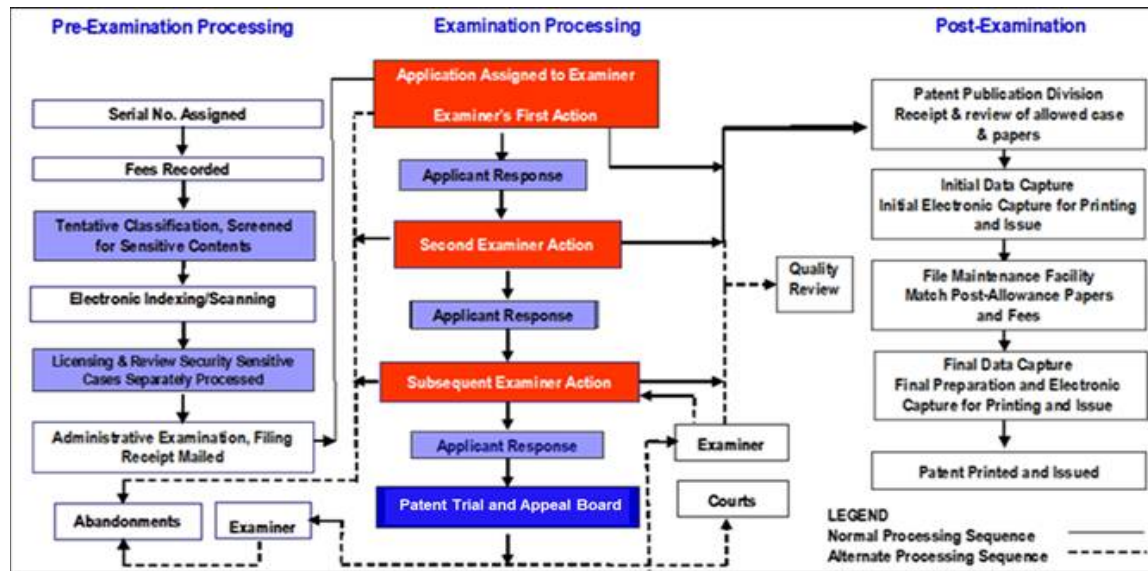
Explanation and Justifications:

For FY 2019, the USPTO requests a total of \$3,078.7 million and 11,686 positions for the Patent Program.

PROGRAM BUDGET PROFILE							
(Dollars in thousands)							
Funding Requirements by Sub Program	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Patent Examining	\$1,987,801	\$2,052,073	\$2,111,018	\$2,181,221	\$2,249,261	\$2,320,426	\$2,375,922
Patent Trial and Appeals	\$81,403	\$86,667	\$86,286	\$86,022	\$86,084	\$86,965	\$88,552
Patent Information Resources	\$166,398	\$193,323	\$171,780	\$161,893	\$160,420	\$160,943	\$162,078
Management Goal - Allocated	\$639,654	\$737,164	\$709,617	\$708,875	\$782,499	\$804,720	\$816,841
<b>TOTAL</b>	<b>\$2,875,256</b>	<b>\$3,069,228</b>	<b>\$3,078,701</b>	<b>\$3,138,010</b>	<b>\$3,278,265</b>	<b>\$3,373,054</b>	<b>\$3,443,393</b>
<b>FTE</b>	<b>11,296</b>	<b>11,385</b>	<b>11,480</b>	<b>11,537</b>	<b>11,588</b>	<b>11,639</b>	<b>11,694</b>
<b>Positions</b>	<b>11,553</b>	<b>11,618</b>	<b>11,686</b>	<b>11,737</b>	<b>11,788</b>	<b>11,841</b>	<b>11,893</b>

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

## PATENT PROCESS



### Sub-Program #1: Patent Examining

**Patent Examining (\$2,108.8 million and 9,996 Pos.)**

*Patent Pre-Examination Processing: \$143.7 million and 163 Pos.*

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

Most applications are subject to the pre-grant publication process, whereby the patent application is published 18 months after the earliest effective filing date sought regardless of whether a first action has been taken by the Office, as is the norm in most patent examining countries. Where an applicant certifies that he/she has not and will not file the invention disclosed in the attached application in another country or under a multilateral international agreement that requires 18-month publication, the USPTO will not publish the application unless and until a patent is granted (currently, about six percent of applicants opt out). Where the applicant

does not make such a certification, the USPTO publishes the application at 18 months from its earliest effective filing date sought to provide an English language publication for those applications whose counterpart applications are already being published abroad (generally in languages other than English).

*Patent Examination Processing: \$1,880.3 million and 9,804 Pos.*

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

During the search and patentability review, the patent examiner generally performs a first and possibly second office action on the merits, which can include any of the following actions: non-final rejection, final rejection, abandonment or notice of allowance. Patent Information Management activities are carried out within the Patent organization and provide patent scientific, technical, and search support. Patent Information Management also provides examiners with access to over one thousand commercial databases containing non-patent technical literature documents.

Quality and Training, under the direction of the Deputy Commissioner for Patent Quality, are integral parts of the entire examination process, and the resources required for a quality examination and quality patent are integrated with the total examination costs. This includes the quality assurance program whereby a random sample of patent examiners' work products are reviewed to provide timely, reliable and meaningful indicators of examination quality.

With the increased visibility and recognition of the importance of IP to our economy, more stable funding (including the assumed extension of the AIA fee setting authority), and greater stability in pendency, the USPTO has an opportunity to increase dedication to quality excellence. The USPTO continues to focus on quality efforts that will provide the best work products and services possible. This focus includes expanding and refining examiner training and guidance, improving the customer experience with an emphasis on excellent customer service, and engaging the public by creating partnerships that educate and seek input.

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

Patent Examination Policy activities are critical components of the patent examination process. These components include establishing new patent examination policy; serving as the authority on patent laws, rules, and examining practices and procedures; implementing changes in examination practice required by court decisions, statutory changes, and regulatory changes; drafting rules

for public comment and then drafting final rules after consideration of public input; and maintaining the Manual of Patent Examining Procedure. Examination policy activities also include deciding petitions and providing legal and policy training to examiners.

International Patent Cooperation (IPC) programs and initiatives that enable IP protections for U.S. innovators abroad, are a reflection of the strong commitment that the USPTO has to the internal and external stakeholders in the IP community to improve the international patent system in two basic respects – increasing certainty of IP rights and reducing costs for U.S. and international innovators. The USPTO aims to do this by continually improving the efficiency of our patent examination processes and IT tools, and evaluating and improving on unnecessary or burdensome filing processes by, for example, instituting reciprocal agreements. These programs and initiatives will not only make the international filing and prosecution system more efficient between offices and users, but also for U.S. examiners, as well as examiners around the world. These improvements will benefit all economies, most importantly the U.S. economy, by fostering increased innovation and subsequent job creation.

*Patent Post-Examination Processing: \$84.8 million and 29 Pos.*

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

## **Sub-Program #2: Patent Trials and Appeals**

### **Patent Trials and Appeals (\$87.1 million and 421 Pos.)**

If the applicant has received two actions from the examiner and disagrees with the position of the examiner, the applicant can appeal the examiner's decision by filing a notice of appeal and an appeal brief. The examiner may file an examiner's answer to the appeal brief. A streamlined review procedure has been instituted for all briefs filed in appeals in patent applications, as well as appeals in both ex parte and inter partes reexamination proceedings. PTAB has the sole responsibility for determining whether appeal briefs comply with the formality requirements governing the content of these briefs. Under the streamlined procedure, only the PTAB conducts a compliance review of appeal briefs when the appeal brief is filed.

The PTAB will continue to determine priority and patentability of inventions in interferences in appropriate cases.

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

**PTAB Production and AIA Workload.** PTAB continues to address the results of historic growth in workload. Under the AIA, the PTAB is required to conduct four new types of trial proceedings: Inter partes reviews, derivation proceedings, and a transitional program for covered business methods patents (all effective September 16, 2012), and post grant reviews (only applicable for patents that are subject to first-inventor-to-file provisions that went into effect on March 16, 2013).

With the advent of the AIA, the PTAB rapidly became one of the most popular venues for resolution of patentability disputes. However, incoming workload volume is difficult to project due to various internal and external factors. Appeal filings are projected from the Patent Production Model and are dependent on the number of patent application filings and the corresponding rate of final rejections, as well as the impact of various internal and external variables, such as proposed fee changes, and internal quality initiatives. AIA filing rates can be affected by rule changes, the impact of pending legislative patent reforms, and the number of litigation cases in the district courts, as well as proposed fee increases. Finally, given the relatively recent enactment of the AIA, there is a lack of robust historical filing trends upon which to base projections. As a result, the PTAB has calibrated its projected workload for FY 2018 and FY 2019 in accordance with the most current actual and projected information, particularly workload filing trends.

**Performance Measures:**

The following table shows the change in workload, and projected APJ staffing levels needed to meet the statutory timeline requirements and reduce ex parte appeal pendency.

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
	Actual						
<b>APPEALS</b>							
Incoming Appeals (incl. Ex Parte Appeals, Inter Parte Reexams, Ex Parte Reexams and Supplemental Exam)	11,862	10,366	10,470	10,574	10,680	10,787	10,895
Appeals Disposed (incl. Ex Parte Appeals, Inter Parte Reexams, Ex Parte Reexams and Supplemental Exam)	14,049	12,747	12,078	11,277	10,890	10,772	10,722
Appeal Inventory/Backlog (incl. Ex Parte Appeals, Inter Parte Reexams, Ex Parte Reexams and Supplemental Exam)	12,993	10,612	9,003	8,300	8,091	8,106	8,278
Pendency of Decided Appeals in months (incl. Ex Parte, Inter Parte Re-Exams, Ex Parte Re-Exams and Supplemental Exams)	--	--	--	--	--	--	--
Board Months of Inventory <sup>1/</sup>	11	10	9	9	9	9	9
<b>AIA/ TRIAL</b>							
AIA Petitions Filed (incl. IPRs, CBMs, and PGRs)	1,605	1,636	1,652	1,669	1,686	1,702	1,719
Trial Pendency (months)	--	--	--	--	--	--	--
AIA Petitions disposed (incl. trials not instituted, instituted petitions disposed for IPRs, CBMs and PGRs)	1,465	1,476	1,602	1,724	1,729	1,716	1,703
<b>ADMINISTRATIVE PATENT JUDGES</b>							
New Hire APJs (not incl. Executive Judges or Backfills)	1	0	0	0	0	0	0
Total APJs (incl. Executive APJs and reflect attrition)	263	274	268	261	257	256	256

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<sup>1</sup>In efforts to improve tracking time from jurisdiction, a new PTAB methodology for calculating regular ex parte appeals pendency will be used for FY 2017 and beyond. Pendencies shown above for FY 2017 have been recalculated to reflect this new methodology.

### **Sub-Program #3: Patent Information Resources**

#### **Patent Information Resources (\$197.1 million and 188 Pos.)**

Patent Information Resources includes base resources for making capital improvements to, and operating and maintaining, existing patent systems. The Patent Program's share of both direct and indirect IT costs is allocated to this sub-program.

### **Sub-Program #4: Management Goal – Allocated**

#### **Management Goal – Allocated (\$743.2 million and 1,012 Pos.)**

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

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

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office  
**PATENT PROGRAM  
INCREASES FOR 2019**  
(Dollar amounts in thousands)

		2019 Base		2019 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Patent Program	Pos./Obl.	10,606	2,392,927	10,674	2,369,083	68	(23,843)
	FTE	10,461		10,494		34	
<i>Patent Examining</i>	Pos./Obl.	9,996	2,108,764	10,071	2,111,018	75	2,254
	FTE	9,857		9,894		37	
<i>Workload-Driven</i>							
Patent Examiner New Hires	Pos./Obl.					75	(2,836)
	FTE					37	
Overtime / Production Incentives	Pos./Obl.					-	2,436
	FTE					-	
Workload Processing Contracts	Pos./Obl.					-	2,655
	FTE					-	
<i>Patent Trial and Appeals</i>	Pos./Obl.	421	87,106	414	86,286	(7)	(820)
	FTE	415		412		(3)	-
PTAB Production and AIA Workload	Pos./Obl.					(7)	(820)
	FTE					(3)	-
<i>Patent Information Resources</i>	Pos./Obl.	188	197,057	188	171,780	-	(25,277)
	FTE	189		189		-	
Patent Business Projects	Pos./Obl.					(0)	(25,277)
	FTE					-	



Department of Commerce  
U.S. Patent and Trademark Office  
**PATENT PROGRAM**  
INCREASES FOR 2019 - 2023  
(Dollar amounts in thousands)

		FY 2019		FY 2020		FY 2021		FY 2022		FY 2023	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Direct Total, Patent Program</b>	<b>Pos./Obl.</b>	<b>68</b>	<b>(23,843)</b>	<b>119</b>	<b>(36,878)</b>	<b>170</b>	<b>(37,239)</b>	<b>224</b>	<b>(33,903)</b>	<b>276</b>	<b>(25,747)</b>
	<b>FTE</b>	<b>34</b>		<b>92</b>		<b>143</b>		<b>193</b>		<b>249</b>	
<i>Patent Examining</i>	<i>Pos./Obl.</i>	<i>75</i>	<i>2,254</i>	<i>134</i>	<i>4,740</i>	<i>191</i>	<i>11,576</i>	<i>246</i>	<i>19,524</i>	<i>298</i>	<i>30,995</i>
	<i>FTE</i>	<i>37</i>		<i>103</i>		<i>161</i>		<i>215</i>		<i>271</i>	
	<i>Workload</i>										
Patent Examiner New Hires	Pos./Obl.	75	(2,836)	134	(2,850)	191	(626)	246	4,858	298	13,382
	FTE	37		103		161		215		271	
Overtime / Production Incentives	Pos./Obl.	-	2,436	-	4,486	-	5,480	-	6,811	-	7,182
	FTE	-		-		-		-		-	
Workload Processing Contracts	Pos./Obl.	-	2,655	-	3,104	-	6,722	-	7,855	-	10,431
	FTE	-		-		-		-		-	
<i>Patent Trial and Appeals</i>	<i>Pos./Obl.</i>	<i>(7)</i>	<i>(820)</i>	<i>(15)</i>	<i>(2,654)</i>	<i>(21)</i>	<i>(4,451)</i>	<i>(22)</i>	<i>(5,470)</i>	<i>(23)</i>	<i>(5,821)</i>
	<i>FTE</i>	<i>(3)</i>		<i>(11)</i>		<i>(18)</i>		<i>(21)</i>		<i>(22)</i>	
PTAB Production and AIA Workload	Pos./Obl.	(7)	(820)	(15)	(2,654)	(21)	(4,451)	(22)	(5,470)	(23)	(5,821)
	FTE	(3)		(11)		(18)		(21)		(22)	
<i>Patent Information Resources</i>	<i>Pos./Obl.</i>	<i>0</i>	<i>(25,277)</i>	<i>-</i>	<i>(38,963)</i>	<i>-</i>	<i>(44,364)</i>	<i>-</i>	<i>(47,957)</i>	<i>0</i>	<i>(50,920)</i>
	<i>FTE</i>	<i>-</i>		<i>-</i>		<i>-</i>		<i>-</i>		<i>-</i>	
Patent Business Projects	Pos./Obl.	0	(25,277)	-	(38,963)	-	(44,364)	-	(47,957)	0	(50,920)
	FTE	-		-		-		-		-	

## **Sub-Program: Patent Examining**

The Patent Examining sub-program contributes to the accomplishment of the strategic goal to optimize patent quality and timeliness through the following objectives for which funds are required in FY 2019:

- Refine Optimal Patent Pendency
- Increase Efficiencies and Patent Examination Capacity to Align with the Optimal Pendency
- Increase International Cooperation and Work Sharing
- Continue to Enhance Patent Quality
- Continue and Enhance Stakeholder and Public Outreach

The significant progress made since the beginning of this decade is expected to continue through the budget planning horizon. Between the beginning of FY 2010 through the end of 2017, first action pendency was reduced from 25.7 months to 16.3 months; total pendency was reduced from 35.3 months to 24.2 months; and the backlog of unexamined applications was reduced from 718,885 to 526,579. During this same time, examiner staffing increased from 6,145 to a high of 8,466 at the end of FY 2014 when it began to decline to its current level. As traditional pendency measures approach acceptable levels, USPTO has started focusing on more refined pendency measures based on the Patent Term Adjustment (PTA) timeframes, which will reduce patent term adjustment given out, and also give all applicants greater certainty of the pendency of their own cases.

## **Summary**

Patent Examining (\$2.3 million and 75 Pos.): The USPTO requires an increase of \$2.3 million and 75 positions for a total of \$2,111.0 million and 10,071 positions to process incoming work for which fees have been paid, and which are focused on accomplishment of the goals and objectives identified above. This requirement supports the Department's proposed strategic objective to promote the strong and effective protection of intellectual property. Failure to fund this sub-program puts the Department and the USPTO at risk for mission failure.

Patent Examining consists of the following three components that are described in the Patent Program section above: Pre-Examination, Examination, and Post-Examination.

### Program Change Explanation and Justification:

The Patent Examining program change and base resources provide funding for the quality and timely examination of patent applications. These program requirements will enable the Patent Program to provide timely examination by processing incoming work, reducing the current backlog, and reducing pendency.

Assuming planned hiring levels in FY 2019, these program requirements collectively will enable the Patent Program to:

- Address the 426,600 new serialized UPR applications (total UPR – 602,700) expected to be filed in FY 2019 (0.8 percent above the projected FY 2018 level);
- Reduce the current backlog of unexamined patent applications to approximately 481,700 in FY 2019 or almost 60 percent below the beginning of FY 2010 level, as documented in patent production modeling;
- Provide timely examination of patent applications by reducing the time to first office action to 14.5 months in FY 2019; and
- Reduce average total pendency to 23.8 months in FY 2019.

**Patent Examiner New Hires.** In FY 2019, the USPTO will continue calibrating the size of the patent examining staff with projected application filings and desired performance results, as determined by patent production modeling. Serialized patent application filings increased by 0.3 percent in FY 2017 and are projected to grow by 0.8 percent in FY 2018 and continue growing at that pace annually through FY 2023. Because of these filing trends, coupled with a halt in hiring patent examiners in FY 2017, and an investment in examination time, the USPTO has modified its patent examiner hiring plans for FY 2018 through FY 2023 to 390 hires, offset by approximately 330 attritions, each year. The production model takes into consideration this revised incoming work as well as the revised output of examiners due to a reassessment of the appropriate amount of time for examination. Required funding reflects the difference in average grade of new hires compared to the grades of those attriting. The careful calibration between examination time, workload and hires will enable the USPTO to continue making progress on its patent pendency plan.

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$(2,836)	\$(2,850)	\$(626)	\$4,858	\$13,382
FTE	37	103	161	215	271
Positions	75	134	191	246	298

**Overtime/Production Incentives** is another tool used by the USPTO to continue aligning production with workload demand. Each overtime hour worked is directly tied to production output, as are production incentives. As such, overtime has proven to be more efficient on a per-hour basis than equivalent regular-time hours, which must also incorporate the costs of training, employee leave, and other benefits. Funding the full amount of examiner overtime is essential to achieving pendency and backlog goals. Overtime’s inherent flexibility allows the Patent organization to more easily expand its production capacity while maintaining optimal staffing levels.

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$ 2,436	\$ 4,486	\$ 5,480	\$ 6,811	\$ 7,182
FTE	-	-	-	-	-
Positions	-	-	-	-	-

**Workload Processing Contracts.** The Patent organization's largest contracts are driven by work based on numbers of applications, examiner production, and output, and must be funded commensurately in order to continue processing work and issuing patents. Specifically funds are used for:

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

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$2,655	\$3,104	\$6,722	\$7,855	\$10,431
FTE	-	-	-	-	-
Pos.	-	-	-	-	-

Performance Measures:

Performance Measure	FY 2018 Target	FY 2019 Target	FY 2020 Target	FY 2021 Target	FY 2022 Target	FY 2023 Target
Average First Action Pendency (UPR) Months						
• With increase (examiner hires)	15.4	14.5	14.4	13.9	13.4	12.9
• Without increase (no examiner hires)	15.5	15.0	15.5	16.1	17.0	18.4

## Sub-Program: Patent Trials and Appeals

The Patent Trials and Appeals sub-program contributes to the accomplishment of the strategic goal to optimize patent quality and timeliness through the following objective for which funds are required in FY 2019:

- Maintain the Patent Trial and Appeal Board's Ability to Provide Timely and High Quality Decisions

### Summary

PTAB Production and AIA Workload (-\$0.8 million and -7 Pos.): The USPTO requires a decrease of \$0.8 million and 7 positions for a total of \$86.3 million and 414 positions to continue to make sure the PTAB has the appropriate number of APJ positions to handle AIA and Appeals projected workload.

This program change minimally reduces base staffing levels of APJs through attrition while continuing to manage workloads to support the Department's proposed strategic objective to promote the strong and effective protection of intellectual property.

### Program Change Explanation and Justification:

The PTAB is an administrative tribunal that consists of APJs who conduct AIA trials and review appeals from the rejection of a patent application. The PTAB must manage pendency for three different activities: the AIA trials which, by statute, must have a decision on whether to institute trial within three months of the filing of a patent owner preliminary response and must be adjudicated within one year of the institution of a trial; re-examination appeals which, by statute, must be completed with "special dispatch"; and ex parte appeals. The revised staffing needs for FY 2019 and beyond are established to meet the statutory time requirements, as well as aligning capacity with projected workloads to continuously meet objectives outlined in the *USPTO 2014-2018 Strategic Plan*. Delaying decisions on these appeals has a negative impact on America's economy, particularly job creation.

To align capacity with revised projected incoming workload demands in both ex parte appeals and AIA proceedings, the PTAB projects a reduction of 7 positions and 3 FTE in FY 2019. In prior years, APJ and Patent Attorney positions were increased above optimal levels to address new AIA filings and reduce the backlog of Appeals cases. Between FY 2018 and 2023, the number of APJ and Patent Attorney positions is projected to decline, thereby returning to optimal staffing levels based on the projected output and filings.

### Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$(820)	\$(2,654)	\$(4,451)	\$(5,470)	\$(5,821)
FTE	(3)	(11)	(18)	(21)	(22)
Pos.	(7)	(15)	(21)	(22)	(23)

## Sub-Program: Patent Information Resources

The Patent Information Resources sub-program contributes to the accomplishment of the strategic goal to optimize patent quality and timeliness through the following objective for which funds are required in FY 2019:

- Ensure Optimal Information Technology Service Delivery to All Users

### Summary

Patent Information Resources (-\$25.3 million): The USPTO requires a decrease of \$25.3 million for a total of \$171.8 million and 189 FTE for the Patent IT Portfolio.

### Program Change Explanation and Justification

**Patent Business Projects.** A reduction in funding is proposed for FY 2019. Planned IT activities for the Patent Program can be found in the IT Portfolio narrative in the Introduction to this Budget.

### Performance Measures:

Additional information regarding schedules, milestones, and deliverables can be found in the USPTO's Exhibit 300 submissions that are located on the Federal IT Dashboard website.

### Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$(25,277)	\$(38,963)	\$(44,364)	\$(47,957)	\$(50,920)
FTE	-	-	-	-	-
Pos.	-	-	-	-	-

## PROGRAM CHANGE PERSONNEL DETAIL

Department of Commerce  
U.S. Patent and Trademark Office  
Salaries and Expenses  
PROGRAM CHANGE PERSONNEL DETAIL

Activity: Patents  
Subactivity:  
Program Change:

Title:	Grade	Number	Annual Salary	Total Salaries
Patent Examiner	5	12	57,862	694,343
Patent Examiner	7	201	71,670	14,405,740
Patent Examiner	9	167	79,364	13,253,754
Patent Examiner	11	6	88,940	533,642
Patent Examiner	12	2	96,340	192,681
Patent Examiner	13	1	114,558	114,558
Patent Examiner	14	1	135,375	135,375
Patent Attritions	Various	(327)	103,034	(33,692,067)
Patent Examiner Support Positions	Various	12	75,093	1,150,639
Administrative Patent Judges	SES	(6)	175,370	(985,579)
Administrative Patent Judges / Patent Lawyer Attritions	Various	(1)	152,174	(164,348)
Total		68		(4,361,264)
Less lapse	50%	34		(1,897,088)
Total full-time permanent (FTE)		34		(2,464,176)
2019 Pay Adjustment (0.0%)				-
<b>Total</b>				(2,464,176)

### Personnel Data

Full-Time Equivalent Employment	
Full-time permanent	34
Other than full-time permanent	-
<b>Total</b>	34
Authorized Positions:	
Full-time permanent	68
Other than full-time permanent	-
<b>Total</b>	68

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**

(Dollar amounts in thousands)

Activity: Patents  
Subactivity:

Object Class	2019 Increase
11 Personnel compensation	
11.1 Full-time permanent	(2,464)
11.3 Other than full-time permanent	
11.5 Other personnel compensation	2,453
11.8 Special personnel services payments	-
11.9 Total personnel compensation	(11)
12 Civilian personnel benefits	(796)
13 Benefits for former personnel	-
21 Travel and transportation of persons	48
22 Transportation of things	(0)
23.1 Rental payments to GSA	-
23.2 Rental payments to others	3
23.3 Communications, utilities and miscellaneous charges	(25)
24 Printing and reproduction	(576)
25.1 Advisory and assistance services	3,664
25.2 Other services	140
25.3 Purchases of goods & services from Gov't accounts	-
25.4 Operation and maintenance of facilities	713
25.5 Research and development contracts	-
25.6 Medical care	-
25.7 Operation and maintenance of equipment	(1,328)
25.8 Subsistence and support of persons	-
26 Supplies and materials	206
31 Equipment	(25,877)
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	-
42 Insurance claims and indemnities	-
43 Interest and dividends	-
44 Refunds	(4)
99 Total obligations	(23,843)



# **TRADEMARK PROGRAM**

## Exhibit 10 – Program Performance: Total Obligations

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

Activity: Trademark Program  
Subactivity: Trademarks

Sub-Activity:		FY 2017		FY 2018		FY 2019		FY 2019		Increase/ (Decrease)	
		Actual		Annualized CR		Base		Estimate		Personnel	Amount
Trademark Examining	Pos./Obl	833	130,378	882	144,147	882	145,279	948	149,490	66	4,211
	FTE	773		860		859		902		44	
Trademark Appeals and Inter Partes Proceedings	Pos./Obl	79	13,600	80	14,791	80	15,701	81	15,896	1	195
	FTE	72		77		80		81		1	
Trademark Information Resources	Pos./Obl	83	42,985	76	56,438	76	58,070	78	60,059	2	1,989
	FTE	67		72		74		75		1	
Subtotal Direct	Pos./Obl	995	186,963	1,039	215,377	1,039	219,050	1,108	225,445	69	6,395
	FTE	912		1,008		1,013		1,058		45	
Management Goal Allocated	Pos./Obl	184	94,921	188	108,764	188	109,574	188	97,787	-	(11,787)
	FTE	160		183		184		184		0	
<b>Total</b>	Pos./Obl	1,179	281,884	1,227	324,141	1,227	328,624	1,296	323,232	69	(5,392)
	FTE	1,072		1,191		1,197		1,243		45	

## Exhibit 12 – Justification of Trademark Program and Performance

### Trademark Base Program

#### Goal and Objectives:

The USPTO's Trademark Program is dedicated to conducting high quality and timely trademark examination in accordance with laws, regulations and practices, consistent with the strategies and objectives in the *USPTO 2014-2018 Strategic Plan*. The Trademark Program, through its strategic goal to optimize trademark quality and timeliness, supports the Department's proposed strategic objective to promote the strong and effective protection of intellectual property.

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

The Trademark goal is being met by achieving the following objectives set forth in the *USPTO 2014-2018 Strategic Plan*. Proposed revised objectives are currently undergoing internal review, and revisions are expected to be finalized by Summer 2018:

- Maintain Trademark First Action Pendency on Average between 2.5-3.5 Months with 12.0 Months Final Pendency.
- Maintain High Trademark Quality.
- Ensure Optimal IT Service Delivery to All Users.
- Continue and Enhance Stakeholder and Public Outreach.
- Enhance Operations of Trademark Trial and Appeal Board (TTAB).

Historical and projected metrics can be found in the USPTO BPAG Chart on pages 8-11, and on the Data Visualization Center at <http://www.uspto.gov/about/stratplan/dashboards.jsp>.

Explanation and Justifications:

For FY 2019, the USPTO requests a total of \$323.2 million and 1,296 positions for the Trademark Program.

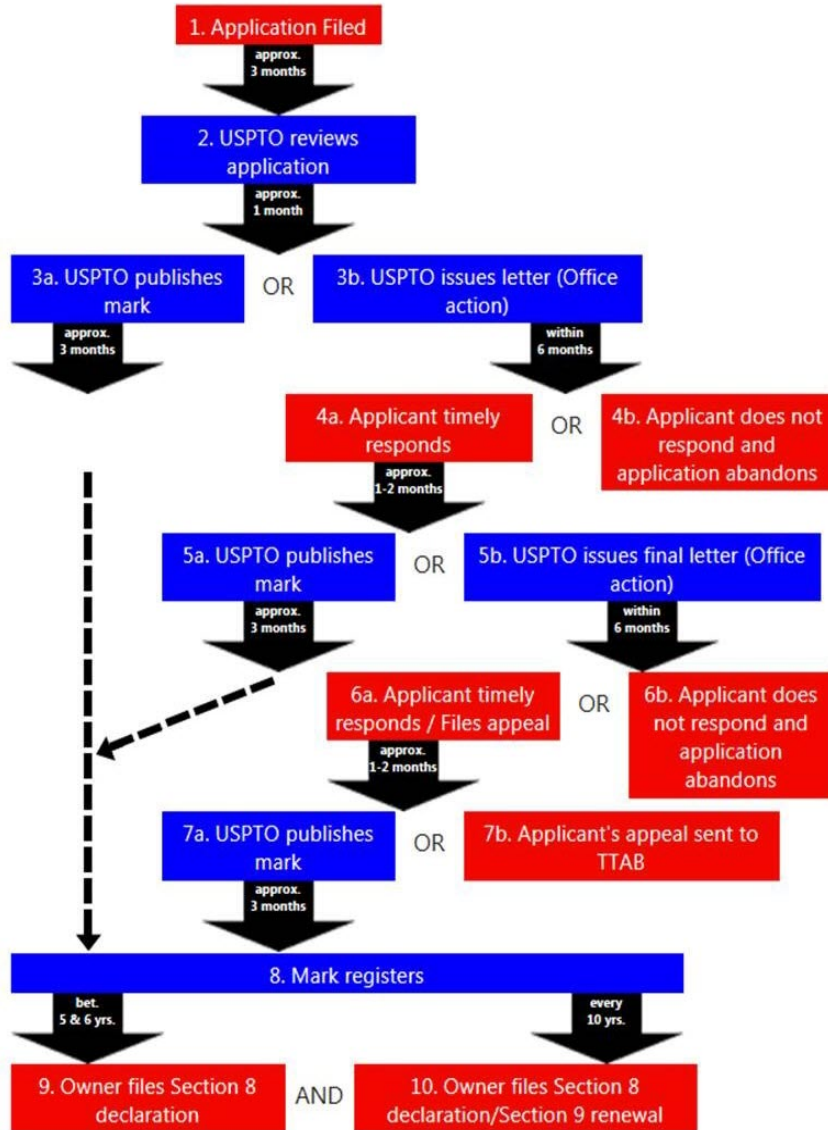
PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub Program	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Trademark Examining	\$130,378	\$144,147	\$149,490	\$162,942	\$177,396	\$195,532	\$213,721
Trademark Appeals and Inter Partes Proceedings	\$13,600	\$14,791	\$15,896	\$16,237	\$16,577	\$16,924	\$17,278
Trademark Information Resources	\$42,985	\$56,438	\$60,059	\$50,264	\$50,561	\$51,182	\$49,528
Management Goal Allocated	\$94,921	\$108,764	\$97,787	\$102,767	\$117,019	\$119,904	\$122,861
<b>TOTAL</b>	\$281,884	\$324,141	\$323,232	\$332,210	\$361,553	\$383,542	\$403,388
<b>FTE</b>	1,072	1,191	1,243	1,330	1,433	1,546	1,662
<b>Positions</b>	1,179	1,227	1,296	1,394	1,498	1,618	1,733

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

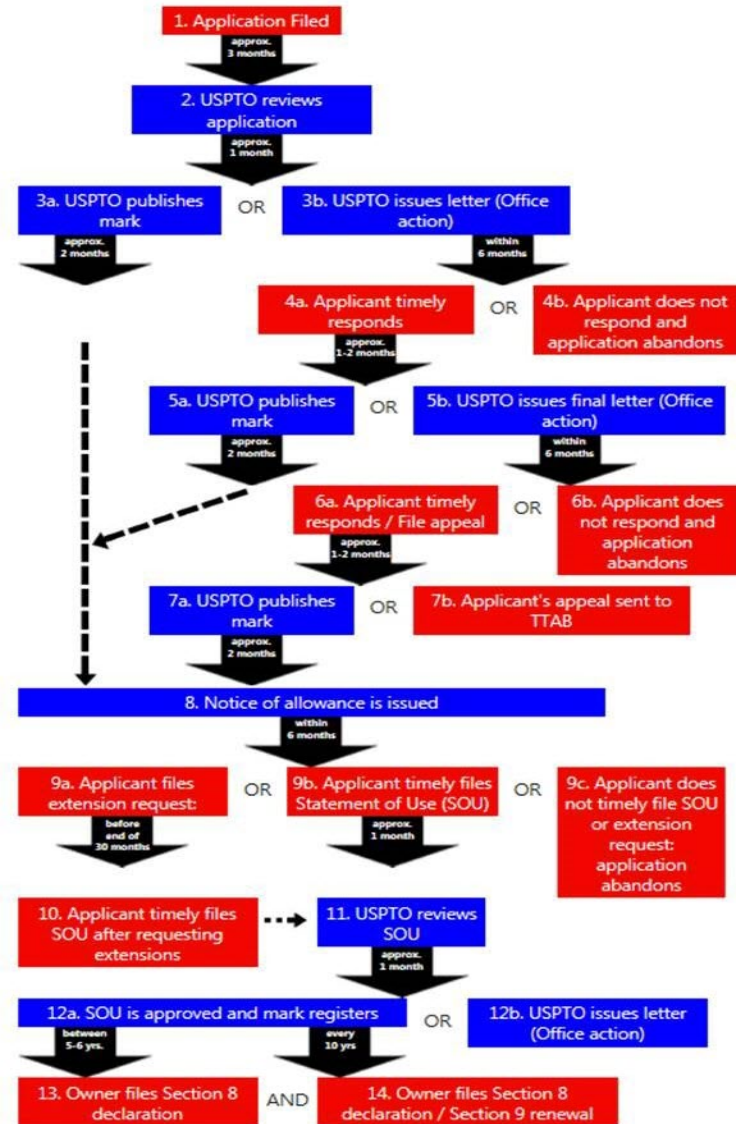
The examination of trademark applications consists of the activities shown on the following schematic and major functions as described below.

# Trademark Process

## Section 1a. Timeline: Application based on use in commerce



## Section 1b. Timeline: Application based on intent to use



## **Sub-Program #1: Trademark Examining**

### **Trademark Examining (\$145.3 million and 882 Pos.)**

The USPTO plays a critical role in providing notice of marks in use, or for which there is an intention to use, through its online databases of registered and pending trademarks. Prior to filing an application for registration, or establishing or investing in a mark, a business owner would be able to survey existing marks in use or proposed for use by utilizing online resources and support services available for customers to prepare and file their applications with the Office. Available resources include:

- Public search rooms located at the USPTO's facilities in Alexandria, VA;
- Support for the Patent and Trademark Depository Resource Centers (formerly Depository Libraries) located across the country;
- The USPTO online information trademark basics "how-to videos";
- Frequently asked questions (FAQs manuals, search systems, electronic filing); and,
- A customer service call center operated by the Trademark Assistance Center.

*Input Processing: \$9.9 million and 71 Pos.*

More than 99 percent of trademark applications for registration of a mark are currently filed electronically, and more than 86 percent are processed electronically from receipt to final disposition. When an application is received at the USPTO, it is subject to a quality review process. In that process the electronically tagged application data is reviewed to add the international classification and design search codes that facilitate searching and examination. The tagged data in a trademark application is transferred automatically to the appropriate data fields in trademark electronic automated systems. Trademark automated systems are the source for application data that is used throughout the processing, examination, and maintenance of registered trademarks; and the information that is made available to the public through [www.uspto.gov](http://www.uspto.gov). The automated systems are also the source of the Official Gazette, published electronically, which provides notice of marks approved by examiners, marks that are registered for those in use, and registrations that are maintained by registrants. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.

*Examination Processing: \$131.8 million and 778 Pos.*

One of the approximately 550 Trademark examining attorneys will determine if the mark in each newly filed application is entitled to registration under the provisions of the Trademark Act of 1946, as amended. As part of the process, the examining attorney conducts a search of prior filed and registered marks to evaluate if a conflict exists between the mark in the application and a previously filed application or registration. Examining attorneys evaluate many types of marks, such as trademarks, service marks, certification marks, and collective membership marks against the criteria for registrability set out in the Trademark Act of 1946, as amended, and make a determination to approve or deny an application for registration. The examining attorney searches a database of more than two million registered marks and 550,000 pending marks in order to determine if the mark in the subject application is confusingly similar to an existing mark.

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

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

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

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

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

*Trademark-Post Registration Processing: \$3.6 million and 33 Pos.*

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

use in commerce for a period of five consecutive years after the date of registration. The owner can also file requests to correct or amend a Trademark registration.

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

### **Sub-Program #2: Trademark Appeals and Trial Proceedings**

#### **Trademark Appeals and Trial Proceedings (\$15.7 million and 80 Pos.)**

Administrative Trademark Judges (ATJs) on the TTAB review adverse registrability determinations by examining attorneys when the applicant appeals the determination. The ATJs also conduct and decide opposition (trial) proceedings where an interested party believes that it will be harmed by, and therefore challenges, the registration of a published mark, and conduct other proceedings involving registrations where a third party wishes to challenge the validity of, or restrict, a registration.

### **Sub-Program #3: Trademark Information Resources**

#### **Trademark Information Resources (\$58.1 million and 76 Pos.)**

Trademark Information Resources includes base resources for making capital improvements to, and operating and maintaining, existing trademark systems. The Trademark Program's share of both direct and indirect costs is allocated to this sub-program.

### **Sub-Program #4: Management Goal – Allocated**

#### **Management Goal – Allocated (\$109.6 million and 188 Pos.)**

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



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

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office  
**TRADEMARK PROGRAM**  
**INCREASES FOR 2019**  
(Dollar amounts in thousands)

		2019 Base		2019 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	<i>Pos./Obl.</i>	1,039	219,050	1,108	225,445	69	6,395
	<i>FTE</i>	1,013		1,058		45	
<i>Trademark Examining</i>	<i>Pos./Obl.</i>	882	145,279	948	149,490	66	4,211
	<i>FTE</i>	859		902		44	
Trademark Workload	<i>Pos./Obl.</i>					66	4,211
	<i>FTE</i>					44	
<i>Trademark Trial and Appeals</i>	<i>Pos./Obl.</i>	80	15,701	81	15,896	1	195
	<i>FTE</i>	80		81		1	
TTAB Staffing	<i>Pos./Obl.</i>					1	195
	<i>FTE</i>					1	
<i>Trademark Information Resources</i>	<i>Pos./Obl.</i>	76	58,070	78	60,059	2	1,989
	<i>FTE</i>	74		75		1	
Trademark Business Projects	<i>Pos./Obl.</i>					2	1,989
	<i>FTE</i>					1	

Department of Commerce  
U.S. Patent and Trademark Office  
**TRADEMARK PROGRAM**  
**INCREASES FOR 2019 - 2023**  
(Dollar amounts in thousands)

		FY 2019		FY 2020		FY 2021		FY 2022		FY 2023	
		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Direct Total, Trademark Program</b>	<b>Pos./Obl.</b>	<b>69</b>	<b>6,395</b>	<b>167</b>	<b>5,310</b>	<b>271</b>	<b>15,239</b>	<b>391</b>	<b>26,844</b>	<b>506</b>	<b>35,678</b>
	<b>FTE</b>	<b>45</b>		<b>132</b>		<b>236</b>		<b>349</b>		<b>465</b>	
<b>Trademark Examining</b>	<b>Pos./Obl.</b>	<b>66</b>	<b>4,211</b>	<b>164</b>	<b>13,552</b>	<b>266</b>	<b>24,432</b>	<b>386</b>	<b>36,722</b>	<b>501</b>	<b>48,505</b>
	<b>FTE</b>	<b>44</b>		<b>130</b>		<b>232</b>		<b>344</b>		<b>460</b>	
Trademark Workload	Pos./Obl.	66	4,211	164	13,552	266	24,432	386	36,722	501	48,505
	FTE	44		130		232		344		460	
Trademark Quality Initiative	Pos./Obl.	-				-		-		-	
	FTE	-				-		-		-	
<b>Trademark Trial and Appeals</b>	<b>Pos./Obl.</b>	<b>1</b>	<b>195</b>	<b>1</b>	<b>253</b>	<b>1</b>	<b>258</b>	<b>1</b>	<b>263</b>	<b>1</b>	<b>268</b>
	<b>FTE</b>	<b>1</b>		<b>1</b>		<b>1</b>		<b>1</b>		<b>1</b>	
TTAB Staffing	Pos./Obl.	1	195	1	253	1	258	1	263	1	268
	FTE	1		1		1		1		1	
<b>Trademark Information Resources</b>	<b>Pos./Obl.</b>	<b>2</b>	<b>1,989</b>	<b>2</b>	<b>(8,494)</b>	<b>4</b>	<b>(9,451)</b>	<b>4</b>	<b>(10,141)</b>	<b>4</b>	<b>(13,096)</b>
	<b>FTE</b>	<b>1</b>		<b>2</b>		<b>3</b>		<b>4</b>		<b>4</b>	
Trademark Business Projects	Pos./Obl.	2	1,989	2	(8,494)	4	(9,451)	4	(10,141)	4	(13,096)
	FTE	1		2		3		4		4	

## Sub-Program: Trademark Examining

The Trademark Examining sub-program contributes to the accomplishment of the strategic goal to optimize trademark quality and timeliness through the following objectives for which funds are required in FY 2019:

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

## Summary

Trademark Examining (\$4.2 million and 66 Pos.): The USPTO requires an increase of \$4.2 million and 66 positions for a total of \$149.5 million and 948 positions to align trademark application examination capacity with estimated workloads and enhance the quality of legal services. These resources and FTEs will enable the Trademark organization to process incoming work in a timely manner and address quality issues. Since the 2009 contraction, filings of new trademark applications have registered average annual growth rates of more than four percent, a pattern that is expected to continue and strengthen over the next few years as the economic recovery continues. From FY 2017 through FY 2023, the Trademark organization projects a workload increase of 75 percent.

Filings of new applications are expected to increase on average by about five to eight percent year over year. To handle the expected increase in workloads, the Office plans to increase its staff in FY 2019 by a net total of 44 positions consisting of new examining attorney positions, as well as support and specialized positions. Offsetting the incremental costs, the Office expects to manage overtime usage through timely hiring and by setting appropriate levels of production incentives.

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

### Program Change Explanation and Justification:

This program change is necessary to accomplish the strategic goal to optimize trademark quality and timeliness that is a critical part of the Department's proposed strategic objective to promote the strong and effective protection of intellectual property. The *2014-2018 Strategic Plan* notes the challenge for the Trademark organization to continue to maintain the consistent timeliness and high quality standards that users of the U.S. trademark system have come to expect.

The Trademark Examining program change will enable the USPTO to maintain trademark pendency at the current levels, particularly first action pendency, which is an indicator of the registrability of the mark and investment decisions, by addressing the need to balance

forecasted new filings and workload (application classes are projected to increase about ten percent year over year), existing inventories, and examination capacity.

**Trademark Workload.** An increase of \$4.2 million and 44 FTE is required to align trademark application examination capacity with the revised estimated workloads. This will enable the Trademark organization to process incoming work in a timely manner. The positive momentum in new application filings is expected to continue being influenced by the sustained economic recovery. The projected 75 percent increase in annual trademark application filings from FY 2017 to FY 2023 requires a corresponding increase in examination capacity over the same period to continue to meet pendency and quality performance goals. With electronic filings and higher end-to-end electronic processing, the office continues to realize offsetting cost reductions in contract services that support manual paper based processes.

Performance Measures:

Performance Measure	FY 2018 Target	FY 2019 Target	FY 2020 Target	FY 2021 Target	FY 2022 Target	FY 2023 Target
First Action Pendency -- months						
With increase	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5
Without increase	3.3 – 3.8	4.4 – 4.9	5.5 – 6.0	6.5 – 7.0	7.4 – 7.9	8.0 – 8.5

Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount ( <i>\$ in thousands</i> )	\$4,211	\$13,552	\$24,432	\$36,722	\$48,505
FTE	44	130	232	344	460
Pos.	66	164	266	386	501

## Sub-Program: Trademark Appeals and Trial Proceedings

The Trademark Appeals and Trial Proceedings sub-program contributes to the accomplishment of the strategic goal to optimize trademark quality and timeliness through the following objective for which funds are required in FY 2019:

- Enhance Operations of the Trademark Trial and Appeal Board

### Summary

TTAB Staffing (\$0.2 million and 1 Pos.): The USPTO requires an increase of \$0.2 million and 1 position for a total of \$15.9 million and 81 positions.

#### Program Change Explanation and Justification:

**TTAB Staffing.** In FY 2019, the Trademark Program requires an increase of \$0.2 million and 1 FTE for one ATJ to handle projected workload increases in FY 2019 and beyond, primarily from anticipated growth in ex parte appeals and trial cases; and the expected deployment of a streamlined cancellation proceeding that would allow petitioners to seek cancellation of registrations for marks that are no longer in use and should not remain on the register. The growth in appeals and trial cases has and will result from actual increased filings of trademark applications dating to FY 2011, and projected increases through FY 2023. Also, the TTAB's processes and procedures for handling trial cases were revamped through rulemaking in early 2017 which may entail more hands-on case management through FY 2019 and beyond to ensure that appeals and trial cases are completed in shorter time periods, and in compliance with the amended rules.

**Figure 1: TTAB Projected Workload – FY 2017 through FY 2023**

	FY 2017 Actual	FY 2018 Projected	FY 2019 Projected	FY 2020 Projected	FY 2021 Projected	FY 2022 Projected	FY 2023 Projected
<b>Trademark Filings</b>	594,107	646,000	681,000	750,000	843,000	939,000	1,037,000
Growth in Filings Percents	12.0%	8.7%	5.4%	10.1%	12.4%	11.4%	10.4%
<b>Appeals</b>	3,158	3,559	4,086	4,500	5,058	5,634	6,222
%change	1.2%	12.7%	14.8%	10.1%	12.4%	11.4%	10.4%
<b>Oppositions</b>	6,156	7,106	7,491	8,250	9,273	10,329	11,407
% change	4.7%	15.4%	5.4%	10.1%	12.4%	11.4%	10.4%
<b>Cancellations</b>	2,101	2,261	2,384	2,625	2,951	3,287	3,630
% change	13.7%	7.6%	5.4%	10.1%	12.4%	11.4%	10.4%

Through FY 2017, filing levels for both new appeals and new trial cases continued to increase. In addition, new appeals from examiner refusals have increased each year since FY 2012 and this has resulted in more work for judges, notwithstanding the FY 2015 slight decrease in new trial cases. This is because a much higher percentage of all filed appeals eventually require decision on the merits by judges than do trial cases, which, like civil litigation, often settle. The TTAB anticipates needing the one additional ATJ to maintain the TTAB's commitment to 1) issue a significant number of precedential decisions (35-40) on an annual basis, 2) update the TTAB Manual of Procedure (TBMP) on at least an annual basis, 3) pursue outreach and other TTAB-related policy and rule development initiatives, and 4) to handle projected workload increases resulting from increases to ex parte appeals and trial cases and additional expected increases in workload from the deployment of the streamlined cancellation proceedings.

In FY 2019, the TTAB anticipates continuing increases in appeal and trial case filings, as well as contested motion work needing Judge disposition and/or review; and extensive work implementing rule changes that may take effect in late FY 2018, if the streamlined cancellation proceeding desired by stakeholders for removing unused marks from the register are deployed; and more robust outreach and continuing increased complexity and size of case records.

Performance Measures:

Performance Measures	FY 2017 Actual	FY 2018 Target	FY 2019 Target	FY 2020 Target	FY 2021 Target	FY 2022 Target
<b>#1 Incoming Appeals per ATJ FTE</b>						
with increase	121	137	157	173	195	217
without increase	132	148	170	188	211	235
<b>#2 Incoming Oppositions per ATJ FTE</b>						
with increase	237	273	288	317	357	397
without increase	257	296	312	344	386	430
<b>#3 Incoming Cancellations per ATJ FTE</b>						
with increase	81	87	92	101	113	126
without increase	88	94	99	109	123	137
<b>#4 Incoming Overall Pendency</b>						
with increase	10-12	10-12	10-12	10-12	10-12	10-12
without increase	12-14	13-15	14-16	15-17	16-17	17-19

Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$ 195	\$ 253	\$ 258	\$ 263	\$ 268
FTE	1	1	1	1	1
Pos.	1	1	1	1	1

## Sub-Program: Trademark Information Resources

The Trademark Information Resources sub-program contributes to the accomplishment of the strategic goal to optimize trademark quality and timeliness through the objective to ensure optimal IT service delivery to all users for which funds are required in FY 2019.

### Summary

Trademark Information Resources (\$2.0 million and 1 FTE): The USPTO requires an increase of \$2.0 million and 2 positions for a total of \$60.1 million and 78 positions for the Trademark IT Portfolio.

### Program Change Explanation and Justification:

**Trademark Business Projects.** In FY 2018, the USPTO will complete deployment of TMNG E, and the roll out to all Trademark Law Offices. Funds required for FY 2019 will be used to address high-priority end user feedback. In FY 2018-2019 required funds will be used to continue to deliver transactions and capability needed to fully process international trademark applications. Planned IT activities for the Trademark Program can be found in the IT Portfolio narrative in the Introduction to this Budget. In addition, the Trademark organization requires an additional 2 positions to help support Trademark staff that utilize automated systems.

### Performance Measures:

Additional information regarding schedules, milestones, and deliverables can be found in the USPTO's Exhibit 300 submissions that are located on the Federal IT Dashboard web site.

### Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$ 1,989	\$ (8,494)	\$ (9,451)	\$(10,141)	\$(13,096)
FTE	1	2	3	4	4
Pos.	2	2	4	4	4

**PROGRAM CHANGE PERSONNEL DETAIL**

Department of Commerce  
 U.S. Patent and Trademark Office  
 Salaries and Expenses  
 PROGRAM CHANGE PERSONNEL DETAIL

Activity: Trademarks  
 Subactivity:  
 Program Change:

<u>Title:</u>	<u>Grade</u>	<u>Number</u>	<u>Annual Salary</u>	<u>Total Salaries</u>
TM Examiner Attorney	11	75	74,550	5,591,253
TM Supervisory Attorney / Group Director	15	5	147,699	738,495
TM Staff Attorney	15	4	147,699	590,796
TM ITU Specialist	9	1	61,619	61,619
TM Business Operations Specialist	13	1	96,597	96,597
TM Business Intelligence Analyst	13	1	96,597	96,597
TM Paralegal	11	1	74,550	74,550
TM Technical Information Specialist	9	1	61,619	61,619
TM ID Class Attorney	15	1	134,271	134,271
TM Attritions	Various	(22)	129,370	(2,846,144)
TTAB Administrative Trademark Judge (ATJ)	AA	5	175,370	175,370
Total		69		4,775,022
less Lapse	34%	24		1,380,296
Total full-time permanent (FTE)		45		3,394,726
2019 Pay Adjustment (0.0%)				-
<b>Total</b>				<b>3,394,726</b>

<u>Personnel Data</u>	<u>Number</u>
Full-Time Equivalent Employment	
Full-time permanent	45
Other than full-time permanent	-
<b>Total</b>	<b>45</b>
Authorized Positions:	
Full-time permanent	69
Other than full-time permanent	-
<b>Total</b>	<b>69</b>



## PROGRAM CHANGE DETAIL BY OBJECT CLASS

(Dollar amounts in thousands)

Activity: Patents  
Subactivity:

Object Class	2019 Increase
11 Personnel compensation	
11.1 Full-time permanent	3,395
11.3 Other than full-time permanent	
11.5 Other personnel compensation	50
11.8 Special personnel services payments	-
11.9 Total personnel compensation	3,444
12 Civilian personnel benefits	1,085
13 Benefits for former personnel	-
21 Travel and transportation of persons	2
22 Transportation of things	0
23.1 Rental payments to GSA	-
23.2 Rental payments to others	1
23.3 Communications, utilities and miscellaneous charges	0
24 Printing and reproduction	(5)
25.1 Advisory and assistance services	-
25.2 Other services	(2)
25.3 Purchases of goods & services from Gov't accounts	-
25.4 Operation and maintenance of facilities	(0)
25.5 Research and development contracts	-
25.6 Medical care	-
25.7 Operation and maintenance of equipment	6,873
25.8 Subsistence and support of persons	-
26 Supplies and materials	0
31 Equipment	(5,004)
32 Lands and structures	-
33 Investments and loans	
41 Grants, subsidies and contributions	-
42 Insurance claims and indemnities	-
43 Interest and dividends	-
44 Refunds	-
99 Total obligations	6,395

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

## Exhibit 10 – Program Performance: Total Obligations

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

Activity: Intellectual Property Policy  
 Subactivity: Intellectual Property Policy

Sub-Activity:		FY 2017		FY 2018		FY 2019		FY 2019		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Policy, External Affairs and Administrative Support	Pos./Obl	108	21,703	107	25,721	107	27,996	107	27,996	-	-
	FTE	92		105		106		106		-	-
Global Intellectual Property Academy (GIPA)	Pos./Obl	20	2,841	20	3,669	20	4,069	20	4,069	-	-
	FTE	17		19		20		20		-	-
IPR Attaché Program	Pos./Obl	3	11,597	4	11,211	4	11,403	4	11,403	-	-
	FTE	3		4		4		4		-	-
IP PP&E Information Resources	Pos./Obl	-	123	-	997	-	1,014	-	984	-	(29)
	FTE	-		-		-		-		-	-
Subtotal Direct	Pos./Obl	131	36,264	131	41,597	131	44,481	131	44,451	-	(29)
	FTE	111		128		130		130		-	-
Management Goal - Allocated	Pos./Obl	35	10,588	36	12,535	36	12,860	36	12,618	-	(243)
	FTE	27		31		31		31		0	
<b>Total</b>	Pos./Obl	166	46,852	167	54,132	167	57,341	167	57,069	0	(272)
	FTE	138		159		161		161		0	

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

### IP Policy, Protection and Enforcement Base Program

#### Goal and Objectives:

The USPTO's IP PP&E Program, through its proposed strategic goal to provide domestic and global leadership to improve IP policy, protection, and enforcement worldwide, supports the Department's proposed strategic objective to promote the strong and effective protection of intellectual property.

The USPTO promotes the protection and enforcement of IP of American innovators and creators on both the domestic and international levels. The USPTO advises the President, through the Secretary of Commerce, and all Federal agencies, on national and international IP policy issues including IP protection in other countries. The Administration has announced that it is a top priority to renegotiate the North American Free Trade Agreement (NAFTA), and to pursue bilateral trade agreements. OPIA is preparing to provide substantial support and technical expertise in negotiations of the IP provisions of these agreements.

The USPTO is also authorized to provide guidance, conduct programs and studies, and otherwise interact with foreign IP offices and international intergovernmental organizations on matters involving the protection of IP.

This IP PP&E goal will be met by achieving the proposed objectives set forth in the *USPTO's 2014-2018 Strategic Plan*. Proposed revised objectives are currently undergoing internal review, and revisions are expected to be finalized by Summer 2018:

- Provide Leadership and Education on IP Policy and Awareness
- Provide Leadership and Education on International Agreements and Policies for Improving the Protection and Enforcement of IP Rights

Historical and projected metrics can be found in the BPAG Chart on pages 8-11, and on the Data Visualization Center at <http://www.uspto.gov/about/stratplan/dashboards.jsp>

Explanation and Justification:

For FY 2019, the USPTO requests a total of \$57.1 million and 167 positions for the IP PP&E Program.

PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub Program	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Policy, External Affairs and Administrative Support	\$21,703	\$25,721	\$27,996	\$28,507	\$29,098	\$29,701	\$30,317
Global Intellectual Property Academy (GIPA)	\$2,841	\$3,669	\$4,069	\$4,143	\$4,229	\$4,316	\$4,406
IPR Attaché Program	\$11,597	\$11,211	\$11,403	\$11,619	\$11,852	\$12,089	\$12,332
IP PP&E Information Resources	\$123	\$997	\$984	\$846	\$808	\$845	\$845
Management Goal - Allocated	\$10,588	\$12,535	\$12,618	\$12,203	\$12,732	\$12,987	\$13,205
<b>TOTAL</b>	<b>\$46,852</b>	<b>\$54,132</b>	<b>\$57,069</b>	<b>\$57,318</b>	<b>\$58,718</b>	<b>\$59,940</b>	<b>\$61,104</b>
<b>FTE</b>	<b>138</b>	<b>159</b>	<b>161</b>	<b>161</b>	<b>161</b>	<b>161</b>	<b>161</b>
<b>Positions</b>	<b>166</b>	<b>167</b>	<b>167</b>	<b>167</b>	<b>167</b>	<b>167</b>	<b>167</b>

**Sub-Program #1: Policy, External Affairs and Administrative Support**

**Policy, External Affairs and Administrative Support (\$28.0 million and 107 Pos.)**

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

Intellectual Property Policy

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

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

The USPTO's statutory obligation to provide IP guidance and advice to the administration with respect to international IP policy and protection includes bilateral, regional, and multilateral IP discussions, and IP Office cooperation, which has led directly to patent work sharing. These efforts benefit the USG and U.S. interests by ensuring the availability and enforceability of IP rights, thereby leveling the playing field for U.S. IP-based trade. Some of these initiatives include supporting free trade agreements (FTAs), trilateral cooperative activities, and working to simplify and harmonize administrative and technical processing of patent and trademark applications.

OPIA also coordinates patent cooperative activities with the IP5<sup>2</sup>, which lead to work sharing and Patent Prosecution Highway (PPH) projects that will help improve operational efficiencies and address the patent backlog.

### Chief Economist

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

### Edison Visiting Scholars Program

The Edison Scholars Program enlists the services of leaders in academia and the IP industry who devote up to six months of service to the agency on a full-time basis.

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<sup>2</sup> IP5 – The USPTO, the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO) and the State Intellectual Property Office (SIPO) of China

### Governmental Affairs (GA)

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

### **Sub-Program #2: Global Intellectual Property Academy (GIPA)**

#### **Global Intellectual Property Academy (GIPA) (\$4.1 million and 20 Pos.)**

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

Specific programs include:

- High-level capacity building and technical assistance training to foreign government officials (judges, prosecutors, customs officials, IP enforcement personnel, as well as officials from IP offices).
- Providing patent officials from other countries with patent examiner training at the Patent Training Academy with financial support from those countries.
- Conducting advanced trademark examination programs for examiners and senior officials from other IP offices including Brazil and India. These programs provide the officials with an in-depth analysis of the U.S. approach to the examination of trademark applications in order to strengthen the practices and procedures in other countries.
- Organizing and hosting capacity-building joint projects with organizations such as the Asia Pacific Economic Cooperation (APEC); the Association of South East Asian Nations (ASEAN); and the Pacific Islands Forum (PIF).
- Conducting programs on IP rights enforcement and the U.S. legal system for foreign government judges and prosecutors.
- Conducting an IP "boot camp" for U.S. small businesses including an IP "needs assessment" on patents, trade secrets, trademarks, copyright, IP and the Internet; and one-on-one consultations to assist businesses to protect themselves against IP theft from abroad, and to prepare themselves for exporting their goods or services.



- Offering online instruction and outreach through webinars and e-learning modules, providing easy, global access to information tools.

### **Sub-Program #3: Intellectual Property Rights (IPR) Attaché Program**

#### **Intellectual Property Rights (IPR) Attaché Program (\$11.4 million and 4 Pos.)**

The IPR Attaché Program was formally instituted in 2006 to promote strong IP protection and enforcement internationally for the benefit of U.S. foreign, economic, and political interests. Since its creation, the IPR Attaché Program has placed or is working to place individuals in the following countries: Brazil, China (posts exist in Beijing, Guangzhou, and Shanghai), Kuwait (for the Middle East), India, Mexico, Peru, and Thailand, as well as Brussels, Belgium at the U.S. Mission to the European Union and Geneva, Switzerland. When USPTO employees are posted, during their time abroad they leave the USPTO and become Foreign Commercial Service (FCS) employees with full return rights to the USPTO. The IPR Attaché Program is closely aligned with and supports achievement of USPTO's mission, the IP PP&E strategic goal, and the objectives identified in the *USPTO 2014-2018 Strategic Plan*. The IP attachés bring unique technical IP expertise and experience to their posts. Attachés have helped influence laws, regulations, and IPR practices in their host countries.

### **Sub-Program #4: IP PP&E Information Resources**

#### **IP PP&E Information Resources (\$1.0 million)**

IP PP&E Information Resources includes base resources for making capital improvements to, and operating and maintaining, existing IP PP&E systems. The IP PP&E Program's share of both direct and indirect IT costs is allocated to this sub-program.

### **Sub-Program #5: Management Goal – Allocated**

#### **Management Goal – Allocated (\$12.9 million and 36 Pos.)**

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

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

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office  
INTELLECTUAL PROPERTY POLICY PROTECTION & ENFORCEMENT  
INCREASES FOR 2019  
(Dollar amounts in thousands)

		2019 Base		2019 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Intellectual Property Policy, Protection and Enforcement Program	Pos./Obl.	131	44,481	131	44,451	-	(29)
	FTE	130		130		-	
<i>IP PP&amp;E Information Resources</i>	<i>Pos./Obl.</i>	-	<i>1,014</i>	-	<i>984</i>	-	<i>(29)</i>
	<i>FTE</i>	-		-		-	
IP PP&E Business Projects	Pos./Obl.	-	1,014	-	984	-	(29)
	FTE	-		-		-	

Department of Commerce  
 U.S. Patent and Trademark Office  
**INTELLECTUAL PROPERTY POLICY PROTECTION & ENFORCEMENT**  
**INCREASES FOR 2019 - 2023**  
 (Dollar amounts in thousands)

		FY 2019	FY 2020	FY 2021	FY 2022	FY 2023					
		Increase	Increase	Increase	Increase	Increase					
		(Decrease)	(Decrease)	(Decrease)	(Decrease)	(Decrease)					
		<u>Personnel Amount Personnel Amount Personnel Amount Personnel Amount Personnel Amount</u>									
Direct Total, Intellectual Property Policy, Protection and Enforcement Program	Pos./Obl.	-	(29)	-	(187)	-	(246)	-	(230)	-	(252)
	FTE	-		-		-		-		-	
<i>IP PP&amp;E Information Resources</i>	<i>Pos./Obl.</i>	-	(29)	-	(187)	-	(246)	-	(230)	-	(252)
	<i>FTE</i>	-	-	-	-	-	-	-	-	-	-
IP PP&E Business Projects	Pos./Obl.	-	(29)	-	(187)	-	(246)	-	(230)	-	(252)
	FTE	-		-		-		-		-	

## Sub-Program: IP PP&E Information Resources

The IP PP&E Information Resources sub-program contributes to the accomplishment of the strategic goal to provide domestic and global leadership to improve IP policy, protection and enforcement through the following management goal objective for which funds are required in FY 2019:

- Leverage IT Investments to Achieve Business Results

### Summary

IP PP&E Information Resources (-\$0.03 million): The USPTO requires an decrease of \$0.03 million for a total of \$1.0 million for its CIF.

#### Program Change Explanation and Justification:

**IP PP&E Business Projects.** Planned IT activities for FY 2019 include working towards a solution that updates the current system for tracking and reporting training and outreach programs. Other activities for this Program can be found in the IT Portfolio narrative in the Introduction to the Budget.

#### Performance Measures:

Additional information regarding schedules, milestones, and deliverables can be found in the USPTO's Exhibit 300 submissions that are located on the Federal IT Dashboard web site.

#### Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$ (29)	\$ (187)	\$ (246)	\$ (230)	\$ (252)
FTE	-	-	-	-	-
Pos.	-	-	-	-	-

Exhibit 15

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**

(Dollar amounts in thousands)

Activity: IP PP&E  
 Subactivity:

Object Class	2019 Increase
11 Personnel compensation	
11.1 Full-time permanent	-
11.3 Other than full-time permanent	-
11.5 Other personnel compensation	-
11.8 Special personnel services payments	-
11.9 Total personnel compensation	-
12 Civilian personnel benefits	-
13 Benefits for former personnel	-
21 Travel and transportation of persons	-
22 Transportation of things	-
23.1 Rental payments to GSA	-
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	-
24 Printing and reproduction	-
25.1 Advisory and assistance services	33
25.2 Other services	-
25.3 Purchases of goods & services from Gov't accounts	-
25.4 Operation and maintenance of facilities	-
25.5 Research and development contracts	-
25.6 Medical care	-
25.7 Operation and maintenance of equipment	(52)
25.8 Subsistence and support of persons	-
26 Supplies and materials	-
31 Equipment	(11)
32 Lands and structures	-
33 Investments and loans	-
41 Grants, subsidies and contributions	-
42 Insurance claims and indemnities	-
43 Interest and dividends	-
44 Refunds	-
99 Total obligations	(29)

# **MANAGEMENT PROGRAM**

## Exhibit 10 – Program Performance: Total Obligations

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

Activity: Management Program  
Subactivity: Achieve Organization Excellence

Sub-Activity:		FY 2017		FY 2018		FY 2019		FY 2019		Increase/ (Decrease)	
		Actual		Annualized CR		Base		Estimate		Personnel	Amount
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Executive Direction and Communications	Pos./Obl	85	9,196	86	13,024	86	14,203	86	14,203	-	-
	FTE	51		64		63		63		-	
Financial Management Services	Pos./Obl	134	26,655	135	29,589	135	30,262	135	30,262	-	-
	FTE	125		132		133		133		-	
Human Resource Management and Administrative Services	Pos./Obl	250	42,679	252	49,740	252	53,054	252	53,054	-	-
	FTE	214		243		250		250		-	
Legal Services	Pos./Obl	132	26,007	132	27,953	132	28,182	132	28,182	-	-
	FTE	124		130		130		130		0	
Management Information Resources	Pos./Obl	58	47,587	59	49,570	59	50,047	59	46,557	-	(3,490)
	FTE	53		57		58		58		-	
IT Infrastructure and IT Support Services	Pos./Obl	569	356,949	572	424,653	572	434,912	572	390,742	-	(44,170)
	FTE	494		566		567		567		-	
Miscellaneous General Expense	Pos./Obl	-	236,091	-	263,934	-	254,979	-	257,021	-	2,042
	FTE	-		-		-		-		-	
<b>Total</b>	Pos./Obl	1,228	745,163	1,236	858,463	1,236	865,640	1,236	820,022	-	(45,618)
	FTE	1,060		1,192		1,201		1,201		0	



Sub-Activity:		FY 2017		FY 2018		FY 2019		FY 2019		Increase/	
		Actual		Annualized CR		Base		Estimate		(Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Management Goal - Allocation:</b>											
Patent Program	Pos./Obl	1,009	639,654	1,012	737,164	1,012	743,205	1,012	709,617	-	(33,588)
	FTE	873		978		986		986		0	
Trademark Program	Pos./Obl	184	94,921	188	108,764	188	109,574	188	97,787	-	(11,787)
	FTE	160		183		184		184		0	
IPPP&E Program	Pos./Obl	35	10,588	36	12,535	36	12,860	36	12,618	-	(243)
	FTE	27		31		31		31		0	
Total Management Goal Allocation	Pos./Obl	1,228	745,163	1,236	858,463	1,236	865,640	1,236	820,022	0	(45,618)
	FTE	1,060		1,192		1,201		1,201		0	

## Exhibit 12 – Management Program and Performance

### Management Base Program

#### Goal and Objectives:

The USPTO's Management Program, through its strategic goal to achieve organizational excellence, enables the USPTO to carry out its mission and accomplish its goals and objectives. The USPTO's management goal is consistent with the DOC's Customer Centric Service Excellence strategic goals area.

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

This Management goal will be met by achieving the objectives set forth in the *USPTO's 2014-2018 Strategic Plan*. Proposed revised objectives are currently undergoing internal review, and revisions are expected to be finalized by Summer 2018.

- Leverage IT Investments to Achieve Business Results:
- Continue to Build and Maintain a Flexible, Diverse, and Engaged Workforce:
- Enhance Internal and External Relations:
- Secure Sustainable Funding to Deliver Value to Fee-Paying Customers and the Public
- Establish Regional Offices and a Regional Presence

Explanation and Justifications:

For FY 2019, the USPTO requests a total of \$820.0 million and 1,236 positions for the Management Program. The costs associated with the Management Program activities have already been allocated to the Patent, Trademark, and IP PP&E Programs using the Office's ABI results.

PROGRAM BUDGET PROFILE (Dollars in thousands)							
Funding Requirements by Sub Program	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Executive Direction and Communications	\$9,196	\$13,024	\$14,203	\$14,462	\$14,762	\$15,069	\$15,382
Financial Management Services	\$26,655	\$29,589	\$30,262	\$30,814	\$31,454	\$32,106	\$32,773
Human Resource Management and Administrative Services	\$42,679	\$49,740	\$53,054	\$54,025	\$55,144	\$56,285	\$57,451
Legal Services	\$26,007	\$27,953	\$28,182	\$28,693	\$29,292	\$29,903	\$30,527
Management Information Resources	\$47,587	\$49,570	\$46,557	\$44,059	\$44,740	\$45,482	\$46,289
IT Infrastructure and IT Support Services	\$356,949	\$424,653	\$390,742	\$380,828	\$457,439	\$469,863	\$471,358
Miscellaneous General Expense	\$236,091	\$263,934	\$257,021	\$270,965	\$279,421	\$288,902	\$299,128
<b>TOTAL</b>	\$745,163	\$858,463	\$820,022	\$823,845	\$912,250	\$937,612	\$952,907
<b>FTE</b>	1,060	1,192	1,201	1,201	1,201	1,201	1,201
<b>Positions</b>	1,228	1,236	1,236	1,236	1,236	1,236	1,236

**Sub-Program #1: Executive Direction and Communications**

**Executive Direction and Communications (\$14.2 million and 86 Pos.)**

Executive Direction and Communications entails determining the policies and directing the programs of the USPTO. The Under Secretary and Director receives advice from the PPAC and the TPAC on Office policies, goals, performance, budget, and user fees.

Communications entail media relations and speech writing; business liaison, outreach, and community relations; internal communications; and museum services, special events, and web services.

Education and Outreach -- The USPTO provides educational activities and participates in educational programs for students, educators, and young inventors and innovators of all ages.

## **Sub-Program #2: Financial Management Services**

### **Financial Management Services (\$30.3 million and 135 Pos.)**

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

- Ensuring that the USPTO's annual performance supports the strategic plan; the budget is efficiently and effectively formulated and executed to achieve optimal performance levels across all business units; fees are set appropriately; and actionable information is provided to executive management.
- Awarding quality, fiscally-responsible, and timely procurement actions by anticipating and exceeding stakeholders' ever-changing needs with their knowledge of business practices and market dynamics, innovative strategies, and well-defined and standardized processes.
- Implementing and managing financial accounting and control systems, collecting financial data, and analyzing financial reports leading to sound financial decisions. As of FY 2017, these activities have enabled the USPTO to earn an unqualified audit opinion on its annual financial statements for 25 consecutive years, and the Association of Government Accountants' Certificate of Excellence in Accountability Reporting award for 15 consecutive years.

## **Sub-Program #3: Human Resource Management and Administrative 252 Pos.)**

Efficient and effective human resources management, administrative services, and telework programs under the responsibility of the Chief Administrative Officer, entail:

- Using approved and appropriate personnel practices, tools, and policies for recruiting, developing, and retaining a high-performing, highly-skilled, and diverse workforce necessary for mission success, and to foster the next generation of USPTO employees and leaders. This includes attracting employees with the right skill sets while focusing on a results-oriented performance culture, leadership and development, and talent management.
- Expanding and promoting structured USPTO-wide telework as a corporate business strategy, which supports mission achievement and goal fulfillment via a distributed workforce.
- Overseeing a broad range of administrative and employee service programs (for example, occupational/safety/health services; printing and graphics; mail center operations; move services; transportation services; conference services; cafeteria, concessions, and food services; personnel property management services; and file repository services) that are responsive to the needs of the USPTO workforce.
- Providing real property services (e.g., lease/facilities management, space planning/design, coordination of building renovations), as well as energy conservation and environmental management services.
- Providing for protection of personnel, facilities, and property; coordinating the USPTO's Occupant Emergency, Emergency Preparedness, and Continuity of Operations' planning efforts.

## Equal Employment Opportunity and Diversity (EEOD)

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

## Ombudsman Program

The Ombudsman Program, which launched through a successful pilot initiative in FY 2016, helps any USPTO employee or manager explore options to prevent, address, and resolve workplace issues.

## **Sub-Program #4: Legal Services**

### **Legal Services (\$28.2 million and 132 Pos.)**

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

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

## **Sub-Program #5: Management Information Resources**

### **Management Information Resources (\$50.0 million and 59 Pos.)**

Management Information Resources includes ongoing operations and maintenance, and making capital improvements to management business systems.

### **Sub-Program #6: IT Infrastructure and IT Support Services**

#### **IT Infrastructure and IT Support Services (\$434.9 million and 572 Pos.)**

IT Infrastructure and IT Support Services entails operating and maintaining the underlying infrastructure supporting the business systems and the IT support services (e.g., operations and maintenance); making capital improvements to those same IT infrastructure and support services; and disseminating information to the public.

### **Sub-Program #7: Cross-Cutting Management Services: Miscellaneous General Expense**

#### **Cross-Cutting Management Services: Miscellaneous General Expense (\$255.0 million)**

This sub-program entails cross-cutting services that affect all USPTO employees and/or operations, such as space rental, utilities, lease management, security, telecommunications, transportation, postage, and the USPTO's participation in the DOC Working Capital Fund. It also includes funding for post-retirement benefits, whereby the USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Benefits (FEHB) Program, Federal Employees Group Life Insurance (FEGLI) Program, and the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) pension liabilities. Funds for this purpose are paid to the Office of Personnel Management (OPM). Base funds also include \$10,000 to purchase uniforms to be worn by USPTO personnel at recruitment events, consistent with common recruiting practices.

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

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office  
**MANAGEMENT PROGRAM  
INCREASES FOR 2019**  
(Dollar amounts in thousands)

		2019 Base		2019 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Total, Management Program	<i>Pos./Obl.</i>	1,236	865,640	1,236	820,022	-	(45,618)
	<i>FTE</i>	1,201		1,201		-	
<i>Management Information Resources</i>	<i>Pos./Obl.</i>	59	50,047	59	46,557	-	(3,490)
	<i>FTE</i>	58		58		-	
Management Business Projects	<i>Pos./Obl.</i>					-	(3,490)
	<i>FTE</i>					-	
<i>IT Infrastructure and IT Support Services</i>	<i>Pos./Obl.</i>	572	434,912	572	390,742	-	(44,170)
	<i>FTE</i>	567		567		-	
IT Projects	<i>Pos./Obl.</i>					-	(44,170)
	<i>FTE</i>					-	
<i>Miscellaneous General Expense (MGE)</i>	<i>Pos./Obl.</i>	-	254,979	-	257,021	-	2,042
	<i>FTE</i>	-		-		-	
Cross Cutting Services	<i>Pos./Obl.</i>					-	2,042
	<i>FTE</i>					-	

Department of Commerce  
U.S. Patent and Trademark Office  
MANAGEMENT PROGRAM  
INCREASES FOR 2019 - 2023  
(Dollar amounts in thousands)

		FY 2019		FY 2020		FY 2021		FY 2022		FY 2023	
		Increase		Increase		Increase		Increase		Increase	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Total, Management Program	<i>Pos./Obl.</i>	-	(45,618)	-	(72,004)	-	(5,301)	-	(2,880)	-	(11,448)
	<i>FTE</i>	0		0		0		0		0	
<i>Management Information Resources</i>	<i>Pos./Obl.</i>	-	(3,490)	-	(6,949)	-	(7,281)	-	(7,572)	-	(7,820)
	<i>FTE</i>	-		-		-		-		-	
Management Business Projects	<i>Pos./Obl.</i>	-	(3,490)	-	(6,949)	-	(7,281)	-	(7,572)	-	(7,820)
	<i>FTE</i>	-		-		-		-		-	
<i>IT Infrastructure and IT Support Services</i>	<i>Pos./Obl.</i>	-	(44,170)	-	(62,979)	-	4,638	-	7,909	-	67
	<i>FTE</i>	-		-		-		-		-	
IT Projects	<i>Pos./Obl.</i>	-	(44,170)	-	(62,979)	-	4,638	-	7,909	-	67
	<i>FTE</i>	-		-		-		-		-	
<i>Miscellaneous General Expense (MGE)</i>	<i>Pos./Obl.</i>	-	2,042	-	(2,076)	-	(2,657)	-	(3,217)	-	(3,694)
	<i>FTE</i>	-		-		-		-		-	
Cross Cutting Services	<i>Pos./Obl.</i>	-	2,042	-	(2,076)	-	(2,657)	-	(3,217)	-	(3,694)
	<i>FTE</i>	-		-		-		-		-	



## Sub-Program: Management Information Resources

The Management Information Resources sub-program contributes to the accomplishment of the management goal to achieve organizational excellence through the following objective for which funds are required in FY 2019:

- Leverage IT Investments to Achieve Business Results

### Summary

Management Information Resources (-\$3.5 million): The USPTO proposes a decrease of \$3.5 million for a total of \$46.6 million and 59 positions for its management business systems. This request supports the Department's proposed strategic objective to promote the strong and effective protection of intellectual property.

### Program Change Explanation and Justification:

Management Business Projects. For FY 2019, remaining funds would be used to integrate a commercial off-the-shelf solution with the existing HR Connect product to provide employee performance management solutions; expand usage of the enterprise budget tool, add on-line refund and deposit account pre-authorization functionality. Planned activities for the Management Program can be found in the IT Portfolio narrative in the Introduction to this Budget.

### Performance Measures:

Additional information regarding schedules, milestones, and deliverables can be found in the USPTO's Exhibit 300 submissions that are located on the Federal IT Dashboard website.

### Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$(3,490)	\$(6,949)	\$(7,281)	\$(7,572)	\$(7,820)
FTE	-	-	-	-	-
Pos.	-	-	-	-	-

## Sub-Program: IT Infrastructure and IT Support Services

The IT Infrastructure and IT Support Services sub-program contributes to the accomplishment of the management goal to achieve organizational excellence through the following objective for which funds are required in FY 2019:

- Leverage IT Investments to Achieve Business Results

### Summary

Improve IT Infrastructure and Tools (-\$44.2 million): The USPTO proposes a decrease of \$44.2 million for a total of \$390.7 million and 572 positions for its IT infrastructure. This supports the Department's Data and Operational Excellence strategic goals.

### Program Change Explanation and Justification:

IT Projects. The reduced total funding level reflects the completion of the latest cyclical replacement of end-user IT equipment (i.e., employee laptops/desktops) while continuing investments in new technology such as SOHO routers; the replacement of IT infrastructure to support a standardized and optimized data center infrastructure; and security infrastructure and monitoring enhancements. Planned IT activities for the Management Program can be found in the IT Portfolio narrative in the Introduction to this Budget.

### Performance Measures:

Additional information regarding schedules, milestones, and deliverables can be found in the USPTO's Exhibit 300 submissions that are located on the Federal IT Dashboard website.

### Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$ (44,170)	\$ (62,979)	\$ 4,638	\$ 7,909	\$ 67
FTE	-	-	-	-	-
Pos.	-	-	-	-	-

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

The Cross-Cutting Services/MGE sub-program contributes to the accomplishment of the management goal to achieve organizational excellence by enabling the effective funding and implementation of cross-cutting activities, primarily corporate support services that affect all USPTO employees and operations. Cross-cutting activities are funded through the MGE budget account, which includes the expenses incurred in connection with the general management of the USPTO that are not provided for elsewhere. These cross-cutting activities also facilitate adherence to regulations, Executive Orders (EO) and guidance documents, and support the USPTO management goal to achieve organizational excellence.

### **Summary**

Cross-Cutting Services/MGE (\$2.0 million): The USPTO requires an increase of \$2.0 million for a total of \$257.0 million for cross-cutting services that support the Department's proposed strategic objective to promote the strong and effective protection of intellectual property.

### Program Change Explanation and Justification:

**Cross-Cutting Services.** Funds are required in FY 2019 and the out years to continue providing cost-effective corporate support services that affect all USPTO employees and operations.

- Funds are required to convert pantries, service centers and end-of-corridor spaces at USPTO's Alexandria headquarters into office space, collaborative spaces, focus rooms, and/or hoteling stations to keep up with organizational needs and growth. Funds required for FY 2019 would enable the Office to start the conversion process and apply lessons learned to address future needs.
- Funds are required to continue the five-year initiative to provide furniture replacement for employees. Utilizing the funds previously approved, the USPTO has already purchased new furniture for newly constructed areas, provided each employee and contractor with a task chair, and in FY 2018 will provide each employee with a height adjustable work surface. Because the budget set aside was reduced for FY 2016 through FY 2018, additional funds are required in FY 2019 to complete the initiative. The funds required in FY 2019 will provide dedicated funding for further furniture replacement of old, broken, or unserviceable office furniture that was not previously replaced.
- Funds are required to address a 2014 Federal Protective Service (FPS) facility security assessment and physical security survey of USPTO's Alexandria facilities, which included recommendations to install ballistic protection for security officers; and to install K-rated vehicle barriers, which are needed to protect pedestrian and vehicle access points, and critical areas/utilities from penetration by a vehicle meeting the ISC Design Basis Threat (DBT). This would be a one-time funding requirement.
- Funds are required to upgrade the USPTO's aging radio infrastructure, which is almost ten years old and only allows limited communication among the USPTO's nationwide sites. This creates security gaps in protective securing officer (PS) communications. To close this gap, funds are required to overhaul the current system and upgrade the existing digital system to give the Agency and PSOs the ability to communicate with all USPTO locations. Lastly this would enable the Security Command Center to be the central source of communication during emergencies and power outages when needed. Funds will be used to for all new radio equipment to

include base stations, radios, hand held microphones for security privacy and charging stations. The radio system infrastructure will be upgraded to include encryption and has enhanced audio capabilities. Additionally, the radio system infrastructure will be installed at the four regional office locations where there is currently no radio system infrastructure.

Performance Measures:

Additional actions toward implementing the above initiatives will be taken in FY 2019

Resource Requirements:

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Amount (\$ in thousands)	\$2,042	\$(2,076)	\$(2,657)	\$(3,217)	\$(3,694)
FTE	-	-	-	-	-
Pos.	-	-	-	-	-

Exhibit 15

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**

(Dollar amounts in thousands)

Activity: **Management**

Subactivity:

Object Class	2019 Increase
11 Personnel compensation	
11.1 Full-time permanent	-
11.3 Other than full-time permanent	
11.5 Other personnel compensation	-
11.8 Special personnel services payments	-
11.9 Total personnel compensation	-
12 Civilian personnel benefits	-
13 Benefits for former personnel	-
21 Travel and transportation of persons	(45)
22 Transportation of things	(0)
23.1 Rental payments to GSA	(2,692)
23.2 Rental payments to others	613
23.3 Communications, utilities and miscellaneous charges	144
24 Printing and reproduction	-
25.1 Advisory and assistance services	22
25.2 Other services	161
25.3 Purchases of goods & services from Gov't accounts	5,312
25.4 Operation and maintenance of facilities	(6,776)
25.5 Research and development contracts	-
25.6 Medical care	-
25.7 Operation and maintenance of equipment	(1,653)
25.8 Subsistence and support of persons	-
26 Supplies and materials	(107)
31 Equipment	(40,597)
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	-
42 Insurance claims and indemnities	-
43 Interest and dividends	-
44 Refunds	-
99 Total obligations	(45,618)

# **EXHIBITS: 16 - 37**

## Exhibit 16 – Summary of Requirements by Object Class

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

Object Class	FY 2017 Actual	FY 2018 Annualized CR	FY 2019 Base	FY 2019 Estimate	Increase/ Decrease over 2019 Base
11.1 Salaries	1,470,548	1,538,619	1,589,806	1,590,736	931
11.5 Other personnel compensation	145,065	149,676	150,663	153,166	2,503
<b>11.9 Total personnel compensation</b>	<b>1,615,613</b>	<b>1,688,295</b>	<b>1,740,469</b>	<b>1,743,902</b>	<b>3,433</b>
12.1 Civilian personnel benefits	549,218	574,717	594,595	594,884	289
13 Benefits to Former Employees	208	208	208	208	0
21 Travel and transportation of persons	4,393	6,835	6,694	6,699	5
22 Transportation of things	254	209	213	213	(0)
23.1 Rental payments to GSA	96,266	97,639	99,298	96,606	(2,692)
23.2 Rental payments to others	13,837	14,706	14,855	15,472	617
23.3 Commun., util., and misc. charges	22,363	20,754	21,107	21,226	119
24 Printing and reproduction	145,707	145,372	147,800	147,219	(581)
25.1 Advisory and assistance services	64,159	55,698	56,645	60,365	3,720
25.2 Other services from non-federal sources	120,351	129,422	130,977	131,275	299
25.3 Other goods and services from federal sources	44,498	54,936	50,785	56,096	5,312
25.4 Operation and maintenance of facilities	15,519	35,603	24,877	24,751	(126)
25.7 Operation and maintenance of equipment	266,645	275,624	280,197	278,100	(2,097)
26 Supplies and materials	40,365	45,584	46,611	46,710	99
31 Equipment	200,943	298,214	303,021	231,531	(71,490)
32 Land and Structures	86	-	-	-	0
4x Insurance claims, indemnities, and refunds	3,566	3,685	3,746	3,742	(4)
<b>99.9 Total Obligations</b>	<b>3,203,992</b>	<b>3,447,501</b>	<b>3,522,097</b>	<b>3,459,001</b>	<b>(63,096)</b>
Fee Collections	(3,078,887)	(3,430,123)	(3,416,366)	(3,416,366)	0
Less prior year other income/recoveries	(39,445)	(39,445)	(39,445)	(39,445)	0
Less prior year unobligated balance	(461,238)	(373,575)	(393,642)	(393,642)	0
Less end year unobligated balance	373,580	393,642	325,356	388,452	63,096
Budget Authority Temporarily Unavailable <sup>1</sup>	-	(24,000)	-	-	0
<b>Total Budget Authority</b>	<b>(2,000)</b>	<b>(26,000)</b>	<b>(2,000)</b>	<b>(2,000)</b>	<b>0</b>
<b>Personnel Data</b>					
Full-Time equivalent Employment:	12,507	12,735	12,805	12,884	79
Positions:	12,898	13,011	13,011	13,148	137

1. PTO assumes that when FY 2018 appropriations are finalized, the \$24M additional Budget Authority temporarily reduced due to continuing resolutions in FY 2018 will become available and therefore has not rolled the \$24M loss through the operating reserve balance into FY 2018.

## Exhibit 32/33 – Appropriation Language and Code Citations

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

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, ~~\$3,586,193,000~~ \$3,416,366,000 to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections of fees and surcharges assessed and collected by the USPTO under any law are received during fiscal year ~~2018~~ 2019, so as to result in a fiscal year ~~2018~~ 2019 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year ~~2018~~ 2019, should the total amount of such offsetting collections be less than ~~\$3,586,193,000~~ \$3,416,366,000 this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of ~~\$3,586,193,000~~ \$3,416,366,000 in fiscal year ~~2018~~ 2019 and deposited in the Patent and Trademark Fee Reserve Fund shall remain available until expended: *Provided further*, That the Director of USPTO shall submit a notification to reprogram funds to the Committees on Appropriations of the House of Representatives and the Senate for any amounts made available by the preceding proviso and such notification shall be treated as a reprogramming under section ~~505-504~~ of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That any amounts reprogrammed in accordance with the preceding proviso shall be transferred to the United States Patent and Trademark Office "Salaries and Expenses" account: *Provided further*, That from amounts provided herein, not to exceed \$900 shall be made available in fiscal year ~~2018~~ 2019 for official reception and representation expenses: *Provided further*, That in fiscal year ~~2018~~ 2019 from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title, and (2) the present value of the otherwise unfunded accruing costs, as determined by OPM for USPTO's specific use of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FEGLI), shall be transferred to the Civil Service Retirement and Disability Fund, the FEGLI Fund, and the Employees FEHB Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for USPTO's specific use shall be recognized as an imputed cost on USPTO's financial statements, where applicable: *Provided further*, That within the amounts appropriated, \$2,000,000 shall be transferred to the "Office of Inspector General" account for activities associated with carrying out investigations and audits related to the USPTO. *Note.* – A full-year 2018 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget



*assumes this account is operating under the Continuing Appropriations Act, 2018 (Division S of P.L. 115-56, as amended). The amounts included for 2018 reflect the annualized level provided by the continuing resolution.*

### Explanation of Proposed Changes to Appropriation Language

Proposed Change	Explanation
<del>...\$3,586,193,000</del> \$3,416,366,000 <del>...2018</del> 2019	Changes the amount available to the USPTO in FY 2019 to be the total amount of fees collected during FY 2019, and changes all references to FY 2018 to FY 2019.

## Legislative Authorities

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

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

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# APPENDICES

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## Appendix I -- Multi-year Planning by Business Line and Cost Containment

Multi-year planning and budgeting requires an in-depth understanding of the USPTO's financial position, including cost drivers and revenue, unfunded liabilities, and political and economic realities as demonstrated by strategic plans, the patent production model, the trademark production model, and the fee projection model. These plans and models all look out over a five-year period. Specifically, the production work completed by the USPTO's employees generates future revenue essential for the Office to operate effectively and meet the needs of the American people. External influences that affect the productivity of the USPTO workforce and the demand for patent and trademark services and products have a significant impact on the Office's efforts to fulfill its mission.

The USPTO also provides five-year requirements and funding estimates in annual budget documents. Over the past few years, the USPTO has taken steps to establish and maintain operating reserves to facilitate execution of multi-year plans. Using fee setting authority and other tools, the USPTO continues to refine its multi-year planning and budgeting. The Budget supports a 10 year extension of the authority of the Director of the USPTO to set or adjust any fee. Absent congressional action, fee setting authority as prescribed in the 2011 Leahy-Smith America Invents Act is set to expire in September 2018. Independent fee setting authority has allowed the Office to effectively engage the stakeholder community on proposed increases; fully recover the aggregate costs of its planned operations; develop and maintain sufficient operating reserves; invest in strategic agency initiatives; and respond to changing market needs.

This planning framework is itself built upon several subsidiary frameworks:

The FY 2019 Budget is based on the *USPTO 2014-2018 Strategic Plan*, and continues the many long-term initiatives that were first identified in prior year budgets. An updated plan for FY 2018-2022 is currently being developed for expected release by Summer 2018.

The USPTO operating structure is similar to a business in that it receives requests for services (e.g., applications for patents and trademark registrations) and charges fees projected to cover the cost of performing all of the services it provides. Unlike most businesses, however, fees set for the initial application filing do not cover the full cost of the services the USPTO performs, because many of the costs are incurred either before or after all the fees have been paid. Therefore, it is critical that USPTO take a long term view in projecting its budgetary requirements, which takes into consideration both the projected out year workload and the costs associated with processing that workload.

The USPTO proposed changes to the patent fee structure in October 2015, and held a public hearing in November 2015. After incorporating feedback from the public hearing, a notice of proposed rulemaking (NPRM) was published in October 2016 to solicit comments from the public. A final rule that incorporated comments received in response to the NPRM was published on November 14, 2017, with new and adjusted rates effective January 16, 2018. The patent fee structure is based on ABI cost models; historical cost analyses of activities supporting fees; fee analyses, such as cost-obligation-revenue comparisons and economic and elasticity analyses; ad hoc fee/cost calculations and business case studies; and stakeholder input. The USPTO is committed to transparency, fulfilling requirements for

comprehensive regulatory analyses (e.g., impact on small businesses), and engagement with the PPAC and other stakeholders. The USPTO first set its patent fees using AIA fee setting authority in FY 2013 via participation in PPAC public hearings, publication of notices in the Federal Register and Official Gazette for public consideration, and solicitation of a review by the Congress.

The USPTO reduced several trademark fees in January 2015, and adjusted some fees again in January 2017 using AIA fee setting authority. The revised trademark fee structure is also based on ABI cost models; historical cost analyses of activities supporting fees; fee analyses, such as cost-obligation-revenue comparisons and economic and elasticity analyses; ad hoc fee/cost calculations; business case studies; and stakeholder input. The USPTO solicited public input via a Federal Register notice and partnered with TPAC in the design of a fee schedule that encourages applicants to communicate electronically with the USPTO while providing enough revenue to achieve strategic goals. As with the current patent fee structure, the USPTO demonstrated a commitment to transparency by fulfilling requirements for comprehensive regulatory analyses, and engagement with the TPAC and other stakeholders.

As part of the USPTO's requirements under the Chief Financial Officers Act of 1990 (CFO Act) and OMB Circular No. A-25 Revised, the USPTO reviews biennially the existing patent and trademark fee schedules and additionally researches, analyzes, and develops recommendations for potential revisions and additions to the schedules. The fee proposals finalized in FY 2017 and FY 2018 are the result of the fee review that commenced in FY 2015. The fee review that commenced in FY 2017 continues. Fee reviews are distinct but closely related to the rulemaking process for fee setting. Additional fee setting efforts as part of the FY 2017 fee review may be considered in FY 2018. Changes to the fiscal and/or operational environment could influence a decision to engage in additional fee setting and adjusting proposals. The USPTO recognizes the importance of the fee schedules towards facilitating the effective administration of the U.S. IP system.

## OPERATING RESERVE

To continue promoting confidence in the U.S. IP system, the USPTO established and is maintaining a patent operating reserve and a trademark operating reserve, which are necessary to absorb and respond to temporary changes in the economy and the USPTO's operating and financial environments. Research has shown that large fee-funded, business-like agencies without an operating reserve are at risk of cash flow stress, like that which the USPTO experienced in FY 2009 due to the economic recession, and again in FY 2010 through FY 2013 due to the delay in the authorization of spending authority for the fees collected primarily from patent applicants. FY 2014, which began with a majority of the federal government shut down as a result of a lapse in appropriations, also provided a compelling case for the operating reserves' significant value. While many government agencies were closed during this time, the USPTO received special consideration to remain open using funds available from the operating reserves. This allowed the USPTO to continue operations, thus preventing a significant degradation in services levels, such as patent and trademark pendency timeframes.

A sufficient operating reserve for each of the Patent and Trademark business lines is designed to provide the USPTO with time to continue at an adequate operating tempo during temporary periods of significant revenue and funding disruption. For example, the reserves enable the Office to avoid having to make short-term, crisis-based spending decisions that can detract from delivering on USPTO's performance commitments, particularly reducing the patent application backlog and pendencies, and maintaining trademark pendencies.

The USPTO recognizes that the optimal operating reserve sizes may change over time. This could be due to economic volatility, variations in filings and revenue collections within the year, changes to external and internal enterprise risk, or operational reasons. Therefore, in accordance with the Office's operating reserve policy, the USPTO conducts a comprehensive risk assessment and reevaluates the optimal sizes of each operating reserve at least biennially. As part of the annual budget formulation process, the Office also completes a comprehensive review of the reserve balances and assesses the minimum reserve levels necessary to mitigate known risks in the short-term (i.e., over a two year horizon). This includes conducting a risk assessment with regard to any use of the operating reserve funds, including the potential short and long term impact on the reserve balances.

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

The Patent operating reserve enables the USPTO to continue to support unplanned near-term stakeholder needs, such as growth in application filings. (As previously discussed, the fees collected at application filing are designed to be less than the cost to the USPTO to examine applications.) The reserve provides sufficient resources to operate the Patent business line when the revenue stream or funding availability are uncertain; to preserve planned operational capacity when fee collections fall short of estimates; or to provide supplemental funding when budgetary requirements grow due to unexpected increases in application filings, capital investment needs, or other factors.

#### USPTO Fee Collection Estimates

As a fee-funded organization, the USPTO relies on user fee collections, which fluctuate based on various external and internal factors, to fund operations. Due to inherent variability in estimating future year fee collections, including the legislative uncertainty surrounding fee setting authority, the USPTO prepares a range of aggregate fee collections to guide its internal management and planning. Estimates presented in the Budget represent the "working estimate," or the most likely scenario within the planning range.

#### ECONOMIC AND MARKET OUTLOOK

Requests for the USPTO services and products are dependent upon many factors, including economic activity in the United States and around the world. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads (requests for services and products). Major factors include the overall condition of the U.S. and global economies, spending on technological innovation activities, and investments leading to the commercialization of new products and services. The most relevant indicator used by the USPTO



is Real Gross Domestic Product (RGDP). RGDP is correlated with USPTO patent and/or trademark application filings, which are the key drivers of patent and trademark workloads. The factors mentioned above provide insight into market conditions and the management of IP portfolios, which influence process requests for the year, and post-issuance decisions to maintain patent and trademark protection.

RGDP, the broadest measure of economic activity, is anticipated to grow around two percent for FY 2018 and FY 2019 based on Congressional Budget Office (CBO) estimates. Considerable uncertainty remains regarding the current and near-future prospects for growth. This uncertainty affects anticipated USPTO workloads and fee collection estimates.

### DEVELOPING WORKLOAD AND FEE COLLECTION ESTIMATES

Economic activity is an important consideration when developing workload forecasts, primarily patent and trademark application filings. In addition to economic factors, the USPTO considers overseas activity, court decisions, policies and legislation, process efficiencies, and anticipated applicant behavior when preparing estimates. Estimates of incoming workload are independently developed after researching and modeling these elements, as economic and other variables influence patent and trademark activities differently. The estimates of these incoming patent and trademark application filings are very susceptible to variability in response to global economic fluctuations and shocks.

Estimates of workload production and examination and process requests are developed by incorporating the accomplishments of the *USPTO 2014-2018 Strategic Plan*. The plan identifies and implements the efficiencies, tools, and policies necessary to increase examination capacity and improve efficiency. Estimates also factor in the resources available to complete the work. Certain process actions are mandatory; others may be considered discretionary, such as when applicants purchase an extended response timeframe within which to respond to USPTO actions.

Forecasts of post allowance activities, maintenance of patents in force, and renewal of trademark registrations are developed using the same assumptions on the economic environment as incoming work. Decisions on continuation of exclusivity of post allowance rights are determined with careful management of IP portfolios incorporating current economic and market conditions. All workload estimates are consistently compared to past and current workloads, and projection models are regularly adjusted with additional data, knowledge, and experience. Workload estimates are then transformed into individual estimates for each of the approximately 475 fee codes on the USPTO fee schedule. Individual estimates, multiplied by the accompanying fee amounts, become the fee collections estimate. The FY 2018 estimates include assumptions of payment behavior based on the current trademark fee schedule, the current patent fee schedule, and the new patent fee schedule which includes new fee rates effective January 16, 2018.

The USPTO prepares a high-to-low range of fee collection estimates to account for the inherent sensitivity and volatility of predicting fluctuations in the global and national economy and market environment, policy and process changes (including the effects of IP related court decisions), patent and trademark fee schedule changes, and assumptions from these factors that impact workload and fee collection estimates. A range estimate facilitates operational flexibilities necessary to efficiently manage within an acceptable level of uncertainty.

Patent Fee Collections. Patent fees cover patent-related services and products occurring at different intervals within the patent application examination process and over the life of the pending patent application and granted patent. FY 2019 estimated patent fee collections include collections for applications filed in FY 2019, as well as work processed in FY 2019 (e.g., issues), examination and process requests for the year, and post-issuance decisions to maintain patent protection. More than half of all patent fee collections are from issue and maintenance fees. Changes in application filing levels have an immediate impact on current year fee collections because fewer patent application filings mean fewer fees collected in the current year, and it also has out year impacts because fewer applications filed decreases the total possible production outputs resulting in fewer issue and maintenance fee payments in future years.

Patent fee collections are estimated to be between \$2,869 and \$3,277 million for FY 2019 excluding \$33 million in other income. These projections are based on assumptions that patent filings will be between a negative growth rate of 1.6 percent and a positive growth rate of 3.9 percent, issues will reflect a continued commitment to strengthened examination capacity and efficiencies, and patent maintenance fee payments will continue with similar renewal rates.

Trademark Fee Collections. Trademark fees are paid in advance of actions taken by the USPTO. Estimated trademark fee collections include amounts expected to be paid for applications filed each year, as well as affidavit and renewal fees paid on registrations at the sixth and following ten year intervals. About half of all fees collected for Trademark related services and products are from trademark application and related filings, which are correlated to the strength of the economy and individual businesses.

Trademark fee collections are estimated to be between \$322 and \$382 million for FY 2019, excluding \$7 million in other income, based on the economic outlook and the expectations of the growth of trademark application filings. These projections are based on assumptions that the trademark filing growth rate will be between zero and 15 percent.

### FEE RATE ASSUMPTIONS

In March 2013, with additional adjustments effective in January 2014, the USPTO adjusted the patent fee structure by regulation to better align fees with the cost of providing services using the fee setting authority provided in the AIA. Certain trademark fee adjustments, to lower the fees for all applicants willing to file and communicate electronically with the USPTO, were adjusted in January 2015.

The FY 2018 and out years fee collection estimates are based on the fee schedule which updated trademark fees on January 14, 2017 and updated patent fees effective on January 16, 2018. Both fee setting efforts involved careful consideration of feedback offered by the respective PACs and the public following the USPTO's FY 2015 comprehensive biennial fee review. The USPTO will continue to work with stakeholders and the PACs to review and adjust the fee structures by regulation to better align fees with the cost of providing services using the fee setting authority provided in the AIA. The USPTO is committed to continuously improving fee schedule design to provide the Office with sufficient financial resources and facilitate the effective administration of the U.S. IP system, while maintaining a rigorous and transparent review process.

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

## USPTO COST CONTAINMENT

The FY 2019 Budget is based on a framework of continuous and comprehensive budget reviews designed to ensure that all operational and administrative costs are reviewed and funds are reallocated when necessary to focus on high-priority and effective programs – primarily core mission activities – and mitigate risk by retaining minimum operating reserve balances. In addition, the USPTO operates similarly to a business in that the Office makes a determined effort to monitor and adjust spending in response to changes in workload, income, and operating reserve balances. While these activities are carried out as regular parts of the budget execution and budget formulation processes, as background to the FY 2019 budget formulation process, major deviations from funding planned requirements are particularly notable:

In FY 2009, when the USPTO experienced a precipitous drop in fee collections, the Office evaluated its activities, and made nearly \$200 million in short and long-term reductions. As the economy rebounded in FY 2010, fee collections increased beyond the amount appropriated and a \$129 million supplemental appropriation of fee collections was provided. The supplemental funding was requested to provide the USPTO additional spending authority in closer alignment with projected fee collections for the full fiscal year. Funds were used toward reducing the patent backlog by expanding the examiner workforce, and making that workforce more productive by improving processes, IT, and tools.

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

With the passage of the AIA in September 2011, a 15 percent surcharge on most patent fees was instituted until such time that the USPTO could set its fees via the regulatory process. The timing of the legislative action resulted a surge in patent fee payments—primarily maintenance fees—in the final month of the fiscal year, as stakeholders sought to pay what fees they could before the surcharge took effect. As a result, fee payments that the Office had expected to receive in early FY 2012 were instead collected in late FY 2011, and the USPTO fee collections exceeded its appropriation by \$209 million that year. These fees were not made available for the USPTO use, and caused a funding shortfall in FY 2012. The USPTO undertook cost reduction efforts which resulted in a combined budget reduction totaling \$190

million, primarily from a more temperate hiring schedule, deferring IT support and improvement efforts, and temporarily scaling back external agreements.

In FY 2013, the USPTO faced two distinct circumstances that put pressure on the available resources for the Office. First, the revised patent fee schedule that ultimately took effect in March 2013 included lower fee rates than had been assumed in the FY 2013 President's Budget, which caused overall patent fee revenue for the year to be less than planned. Second, sequestration was implemented against total collections, further reducing the resources available for spending in FY 2013. In response to the lower than planned fee rates, the USPTO took action early in the fiscal year to reduce planned obligations by approximately \$45 million. After the fiscal mid-year, the Office identified another \$220 million in reductions by minimizing hiring, deferring major IT spending, and implementing other significant cuts to discretionary projects.

As previously noted, the USPTO was able to continue operations during the October 2013 Government-wide shut down because it received special consideration from OMB to continue operations using available operating reserves carried over from FY 2013. For the remainder of FY 2014, the USPTO followed a measured spending approach. Cost containment continued to be a focus of the Office, in alignment with stakeholder expectations and administration policy.

Both the FY 2015 and FY 2016 President's Budget assumed reprioritizations to other high priority initiatives. Prior to completing the FY 2017 President's Budget, the USPTO created a Financial Advisory Board, which initiated a financial planning and budget prioritization effort to align spending plans with modified patent fee collection projections and to fund the patent and trademark operating reserves at fiscally prudent minimal levels. The FY 2018 Budget continued the reprioritization of resources to other initiatives, as does this proposed FY 2019 Budget.

## Appendix II -- Patent/Trademark Two-Way Business Line

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

Sub-Activity:	FY 2017			FY 2018			FY 2019		
	Total	Patents	Trademarks	Total	Patents	Trademarks	Total	Patents	Trademarks
Patent Examining	1,987,801	1,987,801		2,052,073	2,052,073		2,111,018	2,111,018	
Patent Trial and Appeals	81,403	81,403		86,667	86,667		86,286	86,286	
Patent Information Resources	161,803	161,803		188,425	188,425		167,105	167,105	
Trademark Examining	130,378		130,378	144,147		144,147	149,490		149,490
Trademark Appeals and <i>Inter Partes</i> Proceedings	13,600		13,600	14,791		14,791	15,896		15,896
Trademark Information Resources	35,866		35,866	48,906		48,906	46,116		46,116
Policy, External Affairs and Administrative Support	21,703	14,857	6,846	25,721	17,621	8,100	27,996	19,181	8,814
Global Intellectual Property Academy (GIPA)	2,841	1,879	962	3,669	2,427	1,242	4,069	2,691	1,378
IPR Attaché Program	11,597	6,597	5,001	11,211	6,377	4,834	11,403	6,486	4,917
IP PP&E Information Resources	123	99	24	997	811	186	984	802	183
Executive Direction and Communications	9,196	7,869	1,327	13,024	11,156	1,868	14,203	12,167	2,036
Financial Management Services	26,655	21,816	4,839	29,589	24,260	5,328	30,262	24,812	5,449
Human Resource Management and Administrative Services	42,679	38,040	4,638	49,740	44,331	5,408	53,054	47,272	5,783
Legal Services	26,007	21,879	4,128	27,953	23,536	4,417	28,182	23,742	4,440
Management Information Resources	47,587	39,767	7,820	49,570	41,891	7,679	46,557	39,424	7,133
IT Infrastructure and IT Support Services	368,662	311,183	57,479	437,084	369,701	67,384	409,360	345,935	63,426
Miscellaneous General Expense	236,091	212,230	23,861	263,934	237,247	26,687	257,021	231,054	25,967
<b>Total</b>	<b>3,203,992</b>	<b>2,907,223</b>	<b>296,769</b>	<b>3,447,501</b>	<b>3,106,523</b>	<b>340,978</b>	<b>3,459,001</b>	<b>3,117,973</b>	<b>341,029</b>

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

Sub-Activity:	FY 2020			FY 2021			FY 2022			FY 2023		
	Total	Patents	Trademarks	Total	Patents	Trademarks	Total	Patents	Trademarks	Total	Patents	Trademarks
Patent Examining	2,181,221	2,181,221		2,249,261	2,249,261		2,320,426	2,320,426		2,375,922	2,375,922	
Patent Trial and Appeals	86,022	86,022		86,084	86,084		86,965	86,965		88,552	88,552	
Patent Information Resources	157,216	157,216		156,027	156,027		156,465	156,465		157,504	157,504	
Trademark Examining	162,942		162,942	177,396		177,396	195,532		195,532	213,721		213,721
Trademark Appeals and <i>Inter Partes</i> Proceedings	16,237		16,237	16,577		16,577	16,924		16,924	17,278		17,278
Trademark Information Resources	42,621		42,621	43,090		43,090	43,523		43,523	43,516		43,516
Policy, External Affairs and Administrative Support	28,507	19,531	8,975	29,098	19,936	9,161	29,701	20,350	9,351	30,317	20,772	9,545
Global Intellectual Property Academy (GIPA)	4,143	2,740	1,403	4,229	2,797	1,432	4,316	2,855	1,461	4,406	2,914	1,492
IPR Attaché Program	11,619	6,609	5,010	11,852	6,741	5,110	12,089	6,877	5,213	12,332	7,014	5,317
IP PP&E Information Resources	846	690	156	808	660	149	845	689	156	845	689	155
Executive Direction and Communications	14,462	12,388	2,073	14,762	12,646	2,116	15,069	12,909	2,160	15,382	13,177	2,205
Financial Management Services	30,814	25,265	5,549	31,454	25,789	5,664	32,106	26,325	5,782	32,773	26,871	5,902
Human Resource Management and Administrative Services	54,025	48,137	5,888	55,144	49,133	6,010	56,285	50,151	6,135	57,451	51,189	6,262
Legal Services	28,693	24,172	4,521	29,292	24,677	4,615	29,903	25,192	4,712	30,527	25,717	4,810
Management Information Resources	44,059	37,284	6,774	44,740	37,840	6,900	45,482	38,465	7,018	46,289	39,148	7,140
IT Infrastructure and IT Support Services	393,148	332,255	60,893	469,302	395,544	73,758	482,001	406,519	75,482	481,944	406,587	75,357
Miscellaneous General Expense	270,965	243,809	27,156	279,421	251,461	27,960	288,902	260,043	28,860	299,128	269,298	29,830
<b>Total</b>	<b>3,527,538</b>	<b>3,177,341</b>	<b>350,197</b>	<b>3,698,536</b>	<b>3,318,597</b>	<b>379,939</b>	<b>3,816,536</b>	<b>3,414,229</b>	<b>402,307</b>	<b>3,907,886</b>	<b>3,485,356</b>	<b>422,530</b>

## Appendix III -- USPTO Fees - Change from FY 2018 PB to FY 2019 PB

This appendix provides a more detailed discussion of how fee collection estimates changed within major fee categories between the FY 2018 President's Budget and the FY 2019 President's Budget. For additional information on the high-level methodology for fee collection estimates at the USPTO, see the discussion, "Developing Workload and Fee Collection Estimates" in Appendix I.

In comparison to the FY 2018 President's Budget (PB) Submission, in the FY 2019 President's Budget, aggregate projected fee collections have decreased across all future fiscal years for the patent business line. Projected fee collections for the trademark business line have increased for FY 2018, decreased for FY 2019 and FY 2020, and increased for FY 2021 and FY 2022.

The decreased patent revenue is the result of FY 2017 actual data and trends, updated business unit production workload models, and updates the adjustments of fee rates in, and the implementation date of, the Setting and Adjusting Patent Fees during Fiscal Year 2017 rule. The FY 2018 PB used rates from the Notice of Proposed Rulemaking (NPRM) and assumed a September 1, 2017 effective date. Since then, a Final Rule was published with some rates adjusted in response to stakeholder feedback; the effective date of the Final Rule is January 16, 2018.

The changes to trademark projections are largely due to application filing and intent to use fees. Application filing projections have increased after a strong FY 2017, but statement of use filings have been adjusted downward due to recent trends. A shifting balance between these opposite trends led to decreases in the earlier projected years, but increases in the outer years.

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<i>Working Estimate</i>							
Patents	\$2,772,172,480	\$3,093,836,225	\$3,071,765,670	\$3,181,846,440	\$3,312,537,680	\$3,543,880,755	\$3,530,534,040
Trademarks	\$305,032,848	\$336,287,135	\$344,600,390	\$369,312,405	\$400,773,075	\$440,089,200	\$478,099,080
<b>Total</b>	<b>\$3,077,205,328</b>	<b>\$3,430,123,360</b>	<b>\$3,416,366,060</b>	<b>\$3,551,158,845</b>	<b>\$3,713,310,755</b>	<b>\$3,983,969,955</b>	<b>\$4,008,633,120</b>
<i>High Estimate</i>							
Patents	\$2,772,172,480	\$3,251,777,855	\$3,276,546,825	\$3,425,606,020	\$3,594,505,540	\$3,873,532,105	\$3,885,782,530
Trademarks	\$305,032,848	\$355,042,785	\$382,458,290	\$422,421,180	\$468,730,600	\$528,510,250	\$593,138,280
<b>Total</b>	<b>\$3,077,205,328</b>	<b>\$3,606,820,640</b>	<b>\$3,659,005,115</b>	<b>\$3,848,027,200</b>	<b>\$4,063,236,140</b>	<b>\$4,402,042,355</b>	<b>\$4,478,920,810</b>
<i>Low Estimate</i>							
Patents	\$2,772,172,480	\$2,925,434,695	\$2,868,899,365	\$2,959,840,160	\$3,069,762,165	\$3,281,303,120	\$3,274,127,315
Trademarks	\$305,032,848	\$323,049,035	\$321,659,765	\$328,091,455	\$335,715,175	\$351,064,025	\$364,658,830
<b>Total</b>	<b>\$3,077,205,328</b>	<b>\$3,248,483,730</b>	<b>\$3,190,559,130</b>	<b>\$3,287,931,615</b>	<b>\$3,405,477,340</b>	<b>\$3,632,367,145</b>	<b>\$3,638,786,145</b>

(Dollars in millions)					
Total USPTO Collections	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
FY 2018 PB (with NPRM fee proposals)	\$3,586	\$3,559	\$3,704	\$3,823	\$4,094
Revised Fee Rule Proposals and Implementation Date	(\$44)	(\$9)	(\$9)	(\$9)	(\$9)
Revised Assumptions and Business Unit (Patent, Trademark, PTAB) Production Models	(\$112)	(\$134)	(\$144)	(\$101)	(\$101)
FY 2019 PB (with final rule rates and dates)	\$3,430	\$3,416	\$3,551	\$3,713	\$3,984
<b>Difference</b>	<b>(\$156)</b>	<b>(\$143)</b>	<b>(\$153)</b>	<b>(\$110)</b>	<b>(\$110)</b>

Patents	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
FY 2018 PB (with NPRM fee proposals)	\$3,250	\$3,205	\$3,326	\$3,423	\$3,665
Revised Fee Rule Proposals and Implementation Date	(\$44)	(\$9)	(\$9)	(\$9)	(\$9)
Revised Assumptions and Business Unit (Patent, PTAB) Production Models	(\$112)	(\$124)	(\$135)	(\$101)	(\$112)
FY 2019 PB (with final rule rates and dates)	\$3,094	\$3,072	\$3,182	\$3,313	\$3,544
<b>Difference</b>	<b>(\$156)</b>	<b>(\$133)</b>	<b>(\$144)</b>	<b>(\$110)</b>	<b>(\$121)</b>

Trademarks	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
FY 2018 PB	\$336	\$353	\$378	\$400	\$428
Revised Assumptions and Trademark Production Model	\$0	(\$8)	(\$9)	\$1	\$12
FY 2019 PB	\$336	\$345	\$369	\$401	\$440
<b>Difference</b>	<b>\$0</b>	<b>(\$8)</b>	<b>(\$9)</b>	<b>\$1</b>	<b>\$12</b>



(Dollars in Millions)	FY 2017	FY 2018			FY 2019		
	Actuals	FY 2018 PB Working Estimate	FY 2019 PB Working Estimate	Increase/ (Decrease)	FY 2018 PB Working Estimate	FY 2019 PB Working Estimate	Increase/ (Decrease)
<b>Patents</b>							
Filing (with Excess Claims)	\$813.1	\$923.1	\$860.1	(\$63.0)	\$930.0	\$883.6	(\$46.4)
Post Allowance Fees	\$286.0	\$289.1	\$294.9	\$5.9	\$293.8	\$296.7	\$2.8
Maintenance	\$1,209.7	\$1,514.4	\$1,449.1	(\$65.3)	\$1,444.3	\$1,385.4	(\$58.9)
PCT	\$182.9	\$201.3	\$196.3	(\$5.0)	\$208.3	\$205.7	(\$2.6)
Extensions of Time	\$138.1	\$152.8	\$133.9	(\$18.8)	\$154.6	\$131.9	(\$22.7)
Other Patent Fees	\$140.4	\$169.6	\$159.4	(\$10.3)	\$174.5	\$168.5	(\$6.0)
<b>Total Patent Fee Collections</b>	<b>\$2,770.4</b>	<b>\$3,250.3</b>	<b>\$3,093.8</b>	<b>(\$156.5)</b>	<b>\$3,205.4</b>	<b>\$3,071.8</b>	<b>(\$133.7)</b>
<b>Trademarks</b>	<b>\$305.4</b>	<b>\$335.9</b>	<b>\$336.3</b>	<b>\$0.4</b>	<b>\$353.4</b>	<b>\$344.6</b>	<b>(\$8.8)</b>
<b>USPTO Fee Collections</b>	<b>\$3,075.7</b>	<b>\$3,586.2</b>	<b>\$3,430.1</b>	<b>(\$156.1)</b>	<b>\$3,558.8</b>	<b>\$3,416.4</b>	<b>(\$142.4)</b>
<b>Estimation Assumptions</b>							
Patent Filings:	Filings growth rate -0.8% (605,232 UPR filings, 185,406 RCEs)	Filings growth rate 2.0% (627,274 UPR filings, 191,839 RCEs)	Filings growth rate -0.3% (603,370 UPR filings, 180,186 RCEs)	23,904 fewer UPR filings 11,653 fewer RCEs	Filings growth rate 1.2% (634,934 UPR filings, 192,968 RCEs)	Filings growth rate -0.1% (602,671 UPR filings, 176,101 RCEs)	32,263 fewer UPR filings 16,867 fewer RCEs
Issue and Publication:	Patents printed of 316,973	Patents printed of 304,589	Patents printed of 316,485	11,896 additional patents printed	Patents printed of 308,179	Patents printed of 311,849	3,670 additional patents printed
Patent Examiner Hires:	144	350	390	40	200	390	190

Major highlights of the FY 2019 PB, and the changes since the FY 2018 PB are:

#### Fee Changes:

- The Patent Fee Setting and Adjusting During FY 2017 final rule was published in the *Federal Register* on November 14, 2017, with an effective date of January 16, 2018. The FY 2018 PB Submission included fee rates that were published in the NPRM, and assumed they would be in place for all of FY 2018. The changes to fee rates decreased estimated collections by about \$9 million each year. The delayed implementation of the rule decreased FY 2018 collections by an additional \$25 million. The remaining decreases in estimated aggregate revenue are due to revised assumptions and model updates, including analysis of FY 2017 actuals.

#### Patent Application Filings:

- This fee category contains fees related to filing patent applications, including requests for continued examination and fees required based on specification size or the number of claims. Fee collections in this category are largely driven by filing application growth rates.
- FY 2018 total utility, plant, and reissue (UPR) filings are estimated at 603,370, decreasing 0.3% from 605,232 filings in FY 2017. This follows a 0.8% decline from FY 2016 to FY 2017.

- These decreases are due to the actual and forecasted declines in requests for continued examination (RCEs), from 191,479 in FY 2016 to 185,406 in FY 2017 (a decline of 3.2%) to a projected 180,186 in FY 2018 (a decline of 2.8%). This reflects, in part, the USPTO's focus on initiatives that reduce the need for RCEs, such as the Quick Path Information Disclosure Statement (QPIDS) pilot program and the After Final Consideration Pilot 2.0 (AFCP 2.0)
- Total UPR filings are estimated to be 605,402 (-0.1% growth) in FY 2019 and 611,236 (0.5% growth) in FY 2019.
- Estimated serialized (non-RCE) filings growth is 0.8% in FY 2018 beyond, following 0.3% growth in FY 2017. This is a decrease from the 2.1% estimate in the FY 2018 PB.
- RCE filings are forecasted to continue to decline in FYs 2019 and 2020. FY 2019 is expected to be 176,101 (a 2.3% decline from FY 2018) and FY 2020 is estimated to be 175,420 (a 0.4% decline from FY 2019). As a percentage of UPR filings, RCEs are expected to be 29.9% in FY 2018, 29.2% in FY 2019, and 29.0% in FY 2020. Then RCEs are projected resume growing in FY 2021, reaching 181,733 (29.2% UPR filings) in FY 2023.
- FY 2017 patent filing fee collections were lower than estimated in the FY 2018 PB. The lower estimated growth rates, combined with a lower base in FY 2018, result in a \$42 million reduction in estimated fee collections for FY 2018; this is in addition to a \$21 million reduction due to the delayed fee rule implementation, and the total decrease in patent application filing fees estimates is \$63 million. Lower growth rate assumptions and the lower base lead to decreases ranging from \$36 million to \$46 million in outer years.

#### Post Allowance:

- This fee category contains fees paid to issue a patent after the application has been allowed. Therefore collections in this category are driven directly by the number of patents printed in each fiscal year.
- The allowance rate is assumed to be 54.9% in all forecasted years. This is similar to the 54.7% rate that occurred in FY 2017, but is higher than the 50.0% that was forecasted in the FY 2018 President's Budget for FY 2018 and beyond.
- Total allowances are forecasted to increase from 339,958 in FY 2017 to 340,479 in FY 2018, a change of 0.2%. FY 2019 is expected to decrease 2.3% (332,758) and FY 2020 is expected to decline 0.4% further (331,470).
- Total patents printed is forecasted to decrease 0.2% to 316,485 in FY 2018 from 316,973 in FY 2017. The estimate then decreases in FY 2019 to 311,849, a change of -1.5%. Another decline is expected in FY 2020 to 308,665 (-1.0%).

#### Maintenance:

- This fee category contains fees paid to keep in force a utility or reissue patent, due at 3 ½, 7 ½, and 11 ½ years after the patent has been issued. Collections of maintenance fees vary from year to year based both on the number of patents issued in the past (i.e. the number available to be renewed) and the rate at which patentees decide to renew their patents.
- The FY 2018 PB assumed patent renewal rates based on 10 years of historical data. This included a spike in rates for renewals due in 2012 and 2013. FY 2017 renewal rates were more in line with the historical average not including the spike years, and the assumed renewal rates have been updated to reflect this trend.

- Projected maintenance renewal rates have been lowered since the FY 2018 PB. For first stage renewals, the rate assumption decreased from 87.1% to 85.7%. The second stage renewal rate assumption decreased from 68.3% to 66.6%. The third stage renewal rate assumption decreased from 48.4% to 46.7%.
- The change in renewal rates and incorporation of FY 2017 actual collections results in a 3.0% to 4.0% year over year decrease to estimated maintenance fee collections in each of the projected years, ranging from \$48 million to \$69 million depending on the number of patents eligible for renewal.

#### Patent Cooperation Treaty (PCT)

- This fee category contains fees collected from patent applications filed through the Patent Cooperation Treaty (PCT) process. The specific fees included here, and the factors driving collections, are similar to those for the patent application filings category.
- Compared to the FY 2018 PB, in the FY 2019 President's Budget, projected PCT fee collections fall 2.5% in FY 2018 and 1.2% in FY 2019. In sum, modeling assumption changes and updates for FY 2017 actual workloads lead to \$18 million less revenue over the period of FY 2018 – FY 2022.

#### Patent Extensions of Time:

- This fee category contains fees paid to extend the period of time an applicant has to reply to an action by the Office. The amount of the fee is dependent upon the length of the extension.
- Extensions of time have been on the decline, and the FY 2018 PB assumed this would continue in FY 2017. However, there were even fewer extensions requested in FY 2017 than expected. Taking into account the lower rates of requests for extensions of time, combined with lower filing growth rates, estimated collections, when compared with the FY 2018 President's Budget, are lower in each projected year, ranging from \$19 million to \$24 million.

#### Patent Trial and Appeal Board

- This fee category contains fees paid in relation to proceedings offered by the Patent Trial and Appeal Board (PTAB). This category is included in the "Other Patent Fees" line, and PTAB collections are the largest of the fee categories rolled into that line.
- Projected workloads for Filing a Notice of Appeal are expected to decline 10.2% (to 21,361) in FY 2018 from the 23,798 filed in FY 2017. This number is expected to experience stable 1.0% growth from FY 2019 – FY 2023.
- Forwarding an appeal to the Board experienced an anomaly in FY 2017 with a 29.0% increase (to 11,357) over the 8,801 experienced in FY 2016. This temporary growth was attributable to a change in how the Board manages its workload and balances specific tasks between itself and the Patents organization. The appeal forwarding workloads are estimated based on a historical average ratio of final actions and realized appeal forwarding workloads. It is estimated that FY 2018 will experience a decrease of 10.2% (to 10,194) compared to FY 2017 workloads and FYs 2019- 2023 will experience a steady 1.0% increase each year.

- Year-over-year workload growth for AIA Trial Proceedings is projected to be positive for both Inter Partes Reviews and Post-Grant or Covered Business Method reviews from FY 2018 through FY 2023.
- As a result of these factors, along with fee increases that will take effect in FY 2019, the FY 2019 PB projects PTAB fee collections to increase by 7.3% over the FY 2017 collections in FY 2018 and increase 4.8% over the FY 2018 estimate in FY 2019 before settling at 3.2% annual growth in FYs 2020-2022 and increasing slightly to 3.8% annual growth in FY 2023.
- When compared to the FY 2018 PB, PTAB collections in the FY 2019 President's Budget are \$4 million lower, cumulatively, from FY 2018 through FY 2022.

#### Trademarks

- In FY 2018, the filing growth rate is projected to be 8.7%, following 12.0% growth in FY 2017. In FY 2019, the filing growth rate is expected to be 5.4% based on consensus economic growth assumptions (lower gross domestic product growth) and lower demand for intellectual property rights.
- Compared to the FY 2018 PB, projections for total registrations have changed. The updated production model estimates 368,800 registrations in FY 2018 (up from 362,800), 391,700 in FY 2019 (down from 394,000), and 427,000 in FY 2020 (up from 426,800).
- Beginning in FY 2019, it is expected that new rulemaking will make filing electronically mandatory. Exceptions will be handled through the petitions process.
- Statement of Use (SOU) filing growth is expected to be slower, based on recent trends. Fees were reduced in FY 2017 for filing extension requests. The FY 2019 President's Budget assumes lower fee collections compared to previous expectations.
- For renewals, projections have been lowered from the FY 2018 PB to account for recent behavior and shorter product lifecycles.

## Appendix IV – FY 2018 Estimated and Actual Fee Assumptions

(Dollars in Millions)	FY 2017	FY 2018			FY 2019		
	Actual	Revised Low Estimate	Revised Working Estimate	Revised High Estimate	President's Budget Low Estimate	President's Budget Working Estimate	President's Budget High Estimate
Date of Projection	September 2017	February 2018	February 2018	February 2018	February 2018	February 2018	February 2018
<b>Total USPTO Fee Collections</b>	<b>\$3,076</b>	<b>\$3,248</b>	<b>\$3,430</b>	<b>\$3,607</b>	<b>\$3,191</b>	<b>\$3,416</b>	<b>\$3,659</b>
Total Patent Fee Collections	\$2,770	\$2,925	\$3,094	\$3,252	\$2,869	\$3,072	\$3,277
Total Trademark Fee Collections	\$305	\$323	\$336	\$355	\$322	\$345	\$382
Major Patent Fee Collections:							
Filing (with Excess Claims)	\$813	\$819	\$860	\$888	\$826	\$884	\$935
Post Allowance	\$286	\$267	\$295	\$323	\$269	\$297	\$324
Maintenance	\$1,210	\$1,368	\$1,449	\$1,530	\$1,293	\$1,385	\$1,478
PCT	\$183	\$194	\$196	\$198	\$202	\$206	\$210
Extensions of Time	\$138	\$127	\$134	\$144	\$122	\$132	\$150
Other	\$140	\$150	\$159	\$169	\$158	\$168	\$180
<b>Assumptions Used to Develop Fee Collection Estimates</b>							
Filing Growth Rates:	Patent filings growth rate -0.8% (605,232 UPR filings, 185,406 RCEs). Trademark filings growth rate 12.0% (594,107 filings).	Patent Filings growth rate -2.9% (587,510 UPR filings, 177,687 RCEs). Trademark filings growth rate 0.0% (594,107 filings). These filing rates are based on estimates of slowed patent demand and slowed global economic growth.	Patent filings growth rate -0.3% (603,370 UPR filings, 180,186 RCEs). Trademark filings growth rate 8.7% (646,000 filings). These filing rates are based on estimates of continued economic growth.	Patent filings growth rate 4.2% (630,607 UPR filings, 193,179 RCEs). Trademark filings growth rate 15.0% (683,223 filings). These filing rates are based on high estimates of continued economic growth.	Patent filings growth rate -1.6% (578,381 UPR filings, 174,630 RCEs). Trademark filings growth rate 0.0% (594,107 filings). These filing rates are based on estimates of slowed patent demand and slowed global economic growth.	Patent filings growth rate -0.1% (602,671 UPR filings, 176,101 RCEs). Trademark filings growth rate 5.4% (681,000 filings). These filing rates are based on estimates of continued economic growth.	Patent filings growth rate 3.9% (655,254 UPR filings, 200,730 RCEs). Trademark filings growth rate 15.0% (785,707 filings). These filing rates are based on high estimates of continued economic growth.
Patent Issue:	Patents printed of 316,973	Patents printed of 284,836 based on conservative estimates of patent examination production.	Patents printed of 316,485 based on moderate estimates of patent examination production.	Patents printed of 348,133 based on estimates of increased patent examination production.	Patents printed of 280,664 based on conservative estimates of patent examination production.	Patents printed of 311,849 based on moderate estimates of patent examination production.	Patents printed of 343,034 based on estimates of increased patent examination production.
Patent Maintenance (Post Renewal):	Renewal Rates: 85.7% first stage, 66.3% second stage, 45.9% third stage.	Renewal Rates: 83.3% first stage, 63.7% second stage, 43.6% third stage due to conservative estimates of continued economic growth and patent demand.	Renewal Rates: 85.7% first stage, 66.6% second stage, 46.7% third stage due to moderate estimates of continued economic growth and patent demand.	Renewal Rates: 88.0% first stage, 69.4% second stage, 49.8% third stage due to high estimates of continued economic growth and patent demand.	Renewal Rates: 83.3% first stage, 63.7% second stage, 43.6% third stage due to conservative estimates of continued economic growth and patent demand.	Renewal Rates: 85.7% first stage, 66.6% second stage, 46.7% third stage due to moderate estimates of continued economic growth and patent demand.	Renewal Rates: 88.0% first stage, 69.4% second stage, 49.8% third stage due to high estimates of continued economic growth and patent demand.
Enhanced Examination Timing Assumptions:	Track 1 filings: 8,838 filings	Track 1 filings: 5,000 filings	Track 1 filings: 10,000 filings	Track 1 filings: 10,000 filings	Track 1 filings: 5,000 filings	Track 1 filings: 10,000 filings	Track 1 filings: 10,000 filings
Patent Fee Adjustments:	N/A	Fee rates based on Patents Final Rule published November 14, 2017. Patent fee effective date: January 16, 2018.	Fee rates based on Patents Final Rule published November 14, 2017. Patent fee effective date: January 16, 2018.	Fee rates based on Patents Final Rule published November 14, 2017. Patent fee effective date: January 16, 2018.	Fee rates based on Patents Final Rule published November 14, 2017. Patent fee effective date: January 16, 2018.	Fee rates based on Patents Final Rule published November 14, 2017. Patent fee effective date: January 16, 2018.	Fee rates based on Patents Final Rule published November 14, 2017. Patent fee effective date: January 16, 2018.
Trademark Fee Adjustments:	Fee rates based on Trademarks Final Rule published in October 2016 with a fee effective date of January 14, 2017.	N/A	N/A	N/A	N/A	N/A	N/A

## Appendix V – FY 2017 Estimated and Actual Fee Assumptions

<i>(Dollars in Millions)</i>	FY 2016		FY 2017			
	Actual	President's Budget	Revised Working Estimate	Revised Low Estimate	Revised High Estimate	Actual
Date of Projection	September 2016	February 2016	May 2017	May 2017	May 2017	September 2017
<b>Total USPTO Fee Collections</b>	<b>\$3,062</b>	<b>\$3,321</b>	<b>\$3,158</b>	<b>\$3,062</b>	<b>\$3,298</b>	<b>\$3,076</b>
Total Patent Fee Collections	\$2,784	\$2,986	\$2,852	\$2,762	\$2,983	\$2,770
Total Trademark Fee Collections	\$278	\$335	\$306	\$300	\$315	\$305
Major Patent Fee Collections:						
Filing (with Excess Claims)	\$835	\$859	\$843	\$829	\$872	\$813
Post Allowance Fees	\$273	\$285	\$272	\$259	\$285	\$286
Maintenance	\$1,212	\$1,300	\$1,252	\$1,212	\$1,320	\$1,210
PCT	\$179	\$198	\$185	\$183	\$187	\$183
Extensions of Time	\$148	\$147	\$150	\$139	\$163	\$138
Other	\$136	\$198	\$151	\$140	\$156	\$140
<b>Assumptions Used to Develop Fee Collection Estimates</b>						
Filing Growth Rates:	Patent filings growth rate 5.1% (610,005 UPR filings, 191,479 RCEs). Trademark filings growth rate 5.2% (530,270 filings).	Patent filings growth rate 1.5% (594,922 UPR filings, 163,910 RCEs). Trademark filings growth rate 7.4% (579,000 filings).	Patent filings growth rate 0.7% (614,253 UPR filings, 187,356 RCEs). Trademark filings growth rate 7.5% (570,000 filings).	Patent Filings growth rate -0.5% (606,955 UPR filings, 185,121 RCEs). Trademark filings growth rate 1.0% (556,784 filings).	Patent filings growth rate 3.5% (631,355 UPR filings, 192,563 RCEs). Trademark filings growth rate 10.0% (583,297 filings).	Patent filings growth rate -0.8% (605,232 UPR filings, 185,406 RCEs). Trademark filings growth rate 12.0% (594,107 filings).
Filing Growth Rates Trends:	Patent filings increased 5.1% in FY 2016; this was driven by a 13.6% increase in requests for continued examinations (RCEs) and an increase in serialized filings of 1.6%. In the FY 2017 President's Budget, it was assumed there would be 1.5% growth in patent filings, and that RCEs would decrease by 3.7%. By the FY 2018 President's Budget estimate, the USPTO adjusted the patent filings estimate down to 0.7%. The actual growth rate came in lower than estimated, at -0.8%, which was due to both a 3.2% decrease to RCEs and a 0.3% growth in serialized filings. Serialized patent filings are expected to grow slowly over the next two fiscal years. Trademark filings grew 5.2% in FY 2016. FY 2017 Trademark filings were estimated at 7.4% growth in the President's Budget and were revised to 7.5%. The actual growth rate came in higher than the revised estimated growth rate at 12.0%. Growth in trademark filings is expected to continue in FY 2018 and FY 2019.					
Patent Issue:	Patents printed of 306,227	Patents printed of 307,140 based on moderate estimates of increased patent examination production efficiencies.	Patents printed of 301,379 based on moderate estimates of increased patent examination production efficiencies.	Patents printed of 286,310 based on conservative estimates of increased patent examination production efficiencies.	Patents printed of 316,488 based on high estimates of increased patent examination production efficiencies.	Patents printed of 316,973
Patent Issue Trends:	Patents printed is a process and resource driven workload. The FY 2017 President's Budget levels reflected the strong FY 2015 numbers, a slightly higher allowance rate, and the expectation of increased issues. The number of patents printed increased from FY 2016 to FY 2017 by 3.5%. The USPTO expects the number of issued patents in FY 2018 to remain flat and then decrease in FY 2019.					
Patent Maintenance (Post Renewal):	Renewal rates: 85.2% first stage, 66.5% second stage, and 47.2% third stage.	Renewal rates: 86.6% first stage, 68.2% second stage, 49.4% third stage.	Renewal rates: 87.1% first stage, 68.3% second stage, 48.4% third stage.	Renewal Rates: 86.4% first stage, 67.5% second stage, 47.7% third stage.	Renewal Rates: 88.2% first stage, 68.9% second stage, 48.7% third stage.	Renewal Rates: 85.7% first stage, 66.3% second stage, 45.9% third stage.
Patent Maintenance (Post Renewal) Trends:	Renewal rates in FY 2017 were similar to FY 2016 renewal rates. The estimates of renewal rates in the FY 2017 President's Budget were based on 10 years of historical data. During the FY 2018 budget process, the estimates for FY 2017 were updated with more recent data, which resulted in a slight increase in projected renewal rates for first and second stages and a slight decrease to third stage. Actual FY 2017 renewal rates came in lower than the revised estimate, because the 10 years of historical data included a spike in rates for renewal due in 2012 and 2013. However, FY 2017 actual rates are in line with the historical average not when excluding the spike years. Further, these renewal rates may go up slightly as eligible renewals continue to come in. It is expected that FY 2018 and FY 2019 renewal rates will be similar to FY 2017 actuals.					
Fee Adjustments:	N/A	Fee rates based on proposals to both TPAC (October 2015) and PPAC (November 2015) Proposed Trademark fee rates effective: January 2017 Proposed Patent fee rates effective: April 2017.	Fee rates based on Trademarks Final Rule published in October 2016 with a fee effective date of January 14, 2017 and Patents NPRM published in October 2016. Patent fee assumed effective date: September 2017.	Fee rates based on Trademarks Final Rule published in October 2016 with a fee effective date of January 14, 2017 and Patents NPRM published in October 2016. Patent fee assumed effective date: October 2017.	Fee rates based on Trademarks Final Rule published in October 2016 with a fee effective date of January 14, 2017 and Patents NPRM published in October 2016. Patent fee assumed effective date: August 2017.	Fee rates based on Trademarks Final Rule published in October 2016 with a fee effective date of January 14, 2017.

## Appendix VI – USPTO 2014-2018 Strategic Plan\*

<i>GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS</i>			
Objective 1: Refine Optimal Patent Pendency	Objective 2: Increase Efficiencies and Patent Examination Capacity to Align with the Optimal Patent Pendency	Objective 3: Increase International Cooperation and Work Sharing	Objective 4: Continue to Enhance Patent Quality
<p>A. Work with stakeholders to refine long-term pendency goals, while considering requirements of the intellectual property (IP) community</p> <p>B. Continue to refine patent pendency metrics throughout the examination process and provide increased transparency of those metrics</p>	<p>A. Hire/retain a nationwide workforce to meet pendency targets</p> <p>B. Develop and train an adaptable workforce to respond to emerging technologies, Office priorities, and the evolution of law</p> <p>C. Enhance compact prosecution initiatives</p> <p>D. Offer patent application prosecution options</p>	<p>A. Fully implement Cooperative Patent Classification (CPC)</p> <p>B. Leverage the Patent Cooperation Treaty (PCT) to effectively use the work completed at the international stage</p> <p>C. Maximize use of the Patent Prosecution Highway (PPH) to increase sharing and re-use of information between USPTO and its partner offices</p> <p>D. Implement the Global Dossier, which will improve examiner and external stakeholder access to work products of other IP offices to exploit the efficiencies that sharing search and examination results will provide</p>	<p>A. Evaluate and refine the measurement of patent quality data</p> <p>B. Maximize usage of patent quality data</p> <p>C. Evaluate effectiveness of changes to the count system and performance appraisal plans; make additional modifications as needed</p> <p>D. Continually improve and provide timely technical and legal training</p>

\*The USPTO is developing a new Strategic Plan, expected to be released by the Summer of 2018.

**GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS**

Objective 5: Ensure Optimal Information Technology (IT) Service Delivery to All Users	Objective 6: Continue and Enhance Stakeholder and Public Outreach	Objective 7: Maintain the Patent Trial and Appeal Board's (PTAB) Ability to Provide Timely and High Quality Decisions
<ul style="list-style-type: none"> <li>A. Stabilize the Patent Application Location Monitoring (PALM) and other legacy IT systems</li> <li>B. Redesign and re-architect current patent IT systems to provide end-to-end electronic processing</li> <li>C. Increase the acceptance, creation, and publication of standardized, structured, and searchable patent data and documents</li> <li>D. Upgrade search systems</li> <li>E. Identify IT opportunities with other IP offices to invoke work sharing efficiencies</li> </ul>	<ul style="list-style-type: none"> <li>A. Expand stakeholder awareness of the various support resources for users</li> <li>B. Continue facilitating the growth of the patent pro bono program</li> <li>C. Expand technology-specific and topic-specific partnerships</li> <li>D. Expand outreach related to CPC</li> <li>E. Increase awareness and transparency of patent information, and patent application and ownership information</li> <li>F. Engage stakeholders to advance the implementation of the <i>Leahy-Smith American Invents Act (AIA)</i> and explore opportunities for further reforms by the Office</li> </ul>	<ul style="list-style-type: none"> <li>A. Define optimal pendencies for PTAB proceedings</li> <li>B. Hire/retain an adaptable nationwide PTAB workforce, including management staff, to meet pendency and quality targets</li> <li>C. Develop an automated tool for centralizing the collection, retrieval, and sharing of operational data</li> <li>D. Ensure consistency in PTAB decisions</li> <li>E. Expand outreach to stakeholders by providing opportunities for interaction and updates on PTAB operations and other important issues</li> </ul>



**GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS**

Objective 1: Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months with 12 Months Final Pendency	Objective 2: Maintain High Trademark Quality	Objective 3: Ensure Optimal IT Service Delivery to All Users	Objective 4: Continue and Enhance Stakeholder and Public Outreach	Objective 5: Enhance Operations of the Trademark Trial and Appeal Board (TTAB)
<ul style="list-style-type: none"> <li>A. Align examination capacity with incoming workloads</li> <li>B. Continue to define and validate optimal pendencies</li> <li>C. Work with stakeholders to develop long term pendency goals that increase examination efficiency, maintain an optimal pendency level, and meet the expectations of the IP community</li> </ul>	<ul style="list-style-type: none"> <li>A. Continually maintain and improve quality measurements by: continually evaluating examination quality; providing targeted training to address quality issues; and providing legal training and education</li> </ul>	<ul style="list-style-type: none"> <li>A. Modernize IT systems by developing and implementing the Trademark Next Generation (TMNG) IT system to create full electronic workflow, and state-of-the-art IT resources for external and internal users</li> <li>B. Continue to provide optimal service on legacy systems to employees and public users</li> </ul>	<ul style="list-style-type: none"> <li>A. Expand outreach to stakeholders by providing opportunities for interaction and updates on Trademark operations and other important issues</li> <li>B. Assist in providing access to pro bono trademark legal services through USPTO's law school clinic program</li> <li>C. Encourage use of the Federal registration system for trademark owners who are unfamiliar with the application and registration maintenance processes</li> <li>D. Engage stakeholders to ensure integrity of the register</li> </ul>	<ul style="list-style-type: none"> <li>A. Develop consistent pendency measures and reduce overall pendency for appeal and trial cases</li> <li>B. Enhance quality of TTAB orders and opinions, and contribute to development of the law through issuance of precedential decisions</li> <li>C. Expand outreach to stakeholders by providing opportunities for interaction and updates on TTAB operations and other important issues</li> </ul>

**GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE**

Objective 1: Provide Leadership and Education on IP Policy and Awareness

- A. Provide policy formulation and guidance on key IP issues in all fields of IP protection and enforcement
- B. Engage other U.S. Government agencies and Congress on legislation that improves the IP system
- C. Lead domestic and international copyright initiatives and policy development for the administration
- D. Provide domestic education outreach at all levels, including through distance learning, knowledge enhancement and capacity building
- E. Leverage technology to increase domestic and international education, training and outreach at all levels
- F. Expand knowledge of the domestic and international IP landscape and public impacts of IP through empirical research and fact-finding

Objective 2: Provide Leadership and Education on International Agreements and Policies for Improving the Protection, and Enforcement of IP Rights

- A. Lead administration efforts at the World Intellectual Property Organization (WIPO) and other international fora to improve IP protection and enforcement, and to further efficiency and cooperation in the global IP system
- B. Prioritize countries of interest for purposes of improved IP protection and enforcement, capacity building, and legislative reform, including creation of country/region strategic plans and specific action plans
- C. Provide technical expertise in the negotiation and implementation of bilateral and multilateral agreements that improve IP rights protection and enforcement
- D. Support and advise the administration in leading and negotiating the IP aspects of free trade agreements
- E. As appropriate, work jointly with Congress on matters that pertain to international agreements
- F. Work jointly with the administration to improve IP protection and enforcement in China

**MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE**

Objective 1: Leverage IT Investments to Achieve Business Results	Objective 2: Continue to Build and Maintain a Flexible, Diverse, and Engaged Workforce	Objective 3: Enhance Internal and External Relations	Objective 4: Secure Sustainable Funding to Deliver Value to Fee Paying Customers and the Public	Objective 5: Establish Regional Offices and a Regional Presence
<ul style="list-style-type: none"> <li>A. Leverage IT to improve internal and external collaboration and information sharing</li> <li>B. Enhance the internal and external user experience; for example, by developing user-driven products, including those accessible in a mobile environment</li> <li>C. Evolve and improve IT infrastructure and services</li> <li>D. Continue to provide cost-effective, transparent operations, processes, and information</li> <li>E. Deliver cost-effective and seamless next generation IT solutions; including, integrations of Patent End-to-End (PE2E), Trademark Next Generation (TMNG), and Fee Processing Next Generation (FPNG)</li> </ul>	<ul style="list-style-type: none"> <li>A. Continue to enhance our telework environment by expanding telework opportunities and developing skill sets specific to managing in a telework environment</li> <li>B. Implement programs aimed at enhancing employee engagement, and ensuring the nationwide workforce stays integrated with the corporate culture</li> <li>C. Promote learning and job opportunities for all levels of employees</li> <li>D. Enhance recruitment and hiring efforts to help sustain and develop a highly-qualified, and diverse workforce, including the senior team</li> <li>E. Continue to foster and enhance a strong labor-management relationships</li> <li>F. Continue to build collaborative relationships with our affinity groups</li> </ul>	<ul style="list-style-type: none"> <li>A. Improve information and communication channels</li> <li>B. Strengthen relationships with the Department of Commerce (DOC), the Office of Management and Budget (OMB), other Federal agencies, and Congress</li> <li>C. Promote a culture across USPTO of outstanding customer service for both internal and external customers</li> <li>D. Streamline stakeholder access to USPTO services and programs</li> <li>E. Increase stakeholder partnerships and collaborations</li> <li>F. Support Government-wide efforts to promote Science, Technology, Engineering, and Mathematics (STEM) education initiatives</li> </ul>	<ul style="list-style-type: none"> <li>A. Ensure spending authority to use all fee collections</li> <li>B. Make the USPTO fee setting authority permanent</li> <li>C. Continuously optimize the fee structure</li> <li>D. Continue identifying, obtaining and implementing private sector business tools</li> <li>E. Maximize cost efficiency and transparency</li> </ul>	<ul style="list-style-type: none"> <li>A. Finalize permanent presence in regional office regions</li> <li>B. Further develop regional cooperative opportunities</li> </ul>

## Appendix VII – Glossary of Acronyms and Abbreviations

Acronym	Definition
ABI	Activity Based Information
ACR	Accelerated Case Resolution
ACTS	Adjudicated Case Tracking System
AIA	Leahy Smith America Invents Act of 2011
AIS	Automated Information Systems
APA	Administrative Procedure Act
APEC	Asia Pacific Economic Cooperation
API	Application Programming Interface
APJs	Administrative Patent Judges
ASEAN	Association of South East Asian Nations
ATJs	Administrative Trademark Judges
BC/DR	Business Continuity/Disaster Recovery
BPAG	Budget and Performance-at-a-Glance
BRIC	Brazil, Russia, India and China
CAFC	United States Court of Appeals for the Federal Circuit
CAGR	Compound Annual Growth Rate
CE	Chief Economist
CIF	Capital Improvement Fund
COTS	Commercial Off-The-Shelf
CPC	Cooperative Patent Classification
CPIC	Capital Planning and Investment Control
CSRS	Civil Service Retirement System
DAV	Document and Application Viewer
DOC	Department of Commerce
EDMS	Electronic Document Management System
EEO	Equal Employment Opportunity
EEOD	Equal Employment Opportunity and Diversity
EO	Executive Order
EPO	European Patent Office

Acronym	Definition
FAST 1	First Actions System for Trademarks
FCS	Foreign Commercial Service
FEGLI	Federal Employees Group Life Insurance
FEHB	Federal Employees Health Benefits
FERS	Federal Employees Retirement System
FPNG	Fee Processing Next Generation
FTA	Free Trade Agreement
FTE	Full-Time Equivalent
FY	Fiscal Year
GA	Governmental Affairs
GD	Global Dossier
GDP	Gross Domestic Product
GIPA	Global Intellectual Property Academy
GSA	General Services Administration
HR	Human Resources
IP	Intellectual Property
IP PP&E	Intellectual Property Policy, Protection and Enforcement
IP5	The Five IP Offices: USPTO, EPO, JPO, KIPO, SIPO
IPR	Intellectual Property Rights
IR	Information Resources
IT	Information Technology
JPO	Japan Patent Office
KIPO	Korean Intellectual Property Office
MGE	Miscellaneous General Expense
NAFTA	North American Free Trade Agreement
NARA	National Archives and Record Administration
NIST MEP	National Institute of Standards and Technology Manufacturing Extension Partnership
O&M	Operations and Maintenance

Acronym	Definition
OACS	Office Action Correspondence Subsystem
OCAO	Office of the Chief Administrative Officer
OCCO	Office of the Chief Communications Officer
OCFO	Office of the Chief Financial Officer
OED	Office of Enrollment and Discipline
OEDIS	Office of Enrollment and Discipline Information System
OGC	Office of the General Council
OGL	Office of General Law
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPIA	Office of Policy and International Affairs
OPM	Office of Personnel Management
OR	Operating Reserve
PAIR	Patent Application Information
PALM	Patent Application Location Monitoring
PCT	Patent Cooperation Treaty
PE2E	Patents End-to-End
PEDS	Patent Examination Data Search
PETTP	Patent Examiner Technical Training Program
PIF	Pacific Islands Forum
PII	Personally Identifiable Information
PPAC	Patent Public Advisory Committee
PPH	Patent Prosecution Highway
PRPS	Patent Review Processing System
PTAB	Patent Trial and Appeal Board
PTAB E2E	Patent Trial and Appeal Board End-to-End
RBAC	Role-Based Access Control
RGDP	Real Gross Domestic Product
SBDC	Small Business Development Center
SIPO	State Intellectual Property Office (SIPO) of the People's Republic of China
SO	Office of the Solicitor

Acronym	Definition
TIPS	Trademark In-House Photocomposition System
TMNG	Trademark Next Generation
TPAC	Trademark Public Advisory Committee
TRIPs	Trade-Related Aspects of IP
TTAB	Trademark Trial and Appeal Board
U.S.	United States
ULs	universal laptops
UPR	Utility, Plant and Reissue
USG	U. S. Government
USPTO	United States Patent and Trademark Office
USTR	United States Trade Representative
WIPO	World Intellectual Property Organization
WTO	World Trade Organization
XML	eXtensible Markup Language

## Appendix VIII – FY 2019 ANNUAL PERFORMANCE PLAN / FY 2017 ANNUAL PERFORMANCE REPORT

### **MISSION STATEMENT**

The *USPTO 2014-2018 Strategic Plan*<sup>3</sup> fully supports priorities of enhancing quality; reducing patent pendency and backlog; maintaining trademark pendency and quality; completing the Patent Trial and Appeal Board proceedings timely; providing domestic and global leadership in intellectual property (IP); investing in modernizing the USPTO's information technology (IT); and conducting stakeholder and public outreach, including educating small businesses on obtaining and protecting IP.

### **OVERVIEW**

The USPTO fosters innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property (IP) policy, and delivering IP information and education worldwide. Two distinct business lines, Patents and Trademarks, administer the patent and trademark laws which provide protection to inventors and businesses for their inventions and corporate and product identifications, and encourage innovation and scientific and technical advancement of United States (U.S.) industry through the preservation, classification, and dissemination of patent and trademark information.

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<sup>3</sup> The USPTO is currently creating a new strategic plan, which is expected to be released by the Summer of 2018.

**STRATEGIC GOAL(S) AND OBJECTIVE(S)**

Strategic Goal	Objective Number	Objective Name
Strategic Goal 1: Trade and Investment: Expand the U.S. economy through increased exports and inward foreign investment that lead to more and better American jobs.	1.1	Increase opportunities for U.S. companies by opening markets globally.
Strategic Goal 2: Innovation: Foster a more innovative U.S. economy – one that is better at inventing, improving, and commercializing products and technologies.	2.3	Catalyze innovation ecosystems.

**PLANNED ACTIONS FOR ACHIEVING FY 2019 PERFORMANCE TARGETS**

As a business-like organization, the USPTO fulfills requests for IP products and services from around the world that are paid for by the customer. Since these requests are frequently received in one fiscal year and fulfilled in a subsequent year, the Office engages in multi-year planning and budgeting. In doing this, the Office relies heavily on indicators of global and domestic economic activity, as well as policies and legislation, process efficiencies, and applicant behavior in forecasting workload and fee collections. These workload variables in turn affect production models that are produced by the Patent and Trademark organizations, as well as by the PTAB. Further details about this process are included in Appendix I.

- Number of foreign officials trained on best practices to protect and enforce IP - Continue to promote the protection and enforcement of IP of American innovators and creators on both the domestic and international levels.
- Patent Average First Action Pendency/UPR (Months) - Optimize the workforce by hiring 390 examiners or roughly 50 over attrition levels with production support to align examination capacity with incoming workload, and place a primary focus on accurate and consistent results in search and examination. This level of hiring will allow the USPTO to make progress toward pendency targets while aligning examination capacity with incoming workload to ensure a “soft landing”.
- Patent Average Total Pendency/UPR (Months) – Same as “Patent Average First Action Pendency/UPR”.
- Patent Statutory Compliance metrics - Optimize the workforce by providing training and feedback based on review of work products and leveraging patent quality data.

- Trademark Average First Action Pendency (Months) - With a sustained economic recovery, new application filings are expected to approach their historical growth patterns and increase by about 443,000 applications (classes) by FY 2023 compared to FY 2017 or a 6.1 percent CAGR. To keep pace with the incremental workloads and to support business development and implementation of new and improved IT systems, the Trademark organization will increase the number of examining attorneys.
- Trademark Average Total Pendency (Months) – Same as “Trademark Average First Action Pendency.”
- Trademark First Action Compliance Rate - Under the quality assurance program the results of an examiner’s first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Office has targeted both electronic and traditional training initiatives addressing specific problem areas.
- Trademark Final Compliance Rate - Under the quality assurance program the results of an examiner’s first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Office has targeted both electronic and traditional training initiatives addressing specific problem areas.
- Trademark Exceptional Office Action rate - the Trademark organization has instituted what is known as an Exceptional Office Action emphasizing comprehensive excellence in office actions, which expands upon the existing first and final action standards for correct decision-making.
- Percentage of prioritized countries for which country teams have implemented at least 66% of action steps in the country-specific action plans toward progress along four dimensions - Continue to promote the protection and enforcement of IP of American innovators and creators on both the domestic and international levels.

**AGENCY PRIORITY GOALS**

*APG Statement, Overview and Goal Leader*

Goal	Accelerate Patent Processing
Performance Indicator(s)	Patent First Action Pendency and Patent Total Pendency
Description	By September 30, 2019, the U.S. Patent and Trademark Office will reduce patent pendency to less than 15 months for first action pendency and less than 24 months for total pendency from end of fiscal year 2017 results of 16.3 months and 24.2 months, respectively.

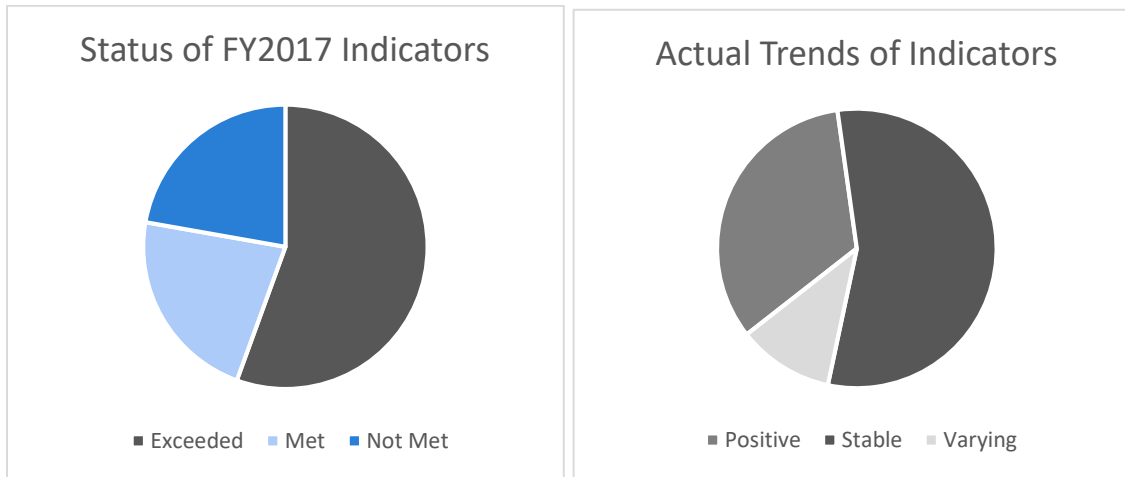


Goal	Accelerate Patent Processing			
	FY 2016	FY 2017	FY 2018*	
Patent First Action Pendency	16.2 months	16.3 months	15.4 months	
Patent Total Pendency	25.3 months	24.2 months	25.0 months	
Comments				

\*FY 2018 Patent First Action Pendency and Patent Total Pendency are projected targets.

**Detailed Indicator Plans and Performance**

**Performance Indicator Information**



**Summary of Performance**

- A total of 9 indicators; 5 (55.6%) were exceeded, 2 (22.2%) were met, and 2 (22.2%) were not met
- A total of 9 indicators had trends (more than three years of data); and,
- Of those 9 indicators with trends, 1 (11.1%) was varying, 3 (33.3%) were positive, and 5 (55.6%) were stable.

**Summary of FY 2017 Indicator Performance**

Indicator	Target	Actual	Status	Trend
Number of people, including foreign government officials and U.S. stakeholders, trained on best practices to protect and enforce intellectual property	5,000	4,134	Not Met	Varying
Patent Average First Action Pendency (Months)	14.8	16.3	Not Met	Positive
Patent Average Total Pendency (Months)	24.8	24.2	Met	Positive
Trademark Average First Action Pendency (Months)	2.5-3.5	2.7	Met	Stable
Trademark Average Total Pendency (Months)	12.0	9.5	Exceeded	Stable
Trademark First Action Compliance Rate (Percent)	95.5	97.3	Exceeded	Stable
Trademark Final Compliance Rate (Percent)	97.0	98.3	Exceeded	Stable
Trademark Exceptional Office Action (Percent)	40.0	45.0	Exceeded	Positive
Percentage of prioritized countries for which country teams have implemented at least 75 percent of action steps in the country-specific action plans toward progress along following dimensions: <ol style="list-style-type: none"> <li>1. Institutional improvements of IP office administration for advancing IPR</li> <li>2. Institutional improvements of IP enforcement entities</li> <li>3. Improvements in IP laws and regulations</li> <li>4. Establishment of government-to-government cooperative mechanisms</li> </ol>	75.0	100.0	Exceeded	Stable

**Current / Recurring Indicators**

**Strategic Goal 1: Trade and Investment: Expand the U.S. economy through increased exports and inward foreign investment that lead to more and better American jobs.**

**Objective 1.1 Increase opportunities for U.S. companies by opening markets globally.**

Indicator	NUMBER OF PEOPLE, INCLUDING FOREIGN GOVERNMENT OFFICIALS AND U.S. STAKEHOLDERS, TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY							
Category	Key							
Type	Output							
Description	The Global Intellectual Property Academy (GIPA) offers training programs on protection, utilization and enforcement of IP rights, patents, trademarks, and copyrights. It is through the GIPA training programs that the USPTO is instrumental in achieving its objectives of advancing IP right policies and halting IP theft.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target			4,300	6,300	5,000	5,000	5,000	5,000
Actual	9,217	7,078	4,960	5,283	4,975	4,134		
Status			Met	Not Met	Not Met	Not Met		
Trend	The trend line indicates that the performance trend is variable with significant variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	While the USPTO was below its target with respect to the number of foreign officials trained, this was due to a decision to shift its focus toward training more U.S. small- and medium-sized enterprises on how to navigate foreign IP systems.							
Actions to be taken / Future Plans	Continue to promote the protection and enforcement of IP of American innovators and creators on both the domestic and international levels.							
Adjustments to targets	None							
Notes	USPTO had actual information for this indicator from FY 2011 to FY 2013, it did not use this as a GPRA indicator until FY 2014 and thus did not have targets for FY 2011 to FY 2013.							
Information Gaps	None							

**Strategic Goal 2: Innovation: Foster a more innovative U.S. economy – one that is better at inventing, improving, and commercializing products and technologies.**

**Objective 2.3 Catalyze innovation ecosystems.**

Indicator	PATENT AVERAGE FIRST ACTION PENDENCY (MONTHS)							
Category	Key							
Type	Outcome							
Description	This measure indicates the average time from the Utility, Plant and Reissue (UPR) application filing date to the date of mailing the First Office action. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent organization.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	22.6	18.0	17.4	15.7	14.8	14.8	15.4	14.5
Actual	21.9	18.2	18.4	17.3	16.2	16.3		
Status	Exceeded	Not Met	Met	Not Met	Not Met	Not Met		
Trend	The trend line indicates that the performance trend is positive with some variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	The USPTO hired only 144 patent examiners in FY 2017 instead of the planned 600 due to government-wide hiring freeze. This combined with less-than-expected overtime usage prevented the USPTO from making its first action pendency target.							
Actions to be taken / Future Plans	Although the FY 2019 Budget projects that overall UPR filings will be flat, serialized filings--which are the largest component--are projected to increase 0.8 percent annually through FY 2023. As a result of these variable filing trends, coupled with a pause in hiring patent examiners in the second half of FY 2017, the USPTO has modified its patent examiner hiring plans to 390 examiner hires a year from FY 2018 through FY 2023, which represents about 50 new hires above the attrition level each year. Although the target has been revised, the USPTO will continue to work toward achieving 10 months first action pendency and 20 months total pendency, as well as reducing the backlog.							
Adjustments to targets	The staffing plan brings the patent examining capacity to an optimal level to address the current patent application inventory and the expected number of new patent applications. Changes to planned hiring levels, however, will change projected results. Once the USPTO achieves the optimal pendency levels, the agency will continue to closely monitor inventory and application filing levels to continue calibrating the examination capacity to maintain patent pendency goals while investing in quality.							
Notes	None							
Information Gaps	None							

Indicator	PATENT AVERAGE TOTAL PENDENCY (MONTHS)							
Category	Key							
Type	Outcome							
Description	Patent total pendency is the average time in months for a complete review of a UPR patent application, from the filing date to issue or abandonment of the application. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent organization. Requests for Continued Examination (RCEs) are not included.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	34.7	30.1	26.7	26.4	25.4	24.8	25.0	23.8
Actual	32.4	29.1	27.4	26.6	25.3	24.2		
Status	Exceeded	Exceeded	Met	Met	Met	Met		
Trend	The trend line indicates that the performance trend is positive with little variability of the direction of the trend line in predicting future results. However, the trend line from 2000 to 2010 was negative.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	Although the FY 2019 Budget projects that overall UPR filings will be flat, serialized filings--which are the largest component--are projected to increase 0.8 percent annually through FY 2023. As a result of these variable filing trends, coupled with a pause in hiring patent examiners in the second half of FY 2017, the USPTO has modified its patent examiner hiring plans to 390 examiner hires a year from FY 2018 through FY 2023, which represents about 50 new hires above the attrition level each year. Although the target has been revised, the USPTO will continue to work toward achieving 10 months first action pendency and 20 months total pendency, as well as reducing the backlog.							
Adjustments to targets	The staffing plan brings the patent examining capacity to an optimal level to address the current patent application inventory and the expected number of new patent applications. Changes to planned hiring levels, however, will change projected results. Once the USPTO achieves the optimal pendency levels, the agency will continue to closely monitor inventory and application filing levels to continue calibrating the examination capacity to maintain patent pendency goals while investing in quality.							
Notes	None							
Information Gaps	None							

Indicator	PATENT STATUTORY COMPLIANCE METRICS							
Category	Key							
Type	Outcome							
Description	This metric measures the degree to which a patent is correctly issued in compliance with all the requirements of Title 35 as well as the relevant case law at the time of issuance. A statutorily compliant office action includes all applicable rejections and any asserted rejection is correct in that the decision to reject is based on sufficient evidence to support a conclusion of unpatentability.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Statute 35 USC 101 (including utility and eligibility)								
Target					Baseline	93.0 - 98.0%	97.0%	TBD
Actual					97.4%	96.5%		
Status						Met		
Statute 35 USC 102 (prior art compliance)								
Target					Baseline	90.0 – 95.0%	95.0%	TBD
Actual					95.9%	94.4%		
Status						Met		
Statute 35 USC 103 (prior art compliance)								
Target					Baseline	88.0 – 93.0%	93.0%	TBD
Actual					90.4%	92.4%		
Status						Met		
Statute 35 USC 112 (35 USC 112(a),(b) including (a)/(b) rejections related to 35 USC 112(f))								
Target					Baseline	87.0 - 92.0%	93.0%	TBD
Actual					93.7%	92.6%		
Status						Met		
Trend	Not enough data to determine trend.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	FY 2018 Statutory compliance goals were established based on the end of the year FY2017 metrics.							
Adjustments to targets	Not applicable							

Indicator	PATENT STATUTORY COMPLIANCE METRICS
Notes	None
Information Gaps	None



Indicator	TRADEMARK AVERAGE FIRST ACTION PENDENCY (MONTHS)							
Category	Key							
Type	Outcome							
Description	This measure reflects the timeliness of the first office action as measured from the date of application filing (or notification date for 66(a) filings) to the first office action in months.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5	2.5 – 3.5
Actual	3.1	3.2	3.1	2.9	3.1	2.7		
Status	Met	Met	Met	Met	Met	Met		
Trend	The trend line indicates that the performance trend is maintaining standards with slight variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	<p>The Trademark organization is committed to maintaining an average first action pendency of 2.5 to 3.5 months and an average total pendency of 12 months or less. Trademark application filings exhibit a strong correlation with the general state of the economy as measured by the growth of the Gross Domestic Product (GDP) and venture capital. The U.S. economy continues to grow at a slow rate that has proven to be resilient in the face of persistent economic malaise in Europe, the Middle East, and North Africa. The Budget assumes that the economic growth will be sustained, which will boost trademark filings to the projected average annual growth rate between five and eight percent. Given this continued growth in applications, the Trademark organization will need to continue increasing its trademark examining attorney staffing levels to maintain its quality and pendency targets.</p>							
Adjustments to targets	None							
Notes	None							
Information Gaps	None							

Indicator	TRADEMARK AVERAGE TOTAL PENDENCY (MONTHS)							
Category	Key							
Type	Outcome							
Description	This measure reflects the timeliness of the disposal of a trademark application. It is measured from the date of filing to date of registration, abandonment or issuance of a notice of allowance, excluding applications that are suspended, awaiting further action, or involved in inter partes proceedings.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	12.0	12.0	12.0	12.0	12.0	12.0	12.0	12.0
Actual	10.2	10.0	9.8	10.1	9.8	9.5		
Status	Exceeded	Exceeded	Exceeded	Exceeded	Met	Met		
Trend	The trend line indicates that the performance trend is maintaining standards with slight variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	The Trademark organization is committed to maintaining an average first action pendency of 2.5 to 3.5 months and an average total pendency of 12 months or less. Trademark application filings exhibit a strong correlation with the general state of the economy as measured by the growth of the Gross Domestic Product (GDP) and venture capital. The U.S. economy continues to grow at a slow rate that has proven to be resilient in the face of persistent economic malaise in Europe, the Middle East, and North Africa. The Budget assumes that the economic growth will be sustained, which will boost trademark filings to the projected average annual growth rate between five and eight percent. Given this continued growth in applications, the Trademark organization will need to continue increasing its trademark examining attorney staffing levels to maintain its quality and pendency targets.							
Adjustments to targets	None							
Notes	None							
Information Gaps	None							

<b>Indicator</b>	<b>TRADEMARK FIRST ACTION COMPLIANCE RATE (PERCENT)</b>							
Category	Supporting							
Type	Outcome							
Description	This measure is the percentage of applications reviewed meeting the criteria for decision making conducted on random sample of applications including first office actions to determine the soundness of decision-making under the Trademark Act.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	95.5	95.5	95.5	95.5	95.5	95.5	95.5	95.5
Actual	96.2	96.3	95.8	96.7	97.1	97.3		
Status	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded		
Trend	The trend line indicates that the performance trend is maintaining standards with slight variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	Under the quality assurance program the results of an examiner's first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Office has targeted both electronic and traditional training initiatives addressing specific problem areas. This program also provides prompt feedback to examining attorneys when their work products are reviewed.							
Adjustments to targets	None							
Notes	None							
Information Gaps	None							

Indicator	TRADEMARK FINAL COMPLIANCE RATE (PERCENT)							
Category	Supporting							
Type	Outcome							
Description	This measure is the percentage of evaluations meeting the criteria for decision making conducted on a random sample of applications that received a final decision regarding registrability (i.e., registration eligibility) under the Trademark Act either by approval or final refusal.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	97.0	97.0	97.0	97.0	97.0	97.0	97.0	97.0
Actual	97.1	97.1	97.2	97.6	97.8	98.3		
Status	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded		
Trend	The trend line indicates that the performance trend is maintaining standards with slight variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	Under the quality assurance program the results of an examiner's first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Office has targeted both electronic and traditional training initiatives addressing specific problem areas. This program also provides prompt feedback to examining attorneys when their work products are reviewed.							
Adjustments to targets	None							
Notes	None							
Information Gaps	None							

Indicator	TRADEMARK EXCEPTIONAL OFFICE ACTION (PERCENT)							
Category	Support							
Type	Outcome							
Description	This measure is the percentage of evaluations exceeding the statutory requirement decision making conducted on a random sample of applications that received a first office action regarding registrability under the Trademark Act.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	20.0	23.0	28.0	36.0	40.0	40.0	45.0	46.0
Actual	26.1	35.1	43.0	48.3	45.4	45.0		
Status	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded		
Trend	The trend line indicates that the performance trend is positive with slight variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	The Trademark organization continues its efforts to improve quality in a cost-effective manner. To raise the bar, the Trademark organization has instituted what is known as an Exceptional Office Action emphasizing comprehensive excellence in office actions, which expands upon the existing first and final action standards for correct decision-making. An Exceptional Office Action is one that reflects correct decision-making, includes excellent evidentiary support, and is exceptionally well-written.							
Adjustments to targets	None							
Notes	None							
Information Gaps	None							

<b>Indicator</b>	<b>PERCENTAGE OF PRIORITIZED COUNTRIES FOR WHICH COUNTRY TEAMS HAVE IMPLEMENTED AT LEAST 75 PERCENT OF ACTION STEPS IN THE COUNTRY-SPECIFIC ACTION PLANS TOWARD PROGRESS ALONG FOLLOWING DIMENSIONS:</b> <b>1. INSTITUTIONAL IMPROVEMENTS OF IP OFFICE ADMINISTRATION FOR ADVANCING IPR</b> <b>2. INSTITUTIONAL IMPROVEMENTS OF IP ENFORCEMENT ENTITIES</b> <b>3. IMPROVEMENTS IN IP LAWS AND REGULATIONS</b> <b>4. ESTABLISHMENT OF GOVERNMENT-TO-GOVERNMENT COOPERATIVE MECHANISMS</b>							
Category	Key							
Type	Outcome							
Description	Tracks the USPTO's efforts in relation to prioritizing countries of interest for purposes of improved IP protection and enforcement, capacity building, and legislative reform, including creation of country/region strategic plans and specific action plans.							
	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Target	75.0	75.0	75.0	75.0	75.0	75.0	65.0	65.0
Actual	75.0	100.0	100.0	100.0	100.0	100.0		
Status	Met	Exceeded	Exceeded	Exceeded	Exceeded	Exceeded		
Trend	The trend line indicates that the performance trend is maintaining standards with significant variability of the direction of the trend line in predicting future results.							
Explanation (if not met in 2017)	NOT APPLICABLE							
Actions to be taken / Future Plans	Continue to promote the protection and enforcement of IP of American innovators and creators on both the domestic and international levels.							
Adjustments to targets	None							
Notes	None							
Information Gaps	None							

### Resource Requirements Table

<i>(Dollars in thousands)</i>	<b>FY 2017</b>	<b>FY 2018 President's Budget</b>	<b>FY 2018 Annualized CR</b>	<b>FY 2019 PB Budget</b>	<b>FY 2020 Estimate</b>	<b>FY 2021 Estimate</b>	<b>FY 2022 Estimate</b>	<b>FY 2023 Estimate</b>
<b>USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS</b>								
Amount	2,875,256	3,130,601	3,069,228	3,078,701	3,138,010	3,278,265	3,373,054	3,443,393
Full Time Equivalent (FTE)	11,296	11,867	11,385	11,480	11,537	11,588	11,639	11,694
<b>USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS</b>								
Amount	281,884	307,107	324,141	323,232	332,210	361,553	383,542	403,388
FTE	1,072	1,201	1,191	1,243	1,330	1,433	1,546	1,662
<b>USPTO GOAL 3: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE</b>								
Amount	46,852	63,166	54,132	57,069	57,318	58,718	59,940	61,104
FTE	138	181	159	161	161	161	161	161
Amounts not Supporting Goals <sup>1</sup>	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
USPTO Requirements	3,205,992	3,502,874	3,449,501	3,461,001	3,529,538	3,700,536	3,818,536	3,909,886
FTE	12,507	13,249	12,735	12,884	13,027	13,182	13,345	13,518

<sup>1</sup> Amounts transferred to the Department of Commerce Office of the Inspector General.

## Appendix IX – USPTO FY 2017 Fee Collections Report

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
Patent Fee Summary:				
	Patent Application Filing Fees		\$858,619,065	\$813,164,631
	Patent Post Allowance Fees		\$285,216,800	\$286,048,066
	Patent Maintenance Fees		\$1,299,708,720	\$1,210,091,626
	Patent Extension of Time Fees		\$146,935,300	\$138,133,560
	Patent Trial and Appeals Fees		\$101,024,675	\$76,556,495
	Post Issuance Fees		\$13,398,600	\$13,225,020
	Patent Cooperation Treaty (PCT) Fees		\$197,533,420	\$182,979,673
	Hague International Design Application Fees		\$508,120	\$1,449,390
	Patent Petition Fees		\$19,556,520	\$16,549,200
	Patent Service Fees		\$4,388,700	\$3,254,170
	Miscellaneous Patent Fees		\$58,147,030	\$29,794,508
	Patent Enrollment Fees		\$1,268,360	\$831,130
	Finance Service Fees		\$106,645	\$95,013
	<b>Total Patent Fees</b>		<b>\$2,986,411,955</b>	<b>\$2,772,172,480</b>
Trademark Fee Summary:				
	Application Filings		\$159,357,150	\$162,524,900
	Maintaining Exclusive Rights		\$71,544,500	\$73,168,150
	Intent to Use/Use Fees		\$77,366,750	\$46,137,750
	Madrid Protocol Fees		\$3,072,550	\$3,456,525
	Trademark Trial and Appeal Board		\$7,896,600	\$6,594,700
	Other Trademark Fees		\$11,652,835	\$10,772,667
	Trademark Processing Fees		\$3,711,200	\$2,367,700
	Finance Service Fees		\$10,605	\$10,455
	<b>Total Trademark Fees</b>		<b>\$334,612,190</b>	<b>\$305,032,848</b>
<b>Total United States Patent and Trademark Office Fees</b>			<b>\$3,321,024,145</b>	<b>\$3,077,205,328</b>
Patent Filing Fees (Large Entity):				
1011	Basic filing fee - Utility (electronic filing)	\$280	\$67,472,560	\$63,145,790
1012	Basic filing fee - Design	180	3,789,740	3,196,820
1013	Basic filing fee - Plant	180	75,620	90,360
1014	Basic filing fee - Reissue	280	231,420	142,850
1017	Basic filing fee - Design (CPA)	180	98,040	136,080
1019	Basic filing fee - Reissue (CPA)	280	1,160	0
1005	Provisional application filing fee	260	16,536,960	15,644,960



Fee Code	Fee Title	Fee Rates	President s Budget Plan Collections	Actual Collections
1111	Utility Search Fee	600	145,761,840	134,613,080
1112	Design Search Fee	120	2,834,440	2,198,640
1113	Plant Search Fee	380	159,200	190,760
1114	Reissue Search Fee	600	500,220	307,740
1311	Utility Examination Fee	720	172,033,720	162,145,220
1312	Design Examination Fee	460	10,636,040	8,445,140
1313	Plant Examination Fee	580	236,400	291,160
1314	Reissue Examination Fee	2,160	1,730,920	1,102,250
1051	Surcharge - Late filing fee, search fee, examination fee or oath or declaration, or application filed without at least one claim or by reference	140	14,172,900	11,347,010
1052	Surcharge - Late provisional filing fee or cover sheet	60	117,720	100,560
1201	Independent claims in excess of three	420	27,175,280	22,923,700
1202	Claims in excess of 20	80	35,732,340	29,110,032
1203	Multiple dependent claim	780	1,076,800	893,100
1204	Reissue independent claims in excess of three	420	485,760	287,520
1205	Reissue claims in excess of 20	80	647,640	356,560
1081	Utility Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	400	4,680,800	4,815,200
1082	Design Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	400	36,800	34,000
1083	Plant Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	400	5,600	5,200
1084	Reissue Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	400	8,800	20,000
1085	Provisional Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	400	1,803,200	1,792,000
1053	Non-English translation	140	245,280	229,320
1817	Request for prioritized examination	4,000	11,016,000	14,896,000
1801	Request for continued examination (RCE) - 1st request (see 37 CFR 1.114)	1,200	122,574,600	120,491,370
1820	Request for continued examination (RCE) - 2nd and subsequent request (see 37 CFR 1.114)	1,700	75,309,800	77,895,700
10XX	SUBMISSION OF SEQUENCE LISTINGS OF 300MB TO 800MB		4,000	0
10XY	SUBMISSION OF SEQUENCE LISTINGS OF MORE THAN 800 MB		10,000	0
Total Patent Filing Fees (Large Entity)			\$717,201,600	\$676,848,122
Patent Filing Fees (Small Entity):				
2011	Basic filing fee - Utility (paper filing - also requires non-electronic filing fee under 1.16(t))	\$140	\$114,260	\$95,115
4011	Basic filing fee - Utility (electronic filing)	70	5,877,865	5,481,535
2012	Basic filing fee - Design	90	1,533,490	1,546,265
2013	Basic filing fee - Plant	90	57,570	50,105
2014	Basic filing fee - Reissue	140	33,930	27,445
2017	Basic filing fee - Design (CPA)	90	21,850	36,180
2019	Basic filing fee - Reissue (CPA)	140	580	0
2005	Provisional application filing fee	130	10,195,740	9,223,807
2111	Utility Search Fee	300	25,562,880	23,497,225
2112	Design Search Fee	60	1,131,340	1,040,100
2113	Plant Search Fee	190	121,200	104,690
2114	Reissue Search Fee	300	73,710	58,200

Fee Code	Fee Title	Fee Rates	President s Budget Plan Collections	Actual Collections
2311	Utility Examination Fee	360	30,120,220	28,290,010
2312	Design Examination Fee	230	4,249,010	3,997,170
2313	Plant Examination Fee	290	179,400	160,950
2314	Reissue Examination Fee	1,080	255,060	211,680
2051	Surcharge - Late filing fee, search fee, examination fee or oath or declaration, or application filed without at least one claim or by reference	70	3,018,600	2,585,315
2052	Surcharge - Late provisional filing fee or cover sheet	30	92,940	85,680
2201	Independent claims in excess of three	210	4,933,720	4,205,825
2202	Claims in excess of 20	40	9,212,220	7,763,320
2203	Multiple dependent claim	390	296,800	279,080
2204	Reissue independent claims in excess of three	210	41,800	42,840
2205	Reissue claims in excess of 20	40	87,120	66,240
2081	Utility Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	200	1,185,600	1,206,800
2082	Design Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	200	4,800	11,600
2083	Plant Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	200	0	0
2084	Reissue Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	200	800	600
2085	Provisional Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	200	950,000	1,185,200
2053	Non-English translation	70	35,980	36,540
2817	Request for prioritized examination	2,000	6,772,000	9,442,000
2801	Request for continued examination (RCE) - 1st request (see 37 CFR 1.114)	600	15,593,850	15,345,000
2820	Request for continued examination (RCE) - 2nd and subsequent request (see 37 CFR 1.114)	850	7,810,700	8,833,200
20XX	SUBMISSION OF SEQUENCE LISTINGS OF 300MB TO 800MB		500	0
20XY	SUBMISSION OF SEQUENCE LISTINGS OF MORE THAN 800 MB		0	0
Total Patent Filing Fees (Small Entity)			\$129,565,535	\$124,909,717
Patent Filing Fees (Micro Entity):				
3011	Basic filing fee - Utility (electronic filing)	\$70	\$1,186,970	\$1,100,017
3012	Basic filing fee - Design	45	205,770	214,470
3013	Basic filing fee - Plant	45	190	675
3014	Basic filing fee - Reissue	70	870	1,260
3017	Basic filing fee - Design (CPA)	45	1,235	2,610
3019	Basic filing fee - Reissue (CPA)	70	0	70
3005	Provisional application filing fee	65	2,225,070	1,959,635
3111	Utility Search Fee	150	2,539,530	2,322,900
3112	Design Search Fee	30	148,960	141,390
3113	Plant Search Fee	95	400	1,615
3114	Reissue Search Fee	150	1,575	2,550
3311	Utility Examination Fee	180	2,994,410	2,794,140
3312	Design Examination Fee	115	558,620	543,260
3313	Plant Examination Fee	145	600	2,320
3314	Reissue Examination Fee	540	4,360	8,640

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
3051	Surcharge - Late filing fee, search fee, examination fee or oath or declaration, or application filed without at least one claim or by reference	35	174,525	155,890
3052	Surcharge - Late provisional filing fee or cover sheet	15	47,610	47,730
3201	Independent claims in excess of three	105	203,060	201,915
3202	Claims in excess of 20	20	298,755	238,620
3203	Multiple dependent claim	195	18,000	18,135
3204	Reissue independent claims in excess of three	105	1,760	1,995
3205	Reissue claims in excess of 20	20	1,935	4,860
3081	Utility Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	100	13,400	13,900
3082	Design Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	100	400	1,200
3083	Plant Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	100	0	0
3084	Reissue Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	100	0	100
3085	Provisional Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	100	12,600	23,800
3053	Non-English translation	35	700	945
3817	Request for prioritized examination	1,000	434,000	615,000
3801	Request for continued examination (RCE) - 1st request (see 37 CFR 1.114)	300	587,925	724,500
3820	Request for continued examination (RCE) - 2nd and subsequent request (see 37 CFR 1.114)	425	188,700	262,650
30XX	SUBMISSION OF SEQUENCE LISTINGS OF 300MB TO 800MB		0	0
30XY	SUBMISSION OF SEQUENCE LISTINGS OF MORE THAN 800 MB		0	0
	Total Patent Filing Fee (Micro Entity)		\$11,851,930	\$11,406,792
	Total Patent Application Filing Fees		\$858,619,065	\$813,164,631
	Patent Post Allowance Fees (Large Entity):			
1501	Utility Issue	\$960	\$237,014,960	\$240,065,250
1502	Design Issue	560	11,868,480	9,416,960
1503	Plant Issue	760	522,720	470,440
1511	Reissue Issue	960	256,760	327,360
1505	Publication fee for republication	300	43,800	24,600
1506	Suspense Account for Partial Issue Payments	var	5,890	6,496
1508	Issue Fee - owed over current fee	var	0	3,490
	Total Patent Post Allowance Fees (Large Entity)		\$249,712,610	\$250,314,596
	Patent Post Allowance Fees (Small Entity):			
2505	Publication fee for republication	\$300	\$0	-\$300
2501	Utility Issue	480	28,993,300	30,057,535
2502	Design Issue	280	4,343,820	3,231,040
2503	Plant Issue	380	278,960	255,740
2511	Reissue Issue	480	45,080	41,280
	Total Patent Post Allowance Fees (Small Entity)		\$33,661,160	\$33,585,295
	Patent Post Allowance Fees (Micro Entity):			
3505	Publication fee for republication	\$300	\$0	\$0

Fee Code	Fee Title	Fee Rates	President s Budget Plan Collections	Actual Collections
3501	Utility or Reissue Issue	240	1,409,730	1,812,275
3502	Design Issue	140	430,560	333,900
3503	Plant Issue	190	1,760	1,520
3511	Reissue Issue	240	980	480
Total Patent Post Allowance Fees (Micro Entity)			\$1,843,030	\$2,148,175
Total Patent Post Allowance Fees			\$285,216,800	\$286,048,066
Patent Maintenance Fees (Large Entity):				
1551	Due at 3.5 years	\$1,600	\$315,472,000	\$308,403,200
1552	Due at 7.5 years	3,600	389,764,800	362,116,800
1553	Due at 11.5 years	7,400	483,516,000	431,841,800
1554	Surcharge - 3.5 year - Late payment within 6 months	160	670,720	563,040
1555	Surcharge - 7.5 year - Late payment within 6 months	160	322,240	302,560
1556	Surcharge - 11.5 year - Late payment within 6 months	160	253,440	330,560
1558	Petition for the delayed payment of the fee for maintaining a patent in force	1,700	1,165,500	851,700
1559	Patent Unassigned Maintenance Fees	var	2,000,000	1,569,396
Total Patent Maintenance Fees (Large Entity)			\$1,193,164,700	\$1,105,979,056
Patent Maintenance Fees (Small Entity):				
2551	Due at 3.5 years	\$800	\$35,508,800	\$33,664,000
2552	Due at 7.5 years	1,800	30,931,200	30,835,800
2553	Due at 11.5 years	3,700	35,031,600	34,091,800
2554	Surcharge - 3.5 year - Late payment within 6 months	80	480,480	505,680
2555	Surcharge - 7.5 year - Late payment within 6 months	80	197,280	206,880
2556	Surcharge - 11.5 year - Late payment within 6 months	80	109,280	126,560
2558	Petition for the delayed payment of the fee for maintaining a patent in force	850	1,472,600	1,337,050
Total Patent Maintenance Fees (Small Entity)			\$103,731,240	\$100,767,770
Total Patent Maintenance Fees (Micro Entity):				
3551	Due at 3.5 years	\$400	\$959,200	\$1,312,000
3552	Due at 7.5 years	900	876,600	863,100
3553	Due at 11.5 years	1,850	936,100	978,650
3554	Surcharge - 3.5 year - Late payment within 6 months	40	23,440	33,480
3555	Surcharge - 7.5 year - Late payment within 6 months	40	10,160	10,200
3556	Surcharge - 11.5 year - Late payment within 6 months	40	7,280	7,120
3558	Petition for the delayed payment of the fee for maintaining a patent in force	850	0	140,250
Total Patent Maintenance Fees (Micro Entity)			\$2,812,780	\$3,344,800
Total Patent Maintenance Fees			\$1,299,708,720	\$1,210,091,626
Patent Extension of Time Fees (Large Entity):				
1251	Extension for response within first month	\$200	\$20,830,400	\$19,080,300
1252	Extension for response within second month	600	25,002,000	23,104,490

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
1253	Extension for response within third month	1,400	51,562,000	46,288,204
1254	Extension for response within fourth month	2,200	4,285,600	4,027,230
1255	Extension for response within fifth month	3,000	5,442,000	5,630,760
Total Patent Extension of Time Fees (Large Entity)			\$107,122,000	\$98,130,984
Patent Extension of Time Fees (Small Entity):				
2251	Extension for response within first month	\$100	\$3,735,400	\$3,565,250
2252	Extension for response within second month	300	6,268,200	6,148,195
2253	Extension for response within third month	700	22,537,200	22,380,201
2254	Extension for response within fourth month	1,100	2,668,600	2,702,650
2255	Extension for response within fifth month	1,500	2,838,000	3,188,965
Total Patent Extension of Time Fees (Small Entity)			\$38,047,400	\$37,985,261
Patent Extension of Time Fees (Micro Entity):				
3251	Extension for response within first month	\$50	\$185,100	\$206,750
3252	Extension for response within second month	150	317,400	356,085
3253	Extension for response within third month	350	928,200	1,143,590
3254	Extension for response within fourth month	550	183,700	165,770
3255	Extension for response within fifth month	750	151,500	145,120
Total Patent Extension of Time Fees (Micro Entity)			\$1,765,900	\$2,017,315
Total Patent Extension of Time Fees			\$146,935,300	\$138,133,560
Patent Trial and Appeal Fees (Large Entity):				
1405	Petitions to the Chief Administrative Patent Judge under 37 CFR 41.3	\$400	\$20,000	\$16,400
1401	Notice of appeal	800	18,871,200	14,332,220
1404	Filing a brief in support of an appeal in an inter partes reexamination proceeding	2,000	632,000	96,000
1403	Request for oral hearing	1,300	858,000	897,000
1413	Forwarding an appeal in an application or ex parte reexamination proceeding to the Board	2,000	15,534,000	18,188,000
1406	Inter partes review request fee - Up to 20 claims	9,000	24,633,000	16,290,000
1414	Inter partes review post-institution fee - Up to 15 claims	14,000	24,247,500	17,248,000
1407	Inter partes review request of each claim in excess of 20	200	1,533,500	883,800
1415	Inter partes post-institution request of each claim in excess of 15	400	3,622,000	1,939,600
1408	Post-grant or covered business method review request fee - Up to 20 claims	12,000	2,800,000	1,068,000
1416	Post-grant or covered business method review post-institution fee - Up to 15 claims	18,000	2,800,000	792,000
1409	Post-grant or covered business method review request of each claim in excess of 20	250	270,625	79,250
1417	Post-grant or covered business method review post-institution request of each claim in excess of 15	550	611,875	124,850
1412	Petition for a derivation proceeding	400	3,200	3,200
1411	Request to make a settlement agreement available and other requests filed in a patent trial proceeding	400	0	0
Total Patent Trial and Appeal Fees (Large Entity)			\$96,436,900	\$71,958,320
Patent Trial and Appeal Fees (Small Entity):				
2401	Notice of appeal	\$400	\$2,642,400	\$2,168,350

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
2404	Filing a brief in support of an appeal in an inter partes reexamination proceeding	1,000	38,000	12,000
2403	Request for oral hearing	650	133,900	161,850
2405	Petitions to the chief administrative patent judge under 37 CFR 41.3	400	0	0
2413	Forwarding an appeal in an application or ex parte reexamination proceeding to the Board	1,000	1,581,750	2,057,000
Total Patent Trial and Appeal Fees (Small Entity)			\$4,396,050	\$4,399,200
Patent Trial and Appeal Fees (Micro Entity):				
3401	Notice of appeal	\$200	\$102,150	\$92,400
3404	Filing a brief in support of an appeal in an inter partes reexamination proceeding	500	1,000	0
3403	Request for oral hearing	325	1,950	3,575
3405	Petitions to the chief administrative patent judge under 37 CFR 41.3	400	0	0
3413	Forwarding an appeal in an application or ex parte reexamination proceeding to the Board	500	86,625	103,000
Total Patent Trial and Appeal Fees (Micro Entity)			\$191,725	\$198,975
Total Patent Trial and Appeal Fees			\$101,024,675	\$76,556,495
Post Issuance Fees (Large Entity):				
1811	Certificate of correction	\$100	\$1,494,250	\$834,700
1816	Processing fee for correcting inventorship in a patent	130	80,640	47,710
1812	Request for ex parte reexamination	12,000	1,272,000	1,128,000
1821	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination	420	104,720	42,000
1822	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	80	248,220	69,600
1814	Statutory disclaimer, including terminal disclaimer	160	8,938,560	7,196,320
1826	Request for supplemental examination	4,400	149,600	193,600
1827	Reexamination ordered as a result of supplemental examination	12,100	290,400	459,800
1828	Supplemental Examination Document Size Fee - for nonpatent document having between 21 and 50 sheets	180	1,080	3,420
1829	Supplemental Examination Document Size Fee - for each additional 50 sheets or a fraction thereof in a nonpatent document	280	3,360	26,040
1825	Refused Reexamination Requests	3,600	0	3,600
18AA	REQUEST FOR EX PARTE REEXAMINATION (< 40 PAGES)		240,000	0
Total Post Issuance Fees (Large Entity)			\$12,822,830	\$10,004,790
Post Issuance Fees (Small Entity):				
2816	Processing fee for correcting inventorship in a patent	\$130	\$0	\$18,590
2811	Certificate of correction	100	0	215,700
2814	Statutory disclaimer, including terminal disclaimer	160	0	2,228,640
2812	Request for ex parte reexamination	6,000	384,000	522,000
2821	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination	210	16,280	8,400

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
2822	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	40	16,920	19,760
2826	Request for supplemental examination	2,200	26,400	26,400
2827	Reexamination ordered as a result of supplemental examination	6,050	60,500	60,500
2828	Supplemental Examination Document Size Fee - for nonpatent document having between 21 and 50 sheets	90	1,260	1,170
2829	Supplemental Examination Document Size Fee - for each additional 50 sheets or a fraction thereof in a nonpatent document	140	3,080	140
28AA	REQUEST FOR EX PARTE REEXAMINATION (< 40 PAGES)		57,000	0
	<b>Total Post Issuance Fees (Small Entity)</b>		<b>\$565,440</b>	<b>\$3,101,300</b>
	Post Issuance Fees (Micro Entity):			
3816	Processing fee for correcting inventorship in a patent	\$130	\$0	\$650
3811	Certificate of correction	100	0	10,900
3814	Statutory disclaimer, including terminal disclaimer	160	0	104,640
3812	Request for ex parte reexamination	3,000	0	-3,000
3821	Reexamination independent claims in excess of three and also in excess of the number of such claims in the patent under reexamination	105	220	210
3822	Reexamination claims in excess of 20 and also in excess of the number of claims in the patent under reexamination	20	90	260
3826	Request for supplemental examination	1,100	2,200	2,200
3827	Reexamination ordered as a result of supplemental examination	3,025	6,050	3,025
3828	Supplemental Examination Document Size Fee - for nonpatent document having between 21 and 50 sheets	45	270	45
3829	Supplemental Examination Document Size Fee - for each additional 50 sheets or a fraction thereof in a nonpatent document	70	0	0
38AA	REQUEST FOR EX PARTE REEXAMINATION (< 40 PAGES)		1,500	0
	<b>Total Post Issuance Fees (Micro Entity)</b>		<b>\$10,330</b>	<b>\$118,930</b>
	<b>Total Post Issuance Fees</b>		<b>\$13,398,600</b>	<b>\$13,225,020</b>
	PCT Fees - National Stage (Large Entity):			
1631	Basic National Stage Fee	\$280	\$20,659,600	\$19,264,240
1641	National Stage Search Fee - U.S. was the ISA	120	354,120	283,080
1642	National Stage Search Fee - search report prepared and provided to USPTO	480	32,783,000	31,032,890
1632	National Stage Search Fee - all other situations	600	1,829,520	963,600
1633	National Stage Examination Fee - all other situations	720	52,477,840	49,340,160
1614	Claims - extra independent (over three)	420	7,692,960	6,393,270
1615	Claims - extra total (over 20)	80	9,796,680	6,832,982
1616	Claims - multiple dependent	780	777,600	597,090
1617	Search fee, examination fee or oath or declaration after the date of commencement of the national stage	140	3,803,520	3,200,790
1618	English translation after thirty months from priority date	140	225,960	210,300

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
1681	National Stage Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	400	2,000,000	1,865,200
	<b>Total PCT Fees - National Stage (Large Entity)</b>		<b>\$132,400,800</b>	<b>\$119,983,602</b>
	PCT Fees - National Stage (Small Entity):			
2631	Basic National Stage Fee	\$140	\$3,095,750	\$2,910,050
2641	National Stage Search Fee - U.S. was the ISA	60	182,910	241,560
2642	National Stage Search Fee - search report prepared and provided to USPTO	240	4,323,000	3,750,475
2632	National Stage Search Fee - all other situations	300	307,440	221,070
2633	National Stage Examination Fee - all other situations	360	7,801,820	7,319,625
2614	Claims - extra independent (over three)	210	1,329,240	1,216,410
2615	Claims - extra total (over 20)	40	2,841,660	2,264,218
2616	Claims - multiple dependent	390	207,200	182,130
2617	Search fee, examination fee or oath or declaration after the date of commencement of the national stage	70	813,960	694,685
2618	English translation after thirty months from priority date	70	62,160	55,510
2681	National Stage Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	200	433,600	427,200
	<b>Total PCT Fees - National Stage (Small Entity)</b>		<b>\$21,398,740</b>	<b>\$19,282,933</b>
	PCT Fees - National Stage (Micro Entity):			
3631	Basic National Stage Fee	\$70	\$92,655	\$108,850
3641	National Stage Search Fee - U.S. was the ISA	30	6,370	9,480
3642	National Stage Search Fee - search report prepared and provided to USPTO	120	118,000	129,240
3632	National Stage Search Fee - all other situations	150	17,640	22,350
3633	National Stage Examination Fee - all other situations	180	230,880	269,820
3614	Claims - extra independent (over three)	105	28,820	35,175
3615	Claims - extra total (over 20)	20	60,075	47,040
3616	Claims - multiple dependent	195	8,800	9,750
3617	Search fee, examination fee or oath or declaration after the date of commencement of the national stage	35	12,320	11,445
3618	English translation after thirty months from priority date	35	1,890	2,905
3681	National Stage Application Size Fee - for each additional 50 sheets that exceeds 100 sheets	100	4,800	5,000
	<b>Total PCT Fees - National Stage (Micro Entity)</b>		<b>\$582,250</b>	<b>\$651,055</b>
	<b>Total PCT Fees - National Stage</b>		<b>\$154,381,790</b>	<b>\$139,917,590</b>
	PCT Fees - International Stage (Large Entity):			
1601	Transmittal fee	\$240	\$9,853,440	\$9,096,240
1602	Search fee - regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16)	2,080	16,976,960	16,131,640
1604	Supplemental search fee when required, per additional invention	2,080	915,200	933,920
1621	Transmitting application to Intl. Bureau to act as receiving office	240	96,480	109,200
1605	Preliminary examination fee - U.S. was the ISA	600	381,600	199,200
1606	Preliminary examination fee - U.S. was not the ISA	760	267,520	198,360



Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
1607	Supplemental examination fee per additional invention	600	9,600	2,400
1619	Late payment fee	var	275,000	99,171
1624	Suspense Account for PCT Payments	var	0	52,180
16XX	LATE FILING OF SEQUENCE LISTING		55,500	0
Total PCT Fees - International Stage (Large Entity)			\$28,831,300	\$26,822,310
PCT Fees - International Stage (Small Entity):				
2601	Transmittal fee	\$120	\$2,001,360	\$2,055,000
2602	Search fee - regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16)	1,040	10,805,600	12,656,800
2604	Supplemental search fee when required, per additional invention	1,040	617,760	627,120
2621	Transmitting application to Intl. Bureau to act as receiving office	120	29,280	40,560
2605	Preliminary examination fee - U.S. was the ISA	300	129,600	126,300
2606	Preliminary examination fee - U.S. was not the ISA	380	35,720	28,120
2607	Supplemental examination fee per additional invention	300	7,200	9,000
2619	Late payment fee	var	0	821
26XX	LATE FILING OF SEQUENCE LISTING		5,550	0
Total PCT Fees - International Stage (Small Entity)			\$13,632,070	\$15,543,721
PCT Fees - International Stage (Micro Entity):				
3601	Transmittal fee	\$60	\$77,160	\$67,560
3602	Search fee - regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16)	520	558,480	567,840
3604	Supplemental search fee when required, per additional invention	520	41,600	48,360
3621	Transmitting application to Intl. Bureau to act as receiving office	60	1,560	1,380
3605	Preliminary examination fee - U.S. was the ISA	150	8,100	9,900
3606	Preliminary examination fee - U.S. was not the ISA	190	760	380
3607	Supplemental examination fee per additional invention	150	300	0
3619	Late payment fee	var	0	632
36XX	LATE FILING OF SEQUENCE LISTING		300	0
Total PCT Fees - International Stage (Micro Entity)			\$688,260	\$696,052
Total PCT Fees - International Stage			\$43,151,630	\$43,062,083
Total PCT Fees			\$197,533,420	\$182,979,673
Hague International Design Application Fees (Large Entity):				
1781	Transmittal Fee	\$120	\$30,960	\$15,480
1791	International Design Application First Part U.S. Designation Fee	760	252,320	1,130,880
1792	(Part II Designation Fee) Issue Fee Paid Through the International Bureau in an International Design Application	560	134,400	87,360
9989	Suspense Account for Hague Transactions	var	0	0
Total Hague International Design Application Fees (Large Entity)			\$417,680	\$1,233,720

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
Hague International Design Application Fees (Small Entity):				
2781	Transmittal Fee	\$120	\$0	\$120
2791	International Design Application First Part U.S. Designation Fee	380	81,320	170,240
2792	(Part II Designation Fee) Issue Fee Paid Through the International Bureau in an International Design Application	280	0	20,720
Total Hague International Design Application Fees (Small Entity)			\$81,320	\$191,080
Hague International Design Application Fees (Micro Entity):				
3781	Transmittal Fee	\$120	\$0	\$120
3791	International Design Application First Part U.S. Designation Fee	190	9,120	22,230
3792	(Part II Designation Fee) Issue Fee Paid Through the International Bureau in an International Design Application	140	0	2,240
Total Hague International Design Application Fees (Micro Entity)			\$9,120	\$24,590
Total Hague International Design Application Fees			\$508,120	\$1,449,390
Patent Petition Fees (Large Entity):				
1462	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	\$400	\$598,800	\$464,800
1463	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200	828,000	863,000
1464	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	140	1,083,600	1,125,570
1453	Petition for revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, or for the delayed response by the patent owner in any reexamination proceeding	1,700	6,371,400	5,283,600
1454	Petition for the delayed submission of a priority or benefit claim, or to restore the right of priority or benefit	1,700	3,333,700	2,490,500
1784	Petition to excuse applicant's failure to act within prescribed time limits in an international design application	1,700	6,800	1,700
1783	Petition to convert an international design application to a design application under 35 U.S.C. chapter 16	180	0	0
1455	Filing an application for patent term adjustment	200	396,400	68,600
1456	Request for reinstatement of term reduced	400	7,200	1,600
1824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	1,940	589,760	209,520
1457	Extension of term of patent	1,120	89,600	96,320
1458	Initial application for interim extension (see 37 CFR 1.790)	420	1,680	1,260
1459	Subsequent application for interim extension (see 37 CFR 1.790)	220	440	880
Total Patent Petition Fees (Large Entity)			\$13,307,380	\$10,607,350
Patent Petition Fees (Small Entity):				
2462	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	\$200	\$246,200	\$180,800
2463	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	100	49,000	46,200
2464	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	70	203,420	244,440
2453	Petition for revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, or for the delayed response by the patent owner in any reexamination proceeding	850	4,280,900	3,378,750

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
2454	Petition for the delayed submission of a priority or benefit claim, or to restore the right of priority or benefit	850	1,309,800	1,127,950
2783	Petition to convert an international design application to a design application under 35 U.S.C. chapter 16	180	0	0
2455	Filing an application for patent term adjustment	200	0	10,000
2456	Request for reinstatement of term reduced	400	0	1,200
2784	Petition to excuse applicant's failure to act within prescribed time limits in an international design application	850	3,400	1,700
2824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	970	25,220	5,820
2457	Extension of term of patent	1,120	0	4,480
2458	Initial application for interim extension (see 37 CFR 1.790)	420	0	0
2459	Subsequent application for interim extension (see 37 CFR 1.790)	220	0	220
Total Patent Petition Fees (Small Entity)			\$6,117,940	\$5,001,560
Patent Petition Fees (Micro Entity):				
3462	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	\$100	\$17,600	\$21,800
3463	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	50	2,300	2,300
3464	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	35	7,350	7,140
3453	Petition for revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, or for the delayed response by the patent owner in any reexamination proceeding	850	0	764,150
3454	Petition for the delayed submission of a priority or benefit claim, or to restore the right of priority or benefit	850	103,950	144,500
3783	Petition to convert an international design application to a design application under 35 U.S.C. chapter 16	180	0	0
3455	Filing an application for patent term adjustment	200	0	400
3456	Request for reinstatement of term reduced	400	0	0
3784	Petition to excuse applicant's failure to act within prescribed time limits in an international design application	850	0	0
3824	Petitions in a reexamination proceeding, except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)	485	0	0
3457	Extension of term of patent	1,120	0	0
3458	Initial application for interim extension (see 37 CFR 1.790)	420	0	0
3459	Subsequent application for interim extension (see 37 CFR 1.790)	220	0	0
Total Patent Petition Fees (Micro Entity)			\$131,200	\$940,290
Total Patent Petition Fees			\$19,556,520	\$16,549,200
Patent Service Fees:				
8001	Printed copy of patent w/o color, delivery by USPS, USPTO Box, or electronic means	\$3	\$156,000	\$137,595
8005	Patent Application Publication (PAP)	3	3,000	1,095
8003	Printed copy of plant patent in color	15	2,400	6,180
8004	Color copy of patent (other than plant patent) containing a color drawing	25	50	100

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
8007	Copy of patent application as filed	20	1,761,540	1,279,000
8008	Copy of patent-related file wrapper and contents of 400 or fewer pages, if provided on paper	200	73,400	153,800
8009	Additional fee for each additional 100 pages of patent-related file wrapper and (paper) contents, or portion thereof	40	17,960	53,240
8010	Individual application documents, other than application as filed, per document	25	13,150	15,125
8011	Copy of patent-related file wrapper and contents if provided electronically or on a physical electronic medium as specified in 1.19(b)(1)(ii)	55	88,330	151,800
8012	Additional fee for each continuing physical electronic medium in single order of 1.19(b)(1)(ii)(B)	15	555	2,010
8013	Copy of office records, except copies of applications as filed	25	201,000	171,175
8014	For assignment records, abstract of title and certification, per patent	25	1,137,000	738,125
8904	Library service	50	2,400	2,341
8016	Uncertified statement re status of maintenance fee payments	10	0	0
8017	Copy of non-U.S. document	25	0	25
8050	Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits	var	0	0
8020	International type search report	40	80	0
8901	REPS	var	118,080	100,530
8902	Self-service copy charge, per page	var	54,625	167,624
8021	Recording each patent assignment, agreement or other paper, per property - if not submitted electronically	40	215,820	103,000
8022	Publication in Official Gazette	25	4,500	5,875
8023	Labor charges for services, per hour or fraction thereof	40	50,320	86,680
8024	Unspecified other services, excluding labor	var	25,340	31,200
8026	Handling fee for incomplete or improper application	130	56,420	47,450
8031	Computer Records	var	44,760	200
80AA	COPY PATENT FILE WRAPPER, PAPER MEDIUM, ANY NUMBER OF SHEETS		135,520	0
80BB	COPY PATENT FILE WRAPPER, ELECTRONIC MEDIUM, ANY SIZE		89,650	0
80CC	ADDITIONAL FEE FOR OVERNIGHT DELIVERY		3,200	0
80DD	ADDITIONAL FEE FOR EXPEDITED SERVICE		56,000	0
80EE	COPY OF PATENT GRANT SINGLE-PAGE TIFF IMAGES		31,200	0
80FF	COPY OF PATENT GRANT FULL-TEXT W/EMBEDDED IMAGES, PATENT APPLICATION PUBLICATION SINGLE-PAGE TIFF IMAGES, OR PATENT APPLICATION PUBLICATION FULL-TEXT W/EMBEDDED IMAGES		41,600	0
80GG	COPY OF PATENT BIBLIOGRAPHIC EXTRACT AND OTHER DVD (OPTICAL DISC) PRODUCTS		2,000	0
80HH	COPY OF U.S. PATENT CUSTOM DATA EXTRACTS		1,900	0
80JJ	COPY OF SELECTED TECHNOLOGY REPORTS, MISCELLANEOUS TECHNOLOGY AREAS		900	0
	<b>Total Patent Service Fees</b>		<b>\$4,388,700</b>	<b>\$3,254,170</b>
	Miscellaneous Patent Fees (Large Entity):			
1819	Correction of inventorship after first action on merits	\$600	\$728,400	\$752,400
1830	Processing fee, except in provisional applications	140	2,003,400	2,449,860
1808	Other publication processing fee	130	28,600	11,180

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
1803	Request for voluntary publication or republication	130	33,540	15,600
1802	Request for expedited examination of a design application	900	309,600	270,000
1806	Submission of an Information Disclosure Statement	180	32,490,720	20,703,240
1818	Document fee for third-party submissions (see 37 CFR 1.290(f))	180	87,840	73,080
1807	Processing fee for provisional applications	50	389,600	201,600
1809	Filing a submission after final rejection (see 37 CFR 1.129(a))	840	36,960	51,240
1810	For each additional invention to be examined (see 37 CFR 1.129(b))	840	0	840
1815	Suspense Account for Patent Processing Fees	var	1,660	4,730
18XX	Submission of an Information Disclosure Statement After Allowance		14,253,000	0
1999	Patent Unassigned Fees	var	1,900,000	1,347,778
<b>Total Miscellaneous Patent Fees (Large Entity)</b>			<b>\$52,263,320</b>	<b>\$25,881,548</b>
Miscellaneous Patent Fees (Small Entity):				
2819	Correction of inventorship after first action on merits	\$300	\$214,200	\$237,900
2830	Processing fee, except in provisional applications	70	640,920	732,830
2808	Other publication processing fee	130	0	6,240
2803	Request for voluntary publication or republication	130	0	2,600
2802	Request for expedited examination of a design application	450	69,300	167,400
2806	Submission of an Information Disclosure Statement	90	3,354,720	2,492,640
2818	Document fee for third-party submissions (see 37 CFR 1.290(f))	90	17,820	14,850
2807	Processing fee for provisional applications	50	0	127,750
2809	Filing a submission after final rejection (see 37 CFR 1.129(a))	420	10,080	20,160
2810	For each additional invention to be examined (see 37 CFR 1.129(b))	420	0	420
28XX	Submission of an Information Disclosure Statement After Allowance		1,471,800	0
<b>Total Miscellaneous Patent Fees (Small Entity)</b>			<b>\$5,778,840</b>	<b>\$3,802,790</b>
Miscellaneous Patent Fees (Micro Entity):				
3819	Correction of inventorship after first action on merits	\$150	\$7,500	\$9,900
3830	Processing fee, except in provisional applications	35	35,420	43,260
3808	Other publication processing fee	130	0	520
3803	Request for voluntary publication or republication	130	0	130
3802	Request for expedited examination of a design application	225	12,600	15,975
3806	Submission of an Information Disclosure Statement	45	33,120	32,985
3807	Processing fee for provisional applications	50	0	6,350
3809	Filing a submission after final rejection (see 37 CFR 1.129(a))	210	1,680	1,050
3810	For each additional invention to be examined (see 37 CFR 1.129(b))	210	0	0
38XX	Submission of an Information Disclosure Statement After Allowance		14,550	0
<b>Total Miscellaneous Patent Fees (Micro Entity)</b>			<b>\$104,870</b>	<b>\$110,170</b>
<b>Total Miscellaneous Patent Fees</b>			<b>\$58,147,030</b>	<b>\$29,794,508</b>
Patent Enrollment Fees:				
9001	Application fee (non-refundable)	\$40	\$244,160	\$115,080

Fee Code	Fee Title	Fee Rates	President s Budget Plan Collections	Actual Collections
9010	For test administration by commercial entity	200	651,600	535,800
9011	For test administration by the USPTO	450	2,700	1,800
9003	Registration to practice or grant of limited recognition under §11.9(b) or (c)	100	217,500	110,400
9025	Registration to practice for change of practitioner type	100	59,000	37,800
9005	Certificate of good standing as an attorney or agent	10	7,350	3,180
9006	Certificate of good standing as an attorney or agent, suitable for framing	20	700	480
9012	Review of decision by the Director of Enrollment and Discipline under §11.2(c)	130	2,120	1,040
9013	Review of decision of the Director of Enrollment and Discipline under §11.2(d)	130	530	130
9020	Delinquency fee for annual fee	50	8,200	550
9004	Reinstatement to practice	100	9,600	3,300
9014	Application fee for person disciplined, convicted of a felony or certain misdemeanors under §11.7(h)	1,600	19,200	20,800
9024	Unspecified other services,excluding labor	var	1,290	770
90AA	GRANT OF LIMITED RECOGNITION UNDER §11.9(B) OR (C)		6,000	0
90BB	ESTABLISH OED INFORMATION SYSTEM CUSTOMER INTERFACE ACCOUNT (ID & PASSWORD) - PERFORMED BY OED		560	0
90CC	ROSTER MAINTENANCE IN OED INFORMATION SYSTEM CUSTOMER INTERFACE (CHANGE OF ADDRESS) - PERFORMED BY OED		35,000	0
90DD	REGISTRATION EXAMINATION REVIEW SESSION		1,350	0
90EE	DISCIPLINARY PROCEEDING		1,500	0
	<b>Total Patent Enrollment Fees</b>		<b>\$1,268,360</b>	<b>\$831,130</b>
	<b>Finance Service Fees:</b>			
9201	Establish deposit account		\$700	\$0
9202	Service charge for below minimum balance	\$25	86,675	55,876
9101	Processing each payment refused or charged back	50	17,600	38,152
9209	Partial Service Charge for Closing a Deposit Account	var	1,670	985
	<b>Total Finance Service Fees</b>		<b>\$106,645</b>	<b>\$95,013</b>
	<b>Total Patent Fees</b>		<b>\$2,986,411,955</b>	<b>\$2,772,172,480</b>
	<b>Trademark Application Filings:</b>			
6001	Application for registration, per international class (paper filing)	\$600	\$1,050,525	\$256,050
6006	Dividing an application, per new application (file wrapper) created	200	14,700	2,400
6008	Additional fee for application that doesn't meet TEAS Plus filing requirements, per class	125	29,000	4,475
7001	Application for registration, per international class (electronic filing, TEAS application)	400	17,787,900	5,473,550
7006	Dividing an application, per new application (file wrapper) created	100	642,400	371,200
7007	Application for registration, per international class (electronic filing, TEAS Plus application)	225	53,566,200	51,288,300
7008	Additional fee for application that doesn't meet TEAS Plus filing requirements, per class	125	309,200	277,575
7009	Application for registration, per international class (electronic filing, TEAS RF application)	275	66,572,275	84,623,550
7931	Application Fee Filed at WIPO	400	18,028,075	18,792,725
7933	Subsequent Designation Fee Filed at WIPO	400	1,356,875	1,435,075
	<b>Total Trademark Application Filings</b>		<b>\$159,357,150</b>	<b>\$162,524,900</b>

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
Maintaining Exclusive Rights:				
6201	Application for renewal under §9, per class	\$500	\$411,800	\$182,200
6203	Additional fee for filing renewal application during grace period, per class	200	20,100	3,400
6204	Correcting a deficiency in a renewal application	200	700	0
6205	Filing §8 affidavit, per class	225	236,400	132,875
6206	Additional fee for filing §8 affidavit during grace period, per class	200	24,700	13,000
6207	Correcting a deficiency in a §8 affidavit	200	5,100	5,700
6208	Filing §15 affidavit, per class	300	174,100	87,900
6210	Publication of mark under §12(c), per class	200	0	0
6211	Issuing new certificate of registration	200	1,400	600
6212	Certificate of correction, registrant's error	200	1,400	500
6213	Filing disclaimer to registration	200	0	0
6214	Filing amendment to registration	200	19,300	3,500
6215	Filing §71 affidavit, per class	250	3,300	100
6216	Filing §71 affidavit grace period, per class	200	500	0
7201	Application for renewal under §9, per class	300	27,203,700	28,147,200
7203	Additional fee for filing renewal application during grace period, per class	100	899,200	850,200
7204	Correcting a deficiency in a renewal application	100	12,900	30,100
7205	Filing §8 affidavit, per class	125	20,516,100	23,152,975
7206	Additional fee for filing §8 affidavit during grace period, per class	100	2,143,700	1,918,300
7207	Correcting a deficiency in a §8 affidavit	100	136,100	220,500
7208	Filing §15 affidavit, per class	200	19,260,200	17,884,800
7210	Publication of mark under §12(c), per class	100	0	0
7211	Issuing new certificate of registration	100	300	900
7212	Certificate of correction, registrant's error	100	466,300	516,000
7213	Filing disclaimer to registration	100	0	100
7214	Filing amendment to registration	100	7,100	17,200
7215	Filing §71 affidavit, per class	150	100	100
7216	Filing §71 affidavit grace period, per class		0	0
Total Maintaining Exclusive Rights			\$71,544,500	\$73,168,150
Intent to Use/Use Fees:				
6002	Filing an Amendment to Allege Use under §1(c), per class	\$200	\$18,000	\$5,600
6003	Filing a Statement of Use under §1(d)(1), per class	200	106,200	41,100
6004	Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under §1(d)(1), per class	225	420,850	47,625
7002	Filing an Amendment to Allege Use under §1(c), per class	100	954,300	827,800
7003	Filing a Statement of Use under §1(d)(1), per class	100	12,178,900	11,176,700
7004	Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under §1(d)(1), per class	125	63,688,500	34,038,925
Total Intent to Use/Use Fees			\$77,366,750	\$46,137,750

Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
Trademark Madrid Protocol Fees:				
6901	Certifying an International application based on single application or registration, per class	\$200	\$3,500	\$1,200
6902	Certifying an International application based on more than one basic application or registration, per class	250	0	3,000
6903	Transmitting a Request to Record an Assignment or restriction under 7.23 or 7.24	200	200	1,500
6904	Filing a Notice of Replacement, per class	200	0	0
6907	Transmitting a subsequent designation	200	700	0
6908	Correcting a deficiency in an affidavit under 71 of the Act	200	0	0
7901	Certifying an International application based on single application or registration, per class	100	1,364,700	1,149,000
7902	Certifying an International application based on more than one basic application or registration, per class	150	355,650	252,000
7903	Transmitting a Request to Record an Assignment or restriction under 7.23 or 7.24	100	0	0
7904	Filing a Notice of Replacement, per class	100	900	400
7907	Transmitting a subsequent designation	100	157,200	122,900
7908	Correcting a deficiency in an affidavit under 71 of the Act	100	100	19,300
6905	Filing an affidavit under 71 of the Act, per class	225	14,500	9,075
6906	Surcharge for filing affidavit under 71 of the Act during grace period, per class	200	200	100
7905	Filing an affidavit under 71 of the Act, per class	125	994,800	1,640,250
7906	Surcharge for filing affidavit under 71 of the Act during grace period, per class	100	180,100	257,800
Total Trademark Madrid Protocol Fees			\$3,072,550	\$3,456,525
Trademark Trial and Appeal Board:				
6401	Petition for cancellation, per class	\$500	\$42,700	\$7,700
6402	Notice of opposition, per class	500	26,500	7,900
6403	Ex parte appeal, per class	300	27,000	6,000
7401	Petition for cancellation, per class	400	1,237,500	1,231,900
7402	Notice of opposition, per class	400	3,877,100	3,501,900
7403	Ex parte appeal, per class	200	1,038,300	741,300
6404	Filing a request for an extension of time to file a notice of opposition under §2.102(c)(1)(ii) or (c)(2)	200	35,800	0
6405	Filing a request for an extension of time to file a notice of opposition under §2.102(c)(3)	300	21,900	0
7404	Filing a request for an extension of time to file a notice of opposition under §2.102(c)(1)(ii) or (c)(2)	100	875,200	689,400
7405	Filing a request for an extension of time to file a notice of opposition under §2.102(c)(3)	200	714,600	408,600
Total Trademark Trial and Appeal Board			\$7,896,600	\$6,594,700
Other Trademark Fees:				
6991	Recordal application fee	\$20	\$700	\$520
6992	Renewal application fee	20	720	960
6993	Late fee for renewal application	20	60	180
6994	Application fee for reactivation of insignia, per request	20	80	80
6999	Trademark Unassigned Fees	var	1,000	5,521
7932	Renewal Fee Filed at WIPO	300	3,799,600	2,769,400



Fee Code	Fee Title	Fee Rates	President's Budget Plan Collections	Actual Collections
9990	International Bureau Unassigned Fees	var	200,000	215
8501	Printed copy of registered mark, delivery by USPS, USPTO Box, or electronic means	3	300	315
8503	Certified copy of registered mark, with title and/or status, regular service	15	126,765	110,280
8504	Certified copy of registered mark, with title and/or status, expedited local service	30	71,970	60,990
8507	Certified copy of trademark application as filed	15	368,685	314,430
8508	Certified or uncertified copy of trademark-related file wrapper and contents	50	52,250	50,850
8513	Certified or uncertified copy of trademark document, unless otherwise provided	25	12,675	9,900
8514	For assignment records, abstracts of title and certification per registration	25	15,175	15,375
8521	Recording trademark assignment, agreement or other paper, first mark per document	40	1,472,600	1,631,120
8522	For second and subsequent marks in the same document	25	5,505,100	5,779,875
8523	Labor charges for services, per hour or fraction thereof		7,880	3,040
8524	Unspecified other services, excluding labor		1,520	280
8531	Trademark Computer Records		0	0
8901	REPS	var	1,880	1,945
8902	Self Service Copy Charge, per Page		875	3,243
8904	Annual Library Subscription	50	1,800	1,909
8533	Additional fee for overnight delivery	40	320	720
8534	Additional fee for expedited service	160	10,880	11,520
Total Other Trademark Fees			\$11,652,835	\$10,772,667
Trademark Processing Fees:				
6005	Petitions to the Director (Paper Correspondence)	\$200	\$36,700	\$7,200
7005	Petitions to the Director (Electronic Correspondence)	100	3,674,500	2,360,500
Total Trademark Processing Fees			\$3,711,200	\$2,367,700
Finance Service Fees:				
9101	Processing Each Payment Refused or Charged Back	\$50	\$1,750	\$4,198
9201	Establish or Reinstate Deposit Account		70	0
9202	Service Charge for Below Minimum Balance on Deposit Accounts	25	8,625	6,149
9209	Partial service charge for closing a deposit account	var	160	108
Total Finance Service Fees			\$10,605	\$10,455
Total Trademark Fees			\$334,612,190	\$305,032,848
Total United States Patent and Trademark Office Fees			\$3,321,024,145	\$3,077,205,328