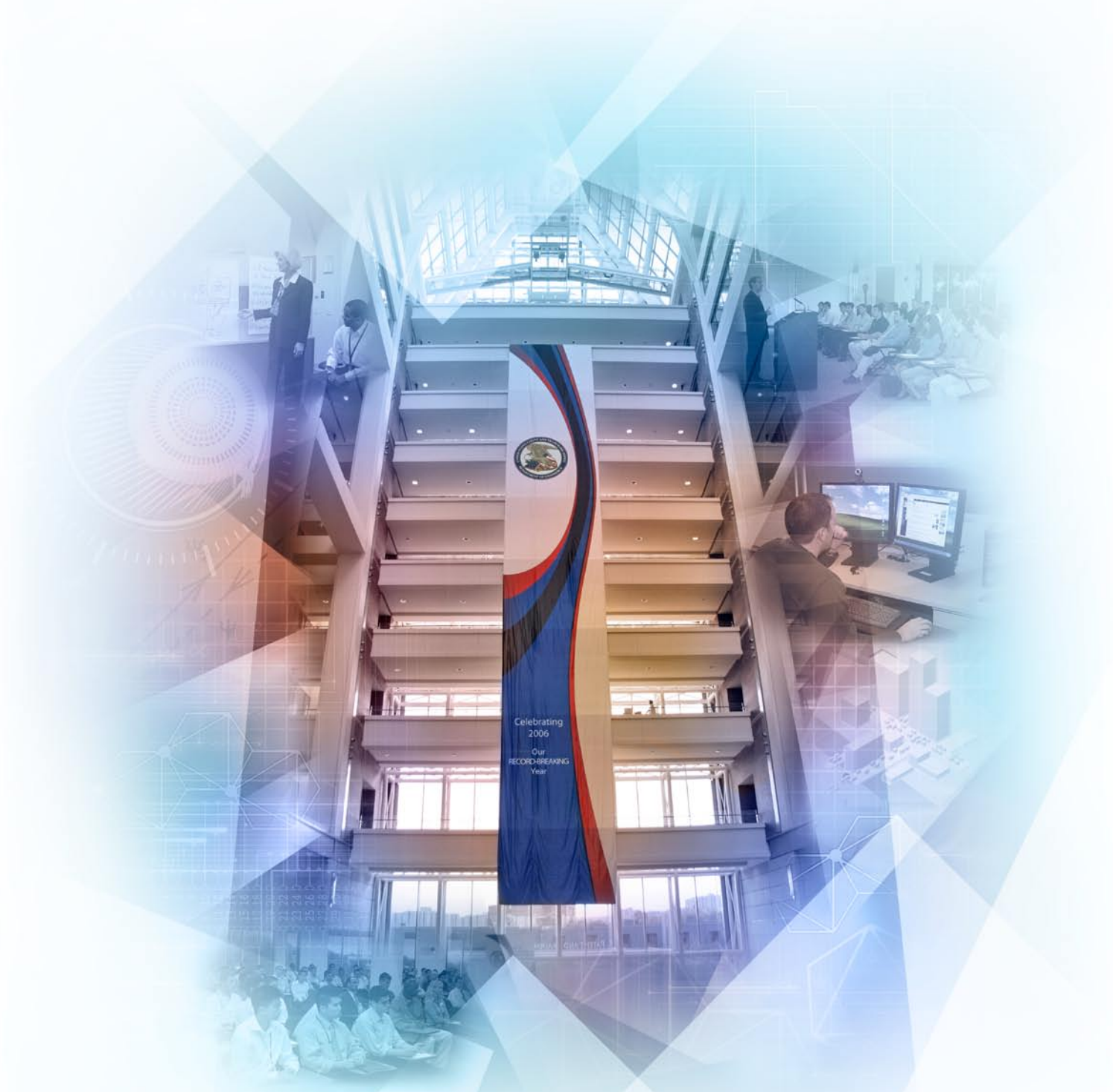
# United States Patent and Trademark Office

PERFORMANCE AND ACCOUNTABILITY REPORT

FISCAL YEAR 2006




*Our Record-Breaking Year*

## FINANCIAL HIGHLIGHTS

| (Dollars In Thousands) | % Change 2006 over 2005 | September 30, 2006 | September 30, 2005 |
|---|---|---|---|
| Fund Balance with Treasury | 13.0% | $ 1,401,771 | $ 1,240,798 |
| Property, Plant, and Equipment, Net | 10.9% | 164,538 | 148,401 |
| Other Assets | (29.9)% | 13,987 | 19,950 |
| Total Assets | 12.1% | $ 1,580,296 | $ 1,409,149 |
| Deferred Revenue | 9.6% | $ 774,425 | $ 706,734 |
| Accounts Payable | 2.6% | 104,390 | 101,770 |
| Accrued Payroll, Benefits, and Leave | 11.7% | 101,368 | 90,727 |
| Other Liabilities | 10.9% | 102,115 | 92,088 |
| Total Liabilities | 9.2% | $ 1,082,298 | $ 991,319 |
| Net Position | 19.2% | 497,998 | 417,830 |
| Total Liabilities & Net Position Program | 12.1% | $ 1,580,296 | $ 1,409,149 |
| Total Program Cost | 6.3% | $ 1,514,169 | $ 1,424,028 |
| Total Earned Revenue | 16.1% | (1,594,437) | (1,372,807) |
| Net (Income)/Cost of Operations | (256.7)% | $ (80,268) | $ 51,221 |
| Budgetary Resources Available for Spending | 11.2% | $ 1,680,101 | $ 1,511,155 |
| Total Collections, Net | 48.7% | $ 151,818 | $ 102,126 |
| Federal Personnel | 11.2% | 8,189 | 7,363 |
| Disbursements by Electronic Funds Transfer (EFT) | — | 99% | 99% |
| On-Time Payments to Vendors | (2.0)% | 97% | 99% |

## PERFORMANCE HIGHLIGHTS

| Performance Measures | Target | Actual | Met/Not Met Score[1] |
|---|---|---|---|
| Patent Allowance Error Rate | 4.0% | 3.5% | |
| Patent In-Process Examination Compliance Rate | 86.0% | 90.0% | |
| Patent Average First Action Pendency (months) | 22.0 | 22.6 | |
| Patent Average Total Pendency (months) | 31.3 | 31.1 | |
| Patent Efficiency | $4,214 | $3,798 | |
| Trademark Final Action Deficiency Rate | 6.5% | 3.6% | |
| Trademark First Action Deficiency Rate | 6.5% | 4.3% | |
| Trademark First Action Pendency (months) | 5.3 | 4.8 | |
| Trademark Final Action Pendency (months) | 18.8 | 18.0 | |
| Trademark Efficiency | $635 | $565 | |
| Patent Applications Filed Electronically | 10.0% | 14.1%[2] | |
| Patent Applications Managed Electronically | 99.0% | 99.9% | |
| Trademark Applications Filed Electronically | 80.0% | 93.8% | |
| Trademark Applications Managed Electronically | 99.0% | 99.9% | |
| Intellectual Property Technical Activities/Countries Completed | 82/77 | 239/102 | / |

[1] *We are using three ratings for "met" or "not met." Green is for actually meeting or exceeding the target. Yellow indicates that the target is at least 75% met. Red indicates that the target was not met by at least 75%.*

[2] *This is preliminary data and is expected to be final by December 2006 and will be reported in the fiscal year (FY) 2007 PAR.*

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WEB ADDRESS FOR THE USPTO PERFORMANCE AND ACCOUNTABILITY REPORT

*http://www.uspto.gov/web/offices/com/annual/2006/index.html*

UNITED STATES PATENT AND TRADEM
DEPARTMENT OF CO

# MESSAGE FROM THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

## FISCAL YEAR 2006: OUR RECORD-BREAKING YEAR

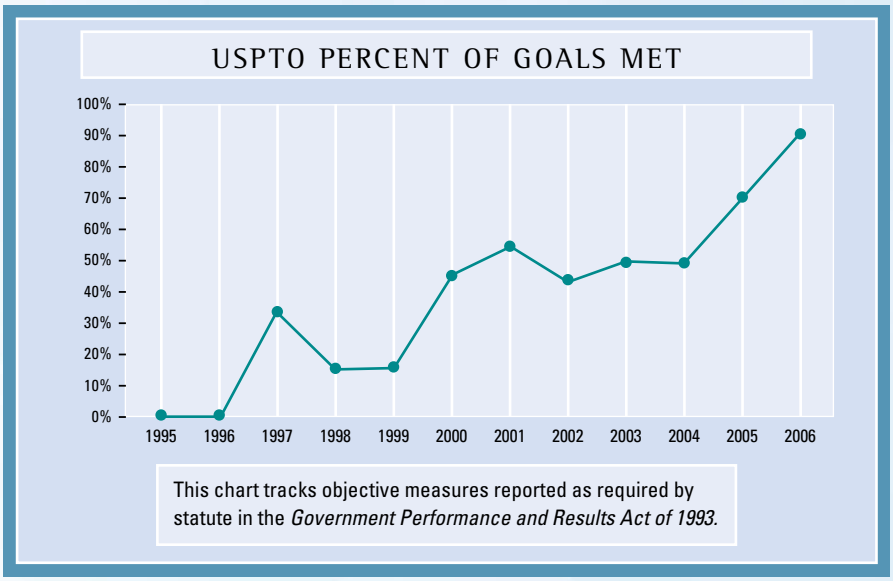
This year, President George W. Bush wrote, "In today's increasingly competitive world, improved enforcement of intellectual property rights is critical to establishing free and fair trade among nations and to protecting consumers and hardworking innovators."

World leaders are talking about intellectual property (IP) because it's becoming increasingly important to the world's economy. That's why it's critical that the United States Patent and Trademark Office (USPTO) continually improve and evolve to foster the growth and protection of our nation's valuable IP resources.

In 2006, the USPTO continued to improve the enforcement of IP rights in our nation and around the world. We led several initiatives to make our own country's system of IP protection even better. And we educated thousands of individuals, businesses, and other governments on the importance of protecting IP.

I am proud to say that fiscal year 2006 was a record-breaking year for the USPTO, in terms of quality, production, electronic filing, teleworking, electronic processing, and hiring.

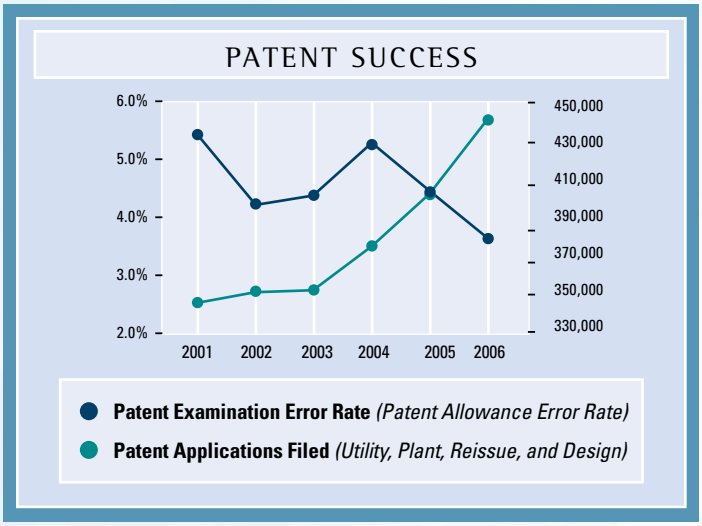
These records reflect the hard work and sound decisions of more than 8,000 USPTO employees. Over the past four years, we have focused internally -- shining a bright light on our organization, raising the bar on our metrics and measures, and making system-wide improvements. We are now seeing the results of those efforts. While we'll continue improving our Agency, we are now working on our next strategic plan, focusing on the bigger picture of how IP and innovation are primary drivers of economic growth for our nation.




This chart tracks objective measures reported as required by statute in the *Government Performance and Results Act of 1993.*

## LEADING WITH PATENTS

Our Patent organization broke virtually every record this year -- in terms of improving quality, efficiency, e-filing, hiring, training, and hoteling. I am particularly proud of the improvements in quality. We had a record of more than 440,000 patent applications filed, and the lowest error rate in 20 years of 3.5 percent. As we define our new strategic plan going forward, we will continue to work with all interested parties to look for new ways to improve and measure quality even more effectively.




However, one challenge that remains is that the volume of patent applications continues to outpace our capacity to examine them. We have a pending application backlog of historic proportions. Patent pendency -- the amount of time a patent application is waiting before a patent is issued or abandoned -- now averages more than 31 months. To turn that corner and reduce the backlog of patent applications and the amount of wait-time for a patent examination, the USPTO is continuing and enhancing several initiatives, and proposing other necessary changes to the patent system as well.

### *Hire, train, retain, and hotel*

The USPTO hired a record 1,218 patent examiners in FY 2006, exceeding our hiring goal by more than 200 people. We also plan to hire 1,200 new examiners in FY 2007, representing another monumental increase.

To match this dramatic hiring, we tried a new way of training. We implemented a university approach to training new examiners, in which we teach them in classroom groups for eight months, rather than using our traditional one-on-one training model. This allowed us to deliver intensive training to the new examiners, while more experienced examiners and supervisors could focus on quality examination.

We implemented recruitment bonuses to hire and retain the talented engineers and scientists we need to examine our increasingly complex applications.

And we added the first 500 examiners to our hoteling program, providing them with the electronic access and equipment they need to do their jobs from remote locations. This gave the USPTO space to add examiners more quickly and cost-effectively. An added benefit for those hoteling has been the reduction of time spent commuting. We plan to add 500 more examiners to the hoteling program in the coming year, and we are piloting a work-at-home program for our technical support staff as well.

### *Implementing Electronic Filing System-Web*

Patents implemented the Electronic Filing System-Web (or EFS-Web), a user-friendly, Internet-based patent application and document submission solution. This system has already dramatically increased the electronic filing of patent applications from 1.5 percent per month to 33 percent per month.

### *Optimizing the patent process*

This year, we proposed rules changes regarding the examination of patent application claims, continuations, and information disclosure statements. Our executive team traveled the nation presenting the proposed rules to interested groups and asking for feedback and alternative solutions from our customers and stakeholders, including independent inventors.

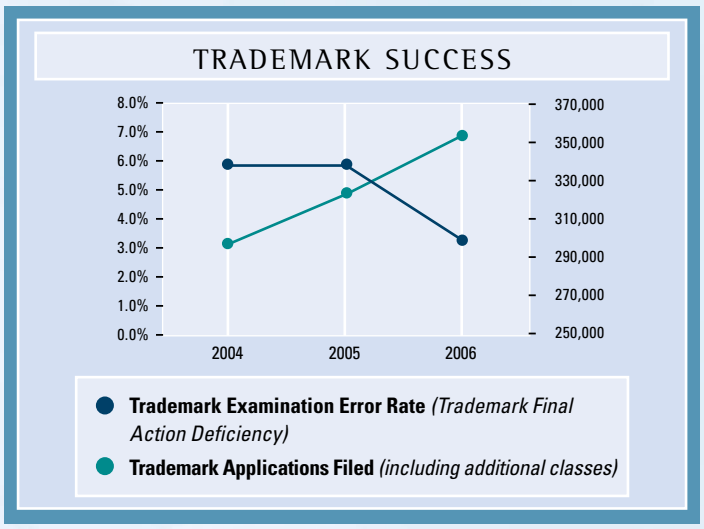
Our goal in these proposed claims and continuations packages is to produce a more focused, higher-quality, and efficient examination. Our goal in the proposed changes to information disclosure statements is to provide the most relevant information to examiners as early as possible.

We also implemented a new accelerated patent examination procedure, which gives participating applicants a final decision on their application within 12 months from filing. This is in return for their providing an appropriate search of the prior art and an improved explanation of their claims and prior art found.

We will continue to work with all interested parties to ensure that we maintain and improve the world's best patent processes and procedures.

## LEADING WITH TRADEMARKS

In FY 2006, the Trademark organization also broke records in quality while increasing production. With more than 354,000 application classes filed, we had a final action error rate of only 3.6 percent. In fact, the Trademark organization exceeded all of its Agency performance targets for the first time since the *Government Performance and Results Act of 1993* mandated establishing Agency goals. Those goals include first and final action quality, production, application pendency, and efficiency.




### *Optimizing the trademark process*

We reduced first action pendency by 1.5 months. We increased by 25 percent our number of "disposals" (instances when trademarks are either registered, or the applicant abandons the application). We made significant progress on improving internal operations. We streamlined our process to further improve disposal pendency and quality. We documented workflows, adopted standardized practices, and retrained employees to enhance trademark consistency and quality.

### *Enhancing trademark e-filing*

Ninety-four percent of trademark applications were filed electronically this year, compared with 88 percent in FY 2005. We continued to enhance electronic filing by expanding the number and type of transactions offered on-line and by offering reduced fees to any applicant who files a complete application using our newer system, Trademark Electronic Application System-Plus.

### *Improving customer service and communications*

The Trademark organization provided more options to enhance the quality of application data in trademark systems and search results. And we expanded the hours of the Trademark call center, and added call center positions to improve service for all our customers.

***Expanding successful Trademark work-at-home program***

The Trademark organization's work-at-home program for examining attorneys received the "Telework Program with Maximum Impact on Government Award" from the Telework Exchange. We expanded the work-at-home program to include 85 percent of all eligible employees. The Trademark work-at-home program is considered a "best practice" because of its success in addressing budgetary, space, retention, recruitment, and job satisfaction issues.

## LEADING WITH INTERNATIONAL RELATIONS AND ENFORCEMENT

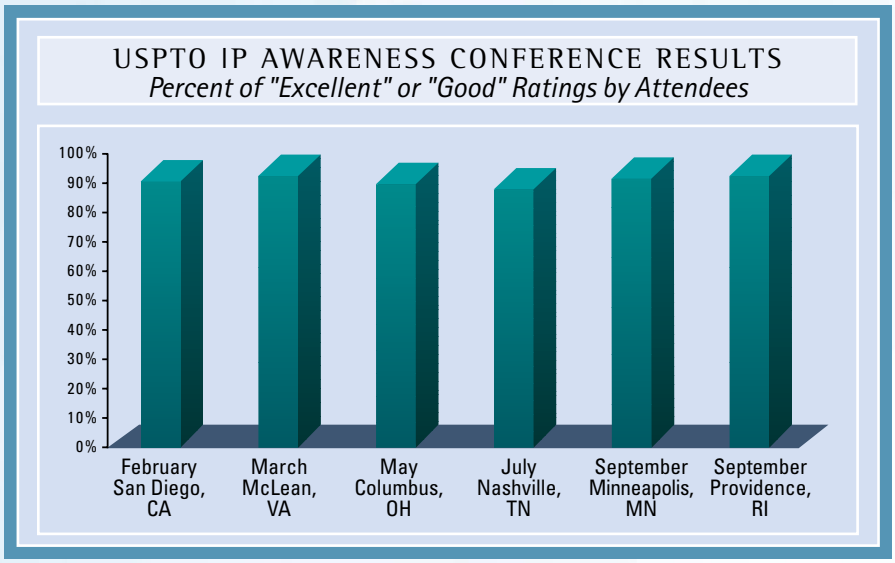
In FY 2006, the USPTO communicated the importance of protecting and respecting IP, both domestically and internationally.

***Working with other U.S. Government agencies***

As part of the Bush Administration's Strategy Targeting Organized Piracy (STOP!) initiative, the USPTO worked with other U.S. Government agencies to fight piracy and counterfeiting around the world. We collaborated on IP training, norm-setting, and enforcement efforts with our colleagues in the Departments of Commerce, Justice, and State; the Department of Homeland Security's Customs and Border Protection; the Copyright Office; and the Office of the United States Trade Representative (USTR). Together, we enhanced the domestic and international IP environment for American businesses.

***Working with individuals and businesses***

As part of STOP!, the USPTO continued a communications campaign to educate small businesses about protecting their IP in the United States and abroad. We offered small-business conferences in San Diego, Northern Virginia, Columbus, Nashville, Minneapolis, and Providence.




Other USPTO conferences focused exclusively on the IP challenges of doing business in China. All conferences had strong attendance, and more than 90 percent of attendees rated them "Excellent" or "Good."

The USPTO continued to staff the STOP! hotline, 1-866-999-HALT, which lets callers receive information from our attorneys with regional expertise on IP rights and enforcement. This year, the hotline received 1,460 phone calls from people across America with a range of IP questions -- a 52 percent increase over FY 2005.

The STOP! gateway Web site, *www.stopfakes.gov*, was expanded to provide more specialized information, including USPTO-designed "IP toolkits" which help businesses protect their rights in other countries.

***Working with other governments***

To strengthen global IP protection, the USPTO represented the United States in discussions and negotiations at the World Intellectual Property Organization (WIPO) throughout the year. Most notably, in March, the USPTO led a delegation to the WIPO Diplomatic Conference, which culminated in the adoption of the Singapore Treaty on the Law of Trademarks. The new treaty will help trademark applicants around the world receive better and faster responses.

The USPTO promoted IP protection in China. Through the Joint Commission on Commerce and Trade (JCCT) and its Intellectual Property Rights (IPR) Working Group, the USPTO and USTR negotiated another set of commitments from the Chinese Government to reduce counterfeiting and piracy. The USPTO signed a Work Plan for Strategic Cooperation with China's patent office, the State Intellectual Property Office, and hosted a delegation from the China Trademark Office to discuss improving trademark protections.

The USPTO conducted 17 Global Intellectual Property Academies for foreign government officials, including judges; prosecutors; police officers; customs officers; patent, trademark, and copyright officials; and policy makers. The USPTO also conducted IPR programs for government officials and private sector representatives around the world, including in Southeast Asia, India, China, the Middle East, North Africa, Latin America, Russia, Turkey, and others.

We placed IP experts in Brazil, China, Egypt, India, and Thailand to advocate improved IP protection for American businesses and to coordinate training to help stop piracy and counterfeiting abroad.

## CONCLUSION

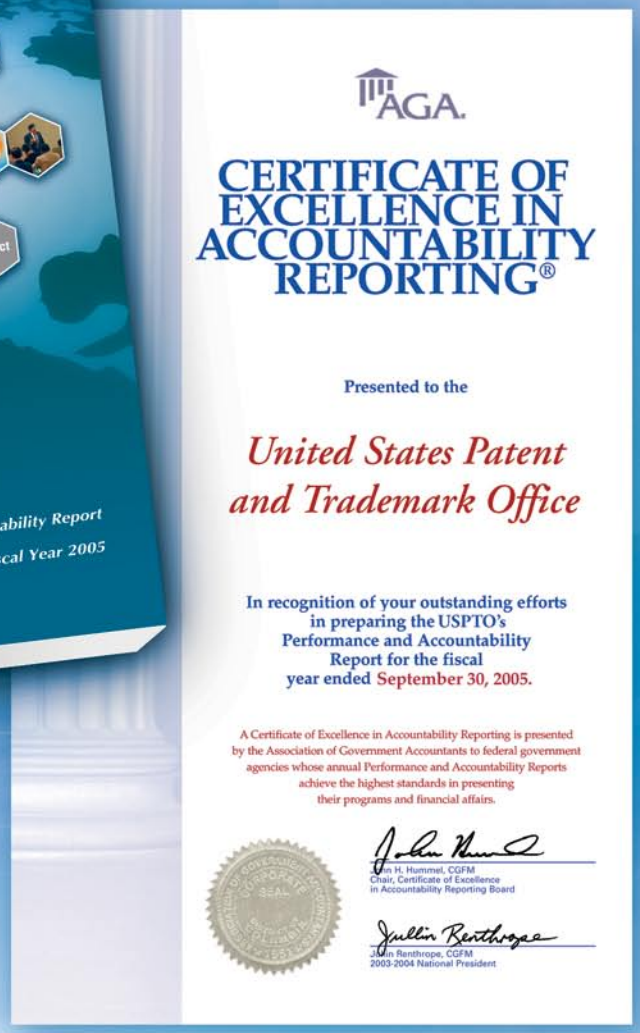
We are confident that the USPTO's financial and performance data is complete, reliable, accurate, and consistent, as we improve our ability to measure progress toward performance objectives.

For the 14th consecutive year, we received an unqualified audit opinion on our annual financial statements. For financial reporting, the independent auditors did not identify any material weaknesses, reportable conditions, or instances of noncompliance. However, we are reporting one non-financial material weakness in information technology security.

During FY 2006, the USPTO lived up to our duty to strengthen intellectual property protection in the United States and around the world. Our vision means continually improving our own operations and preparing to become even more innovative for the future. With the leadership of President George W. Bush and Secretary of Commerce Carlos Gutierrez, I am confident we will continue to meet the challenges of the 21st century.

*Jon W. Dudas*
*Under Secretary of Commerce for Intellectual Property and*
*Director of the United States Patent and Trademark Office*
*November 6, 2006*

# 2005
# Certificate of Excellence



AGA

CERTIFICATE OF EXCELLENCE IN ACCOUNTABILITY REPORTING®

Presented to the

*United States Patent and Trademark Office*

In recognition of your outstanding efforts in preparing the USPTO's Performance and Accountability Report for the fiscal year ended September 30, 2005.

A Certificate of Excellence in Accountability Reporting is presented by the Association of Government Accountants to federal government agencies whose annual Performance and Accountability Reports achieve the highest standards in presenting their programs and financial affairs.

John H. Hummel, CGFM
Chair, Certificate of Excellence in Accountability Reporting Board

Julia Renthrope, CGFM
2003-2004 National President

# Management's Discussion *and* Analysis

UNITED STATES PATENT AND TRADEM
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# MISSION AND ORGANIZATION OF THE USPTO

## MISSION STATEMENT

The USPTO's mission is to foster innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide. Intellectual property includes inventions or creations embodied in the form of a patent, trademark, trade secret, or copyright.

For over 200 years, the core mission of the USPTO has remained the same: to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries (Article 1, Section 8 of the United States Constitution). American industry has flourished under this system of protection as new products have been invented, new uses for existing inventions have been discovered, and employment opportunities have been created for millions of Americans. Customers are protected against confusion and deception in the marketplace, and businesses are given the enhanced protection of trademark rights and notices of the trademark rights claimed by others. Patents and trademarks have long protected American creativity and ingenuity. The first patent was issued in 1790 for a method of making potash fertilizer and the oldest active trademark was originally registered in 1884 for SAMSON, a design for "cords, lines, and ropes."

*USPTO Director Jon Dudas speaks to managers during a management retreat. USPTO leaders worked on the agency's strategic plan for 2007-2012, among other issues.*

The strength and vitality of our economy depends directly on effective mechanisms for protecting new ideas and investments in innovation and creativity. The continued demand for patents and trademarks underscores the ingenuity of American inventors and entrepreneurs. The USPTO is at the cutting edge of our nation's technological progress and achievement.

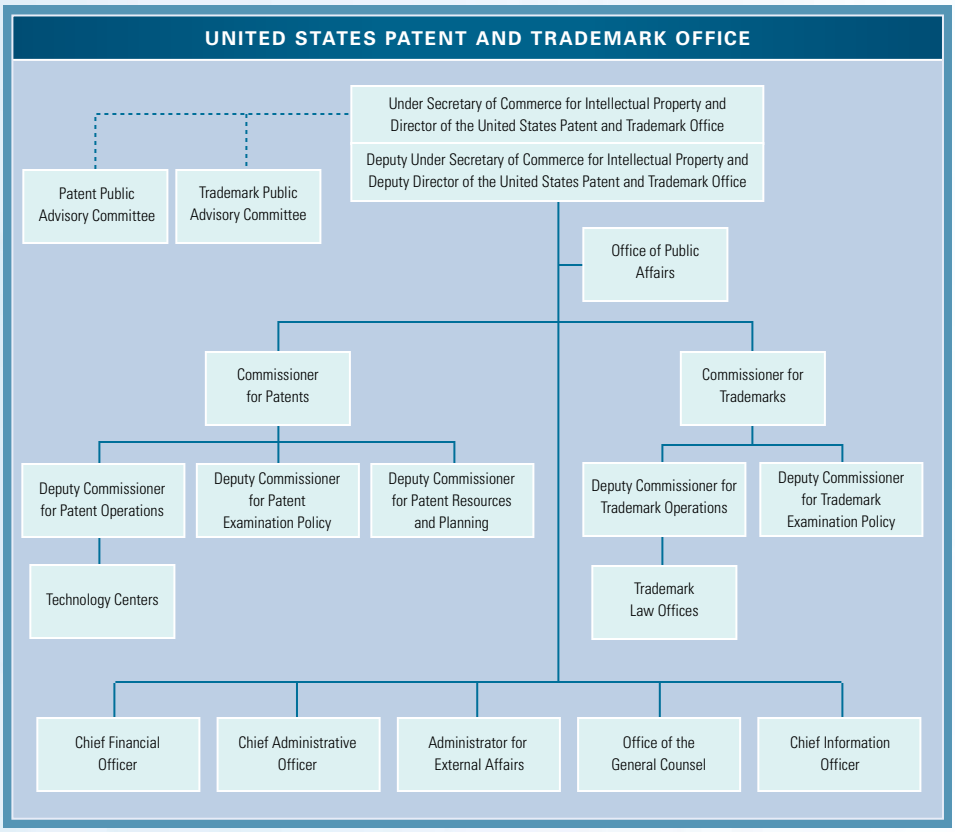
The primary services provided by the USPTO are examining patent and trademark applications, educating, and disseminating patent and trademark information. Through issuing patents, the USPTO encourages technological advancement by providing incentives to invent, invest in, and disclose new technology. Through registering trademarks, the USPTO assists businesses in protecting their investments, promoting quality goods and services, and safeguarding consumers against confusion and deception in the marketplace. In addition to the examination of applications to determine if they qualify for patent grants and trademark registrations, the USPTO provides technical advice and information to Executive Branch agencies on intellectual property matters and the trade-related aspects of intellectual property rights. The USPTO also works with governments of other countries to establish regulatory and enforcement mechanisms that meet international obligations relating to the protection of intellectual property.

## LOCATION, ORGANIZATIONAL STRUCTURE, AND WORKFORCE

*USPTO Director Jon Dudas congratulates Supervisory Patent Examiner Peter Paras, Jr. at an all-employee celebration of FY 2006, a record-breaking year.*

The USPTO is an agency of the United States (U.S.) within the Department of Commerce (DOC). The USPTO is headquartered in Alexandria, Virginia and has two storage facilities located in Alexandria and Springfield, Virginia, as well as leased storage space in Boyers, Pennsylvania. At the end of FY 2006, the USPTO workforce was comprised of 8,189 federal employees, including 4,779 patent examiners and 413 trademark examining attorneys, and 3,817 contract employees.

The USPTO has evolved into a unique government agency. Since 1991—under the Omnibus Budget Reconciliation Act (OBRA) of 1990—the USPTO has received fees from users to fund its operations. The USPTO is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO who consults with the Patent Public Advisory Committee and Trademark Public Advisory Committee. The USPTO has two major business lines – Patents and Trademarks – as shown in the following organization chart:




*Fiscal year 2006 was a record-breaking year for the USPTO. For the third consecutive fiscal year, USPTO demonstrated consistent improvement in significant performance measures, including production and quality. In FY 2006, USPTO's employee's led the agency to meet 90% of our* **Government Performance and Results Act of 1993** *goals, and 94% of overall reported goals. USPTO is a performance-based organization - and we're proud that our emphasis on business-type metrics, goals, and an environment of accountability is leading us to historic successes. Of course, given USPTO's responsibilities as a steward of the public trust, a business model has practical limits. While private businesses operate to maximize profits, the USPTO does not seek to profit maximization as, for example, by cutting unprofitable cost centers. We focus on responsible and efficient management of resources to ensure we achieve our most important goal: quality examination of patent and trademark applications. We are quality driven - not profit driven - and continue to use the best aspects of business models to provide outstanding patent and trademark examination, processing, and services.*

# PERFORMANCE GOALS AND RESULTS

## USPTO STRATEGIC PLAN

The Government Performance and Results Act (GPRA) requires that agencies plan and measure the performance of their programs. In carrying out GPRA, the USPTO prepares a *Strategic Plan* and an annual performance report, which can be found on our website: http://www.uspto.gov/web/offices/com/strat21/index.htm. By design, the performance plan is linked to the budget submissions and reflects the priorities of the Under Secretary and the goals contained in the *21st Century Strategic Plan*. The budget can be found at: http://www.uspto.gov/web/offices/ac/comp/budg/index.html.

The USPTO began FY 2006 guided by the aggressive and far-reaching *21st Century Strategic Plan*. Technology is increasingly complex and customer demands for high quality products and services have escalated. At the same time, the number of pending patent applications in the world's examination pipeline continues to increase significantly. Congress has voiced concerns about the agency's ability to effectively fulfill the mission in the future if we continue to operate in a traditional manner. The *21st Century Strategic Plan* addresses these challenges and concerns. The *Plan* focuses our expertise on examination and leverages that expertise to provide customers with better products and services. Three long-term, cross-cutting strategic themes comprise the *Plan's* core:

- ***Agility:*** Address the 21st century economy by becoming a more agile organization—We will create a flexible organization and work processes that can handle the increasing expectations of our markets, the growing complexity and volume of our work, and the globalization that characterizes the 21st century economy. We will work, both bilaterally and multilaterally, with our partners to create a stronger, better-coordinated, and more streamlined framework for protecting intellectual property around the world. We will transform the USPTO workplace by radically reducing labor-intensive paper processing.
- ***Capability:*** Enhance quality through workforce and process improvements—We will make patent and trademark quality our highest priority by emphasizing quality in every component of this *Strategic Plan*. Through the timely issuance of high quality patents and trademark registrations, we will respond to market forces by promoting advances in technology, expanding business opportunities and creating jobs.
- ***Productivity:*** Accelerate processing times through focused examination—We will control patent and trademark pendency and recover our investments in people, processes, and technology.

The USPTO has developed supporting performance goals and measures to implement our strategic themes. The three supporting performance goals tracked through 16 measures include:

**GOAL 1:** Improve the quality of patent products and services and optimize patent processing time.

**GOAL 2:** Improve the quality of trademark products and services and optimize trademark processing time.

**GOAL 3:** Create a more flexible organization through transitioning patent and trademark operations to an e-government environment and participate in intellectual property development worldwide.

In FY 2006 the USPTO assessed the progress made with the goals and initiatives of the *21st Century Strategic Plan*, as documented in our Interim Adjustment Document. There is now a draft of the *Strategic Plan* that will cover years FY 2007 through FY 2012. This *Plan* identifies objectives, initiatives, and performance measures and indicators that will enhance the degree of excellence or quality in every aspect of the patent and trademark processes – from the information we receive from applicants to the support provided to our own employees.

## PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with GPRA requirements, the USPTO is committed to making certain that performance information reported is complete, accurate, and consistent. To ensure the highest quality data, the USPTO has developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results and has undertaken the following:

***Accountability*** – Responsibility for providing performance data lies with managers of USPTO programs. The USPTO holds program managers accountable for making certain procedures are in place to ensure the accuracy of data and the performance measurement sources are complete and reliable.

***Quality Control*** – Automated systems and databases that collect, track, and store our performance indicators are monitored and maintained by management of USPTO programs, with systems support provided by the Chief Information Officer's organization. Each system, such as Patent Application Location and Monitoring (PALM) or Trademark Reporting and Monitoring (TRAM), incorporates internal program edits to control the accuracy of supporting data. The edits typically evaluate data for reasonableness, consistency, and accuracy. Cross-checks against other internal automated systems also provide assurances of data reasonableness and consistency. In addition to internal monitoring of each system, experts outside of the business units routinely monitor the data-collection methodology. The Chief Financial Officer's organization is responsible for monitoring the agency's performance, providing direction and support on data collection methodology and analysis, ensuring that data quality checks are in place, and reporting performance management data.

***Financial Statement Audit*** – During the FY 2006 financial statement audit, various tests and reviews of the primary accounting system and internal controls were conducted, as required by the Chief Financial Officers' Act. In their FY 2006 report, the auditors reported no material weaknesses in internal controls or compliance violations. The auditors issued an unqualified opinion on the USPTO's FY 2006 financial statements. Additionally, as required by the Office of Management and Budget (OMB) Bulletin Number 06-03, the auditors reported that they had "obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions" with respect to the performance measures reported in the Management's Discussion and Analysis section.

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

## PERFORMANCE AUDITS AND EVALUATIONS

The Office of the Inspector General (OIG) contributes to the USPTO's efforts to assure audit and evaluation coordination and coverage of USPTO goals.

Two inspection reports were completed in FY 2006. In the first report, *"Management of Commerce's Federal Workers' Compensation Program Need Significant Improvements," IPE-17536/March 2006,* the OIG evaluated USPTO's Federal Employees' Compensation Act (FECA) program separately from their evaluation of the DOC since the USPTO manages its own workers' compensation personnel and duties under authority of the 1999 American Inventors Protection Act (AIPA). Based on the OIG's review of the FECA cases, USPTO processes most claims well within the ten days required by law; however, they did find some administrative and program weaknesses for example, that case management was inconsistent and policies, guidance, and training for supervisors was needed. The USPTO generally agrees with the findings and recommendations and has begun to work more closely with the Department of Labor to gain greater access to case information, creating Agency Administrative Orders on the Workers' Compensation Program, and planning FECA training in the current training courses for new supervisors. No program evaluations were performed in FY 2006.

The second OIG report, *"Commercial Service China Generally Performs Well But Opportunities Exist for Commerce to Better Coordinate Its Multiple China Operations," IPE-17546/March 2006*, focused on the management of the Commercial Service's (CS) post in China, including its programmatic, financial, and administrative operations. OIG also reviewed other Commerce operations and interests in China, including those of the USPTO. The OIG recommended that USPTO develop regular standards and an IPR training program in cooperation with National Institute of Standards and Technology to ensure that CS officers and other staff attend the training. USPTO agreed with OIG's findings and is developing standards and an IPR training program in Beijing in conjunction with the standards officer for DOC at the Embassy in Beijing.

The performance of the USPTO's two major program activities was assessed in FY 2003 using the Program Assessment Rating Tool (PART). All programs that undergo a PART evaluation receive weighted scores in four categories: program purpose and design, strategic planning, program management and program results and accountability. By using in-depth performance questions, PART evaluates how well a program is meeting its intended objectives; how effectively and efficiently it is managed and how well the program achieves results. The Patent organization received a rating of "adequate" with a score of 68, and the Trademark organization received a rating of "moderately effective" with a score of 73. The USPTO continues to implement improvements and annually updates performance data, improvement plans, and funding information for both PART evaluations for the OMB. USPTO was not PARTed in FY 2006.

The Office of Personnel Management (OPM) issued two audit reports this year. The first OPM audit, dated January 2006, looked at how the USPTO carried out its personnel security and suitability programs. The report stated it was evident that the key members of the USPTO staff have a good understanding of personnel suitability, security, and investigations guidelines, although improvement is needed in certain areas to meet the OPM requirements, such as ensuring all position descriptions contain the final risk or sensitivity level, and include adjustments for the appropriate IT designation level. The USPTO responded that it will ensure that all members of the Office of Security will be fully informed of all investigative guidelines and procedures as mandated by Executive Orders and regulations for protecting the interests of national security and for investigating and adjudicating individuals for employment in the federal service.

The USPTO concurs with the recommendations in the second audit report that covered the key systems of strategic human capital management dated March 2006 and has taken steps to address recurring external recruitment issues. These steps include: issuance of a memorandum and formal training for selecting officials; briefings by the Chief Administrative Officer; and providing written guidance to managers on proper selection procedures.

*Members of the Performance and Accountability Report team accept the "Certificate of Excellence in Accountability Reporting Award" from the Association of Government Accountants for the USPTO Performance and Accountability Report for FY 2005.*

## PATENT PERFORMANCE

The core function of the Patent organization is the examination of an inventor's application for a patent. Patent examiners compare the claimed subject matter of an application to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. This process includes: the preparation of correspondence relating to the examination; answers on applications appealed to the Board of Patent Appeals and Interferences (BPAI); and interference proceedings to determine priority of invention. Additionally, examiners prepare Search Reports and International Preliminary Examination Reports for international applications filed under the Patent Cooperation Treaty (PCT). PCT Operations and the PCT Legal Administration Office oversee the processing of international patent applications.

Activities essential to the patent process are performed by a number of offices within the Patent organization. At the front end, the Office of Initial Patent Examination (OIPE) performs an administrative review of newly filed applications, manages the recordation and electronic capture of documents, and collects fees. In FY 2006, OIPE received over 417,000 Utility, Plant, and Reissue (UPR) patent applications, over 25,000 Design applications, and over 52,000 PCT applications. This represents an 8.7 percent increase over FY 2005 UPR filings; a 2.1 percent increase over FY 2005 design applications; and a 13 percent increase over FY 2005 PCT applications. Additionally, 121,307 provisional applications were received.

At the back end of the process, the Office of Patent Publications performs post-examination processing of allowed applications, disseminates issued patents to the public, and issues patents to successful applicants. In FY 2006, 164,115 UPR and 19,072 Design patents were granted. This office also published 291,259 pending applications, as provided for in the AIPA.

The Search and Information Resources Administration (SIRA) works with the Office of the Chief Information Officer to identify and develop efficiencies in the patent examination process through the use of information technologies. This office acquires, maintains, and provides access to a vast array of scientific and technical literature for use in the examination process. SIRA also implements and maintains classification schemes for the efficient retrieval of patent information and other documents residing in the search files.

The Office of Patent Quality Assurance performs a quality review function by conducting random sample reviews of both in-process and allowed applications. Data gathered from these reviews are used to identify problems, provide feedback to examiners and supervisors, improve training, and represents a significant element of the Patent organization's commitment to quality in all areas of its operations. The Office of Patent Training coordinates the development of curriculums and deployment of training throughout the Patent organization.

In 2006, the USPTO updated its *Strategic Plan* to reflect the dramatic changes in the agency's work environment and address emerging 21st century challenges and opportunities. The USPTO's primary emphasis continues to be quality; for the Patent organization this translates to timely, consistent, and accurate examination of applications. Optimizing patent quality and timeliness requires streamlined procedures, good inputs, and a highly skilled workforce. The USPTO continues to strive to meet its performance goals through a number of strategies, including: hiring sufficient numbers of new patent examiners, delivering effective training, exploring work sharing with other patent offices, out-sourcing, leveraging advances in information technology (IT), streamlining procedures, and working with the applicant community to provide products that meet their needs while efficiently utilizing the office's resources.

Reducing patent pendency and decreasing the size of the work backlog requires a multi-faceted approach to attract, hire, train, and retain the highly effective examiners who are critical to meeting this goal. In FY 2006, the USPTO hired 1,218 new patent examiners – 200 more than its hiring goal. To successfully compete for the most talented and demanded individuals in the workforce, the Patent organization established a multi-pronged recruitment and retention program in 2006, beginning with the award of recruitment bonuses to individuals in difficult-to-fill areas of technology.

To support the aggressive hiring goal of at least 1,200 new examiners per year from fiscal years 2007 through FY 2012, the Patent organization redesigned its training program and piloted a comprehensive university style approach to training new examiners. Approximately half of the examiners hired in FY 2006 received training through the Patent Training Academy for up to eight consecutive months. This program is designed to provide the participants with a strong foundation and more advanced skills when they enter

*Newly hired patent examiners attend the new USPTO Patent Training Academy, a university-style approach to teaching USPTO's new examiners. More than 1,200 new patent examiners began their careers at the USPTO in FY 2006 with this training program.*

the examination corps upon graduation. The curriculum combines large group lectures, specialized small group training and study, one-on-one spot assistance, and examination of real patent applications. The first training class under this program was initiated in January 2006, with training completed in September 2006. Additional classes began in May, June, July, and September.

To ensure that our primary patent examiners maintain the knowledge, skills, and abilities necessary to perform high quality examinations, the re-certification program was continued, with an additional one third of all primary examiners completing re-certification. All of the examiners who have been primary examiners for at least three years have been certified. In FY 2006, a new study tool was developed to help patent examiners prepare for the Practice and Procedure Exam. Junior examiners must successfully complete a certification and testing program prior to promotion to the level where they are given legal and negotiation authority. Both new and experienced first-line managers attended training to increase the effectiveness of work product reviews and to improve coaching skills.

The skills of the technical support staff are a vital component of supporting an efficient examination process. In FY 2006, the management initiated a learning opportunities program for Patents Technical Support Staff, providing over 2,000 free computer based courses to all patents technical support and administrative staff. The program also offers a series of lunchtime lectures to expand the employees' understanding and knowledge of the various business areas throughout the Patent organization.

Identification of the most relevant prior art is one component of a quality examination. In January 2006, the Patent organization commenced enhancement of its International Patent Classification (IPC) search capability, which will introduce the IPC into the U.S. patent classification system in specific areas. As this initiative is expanded to include additional technologies, examiners will benefit from enhanced search capabilities, mutual reliance on search results, and automatic enhancements to the IPC system developed by the USPTO in cooperation with other WIPO industrial property offices. Further improvements to the search process were made with the creation of 1,200 new search templates for examiners.

Following completion of a pilot for outsourcing the preparation of Search Reports for PCT applications to both private sector enterprises and the Australian Patent Office, a competitive bid was executed and contracts awarded for this service in FY 2006. The outsourcing of these reports will allow examiners more time to focus on the examination of national applications. A competitively sourced contract was also awarded for reclassification of patent search files.

In FY 2006, the USPTO expanded implementation of the Trilateral Document Access (TDA) initiative with the European Patent Office (EPO) to include the Japan Patent Office (JPO). TDA allows patent examiners to instantly view application document images for published applications in all three offices using existing viewing tools. As a result, a patent examiner may conveniently compare the foreign application documents to the application under review.

**(BACK ROW)** *USPTO Director Jon Dudas and Secretary of Commerce Carlos Gutierrez look on as* **(FRONT ROW)** *Dean Harts of 3M, April Sauders-Fuller of Fish & Richardson, and Felicia Metz of the University of Maryland file patent documents electronically at the March 16, 2006 launch of the USPTO's new Electronic Filing System-Web (EFS-Web).*

The Patent organization exceeded its goal of ten percent of applications filed electronically in FY 2006. To attain this goal, the Patent organization held multiple forums in 2005 with customer groups to gather requirements for the development of a system that would increase the use of electronic filing by identifying and addressing applicants' needs. The resulting design for a web-based system with Portable Document Format (PDF) attachments was piloted in late 2005 and released to the public in March 2006. The patent community's response to EFS-Web has been resoundingly positive as demonstrated by the steady increase in the receipt of electronic filings. The Patent organization continues to actively market the new system to ensure that applicants are familiar with the benefits of electronic filing.

In prior years, the Patent organization achieved its e-government objectives of providing all patent examiners, technical staff, and support staff the ability to work electronically from an image based system. Building on this capability in FY 2006, the Patent Hoteling Program (PHP) pilot was launched to allow participants to work-at-home with full remote access to all systems needed to perform their jobs. The PHP pilot involved testing multiple technical solutions to provide secure, reliable, and fast access to USPTO systems, as well as evaluating communications tools such as voice-over-Internet-Protocol and teleconferencing abilities to ensure that employees could work from remote locations as efficiently as from their offices. The program includes a 'hotel' component that permits participants to reserve workspace for required time spent in shared offices throughout the USPTO's Alexandria campus. In FY 2006, a total of 538 staff and 420 managers received comprehensive training on the use of remote access tools prior to receiving their USPTO-issued equipment and officially joining the program. Additionally, 361 supervisory patent examiners attended change management training to better adapt their management skills to the virtual office environment. As of fiscal year-end, 506 examiners are working from home, and feedback from a survey of participants has been overwhelmingly positive. This program provides a cost-effective means of expanding the examiner corps, improving the quality of life for many employees, and is an attractive benefit to both potential new hires and existing employees.

In FY 2006, the USPTO published various proposed rule changes aimed at improving the efficiency and effectiveness of the patent application and examination process. Some of the proposed returns would require more focused applications and better information from applicants thus improving quality by reducing the amount of rework performed. Proposed changes include requiring applicants to identify the most important claims to inventions, which facilitates a more focused examination of applications. Some of the rule reforms that the USPTO is considering will affect the examination process in the areas of continuations, claims, and Information Disclosure Statements (IDS).

As one step in creating an alternative examination system that better meets the public's needs and enables efficient use of USPTO resources, the Patent organization published procedures for patent applicants desiring a final decision within twelve months on whether their application for a patent will be granted or denied. To be eligible for this accelerated examination, applicants who file under this procedure are required to provide specific information so that review of the application can be completed rapidly and accurately.

*USPTO Director Jon Dudas congratulates the Patents Hoteling Program's first graduating class. Five-hundred patent examiners joined the hoteling program this year and began working from home, giving the USPTO more space for expansion and reducing the commute time for examiners.*

## QUALITY OF PATENTS

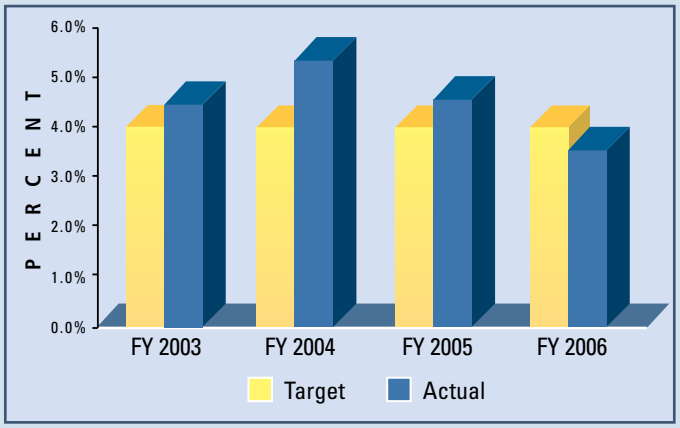
Specific performance results related to the Patent organization goals and measures are as follows:

**PERFORMANCE GOAL:** ***Improve the quality of patent products and services and optimize patent processing time***

Strategically, quality will continue to be the Patent organization's number one priority. The Patent organization continues to improve the quality of its products and services using in-depth reviews of work in progress and enhanced end-process reviews to provide feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies.

**MEASURE:** ***Patent Allowance Error Rate***

### PATENT ALLOWANCE ERROR RATE




**DATA VALIDATION AND VERIFICATION**

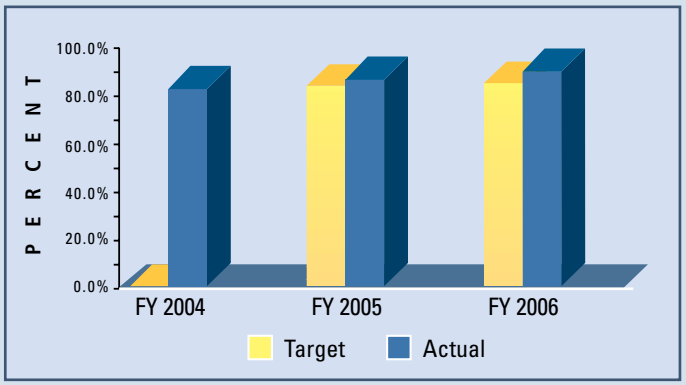
**Data source:** Office of Patent Quality Review Report.
**Frequency:** Daily input, monthly reporting.
**Data storage:** Automated systems, reports.
**Verification:** Manual reports and analysis.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 4.0% | 4.0% | 4.0% | 4.0% |
| **Actual** | 4.4% | 5.3% | 4.6% | 3.5% *met* |

***Discussion:*** *Target met. The decline in the error rate indicates that the quality initiatives implemented in FY 2005 and FY 2006 have been effective.*

**MEASURE:** ***Patent In-Process Examination Compliance Rate***

**PATENT IN-PROCESS EXAMINATION COMPLIANCE RATE**




**DATA VALIDATION AND VERIFICATION**

**Data source:** Office of Patent Quality Review Report.
**Frequency:** Daily input, monthly reporting.
**Data storage:** Automated systems, reports.
**Verification:** Manual reports and analysis.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | Baseline | 84.0% | 86.0% |
| **Actual** | — | 82.0% | 86.2% | 90.0% *met* |

***Discussion:*** *Target met. The improvement of the in-process compliance rate indicates that the quality initiatives implemented in FY 2005 and FY 2006 are producing the desired results.*

## PENDENCY

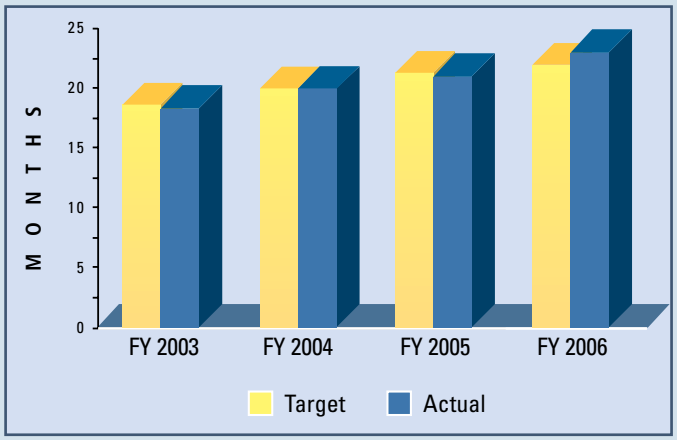
The two primary measures of Patent organization processing time are: (1) average first action pendency, which measures the average time in months from filing until an examiner's initial determination is made of the patentability of an invention; and (2) average total pendency, which measures the average time in months from filing until the application is issued as a patent or abandoned by the applicant. The USPTO is actively implementing strategies to reduce patent pendency and the backlog of applications awaiting examination such as increased hiring, proposed rule, and process changes. However, even with continued access to the funding required to successfully execute these strategies, pendency will continue to rise for a period of time, but not to the extent it would have if these actions were not taken.

Between FY 1997 and FY 2006, the number of patent applications filed has increased 87 percent. Simultaneously, the complexity of applications has increased significantly, compounding the demand on limited resources. During most of these years, the Patent organization's ability to staff at the level necessary to keep pace with the ever-increasing volume of applications were significantly restricted by limited funding and hiring ceilings. While various means of improving efficiency such as automation and enhanced training have been employed in an effort to partially offset the shortage of examiners, the backlog of applications continued to grow, exceeding 700,000 in FY 2006.

In fiscal years 2005 and 2006 more than 2,000 examiners were hired and the Patent organization plans to hire 1,200 examiners each year from FY 2007 through FY 2012. The redesigned training programs will improve new examiners' initial skills, but optimum examiner efficiency is still a function of experience, and it will be several years before these new hires reach their full potential. Hiring and training alone will not solve the pendency problem—policy and operational changes are also required. For these reasons, the USPTO has identified realistic pendency goals reflective of the time frames necessary for the strategies to provide results.

**MEASURE:** ***Patent Average First Action Pendency (months)***

## PATENT AVERAGE FIRST ACTION PENDENCY




### DATA VALIDATION AND VERIFICATION

**Data source:** PALM system.
**Frequency:** Daily input, monthly reporting.
**Data storage:** PALM, automated systems, reports.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.
**Data Limitations:** None.

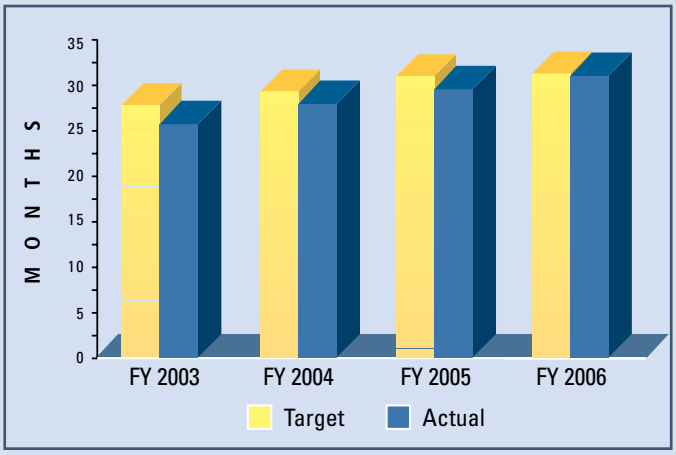
| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 18.4 | 20.2 | 21.3 | 22.0 |
| **Actual** | 18.3 | 20.2 | 21.1 | 22.6 *not met* |

***Discussion:*** *Target not met. This target was not met because there were more older applications processed than planned. We expect to meet the goal next year through increased hiring efforts.*

*Chairman and CEO of Toshiba America Toru Uchiike* **(LEFT)** *and USPTO Director Jon Dudas* **(CENTER LEFT)** *observe a demonstration from Amy Hafer of her team's winning invention, "The Human Touch." The event was the ExploraVision Awards Program, one of the world's largest science and technology competitions for students (K-12th grade). It is sponsored by Toshiba America and administered by the National Science Teachers Association.*

## MEASURE: *Patent Average Total Pendency (months)*

### PATENT AVERAGE TOTAL PENDENCY




**DATA VALIDATION AND VERIFICATION**

**Data source:** PALM system.
**Frequency:** Daily input, monthly reporting.
**Data storage:** PALM, automated systems, reports.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.
**Data Limitations:** None.

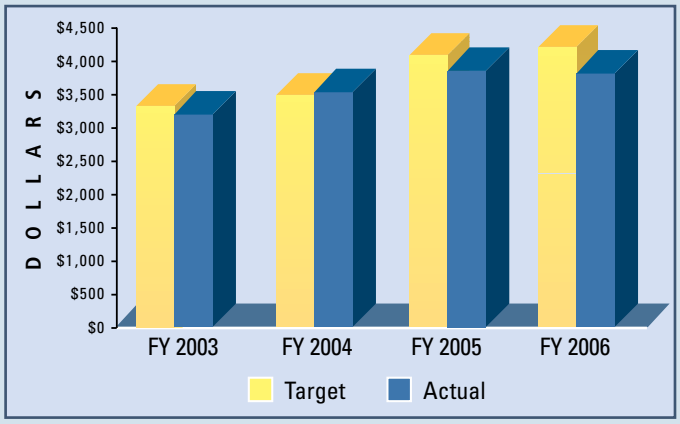
| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 27.7 | 29.8 | 31.0 | 31.3 |
| **Actual** | 26.7 | 27.6 | 29.1 | 31.1 *met* |

***Discussion:*** *Target met.*

## MEASURE: *Patent Efficiency*

This metric measures the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production. The per unit dollar figure is derived by totaling all costs, both direct and indirect, incurred to produce a patent product and dividing the sum by the number of product outputs. Costs include compensation of employees directly involved in processing and examining applications, patent management, appropriate shares of indirect labor supporting the process such as executive, legal, human resources, and administrative staffing costs. Operational and development costs for automated patent systems, space (lease-rent), utilities, and communication infrastructure costs are also included.

### PATENT EFFICIENCY




**DATA VALIDATION AND VERIFICATION**

**Data Source:** PALM system.
**Frequency:** Daily input, quarterly reporting.
**Data storage:** PALM, Data Warehouse, Activity Based Management (ABM) System.
**Verification:** Accuracy of supporting data is controlled through internal program edits in PALM, Momemtum, ABM System. Quality control review of data by Activity Based Cost Accounting (ABC) System and Program Business Teams.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | $3,444 | $3,502 | $4,122 | $4,214 |
| **Actual** | $3,329 | $3,556 | $3,877 | $3,798 *met* |

***Discussion:*** *Target met.*

## PATENT COMMISSIONER'S PERFORMANCE FOR FY 2006

The AIPA, Title VI, and Subtitle G, the Patent and Trademark Office Efficiency Act, established the USPTO as an agency of the United States, within the DOC, on March 29, 2000. The legislation provides for appointment of a Commissioner for Patents as the Chief Operating Officer for Patents, and a Commissioner for Trademarks as the Chief Operating Officer for Trademarks. It also requires that an annual performance agreement be established between the Commissioners and the Secretary of Commerce. The agreement outlines measurable goals and objectives for the organization. Based upon an evaluation of their performance as defined in the agreement, Commissioners may be rewarded a bonus of up to 50 percent of their base salary.

*Patent Commissioner John Doll helping to celebrate our record-breaking year.*

The Patent organization goals form the foundation for the Commissioner of Patents annual performance agreement. The agreement outlines measurable organizational goals and objectives for the Patent organization based on the performance goals and measures. These performance measures incorporate the milestones and objectives to achieve the following Patent goals: improve quality of examination, implement e-government initiatives, and achieve the lowest possible pendency. At the time of publication, no determination regarding a performance bonus for the Commissioner of Patents for FY 2006 had been made.

## THE PATENT ORGANIZATION – WHAT'S AHEAD

Building on the solid infrastructure of the *21st Century Strategic Plan* of 2002, in FY 2006 the USPTO identified additional strategies for achieving its goals that address the emerging challenges of the 21st century, such as the increasingly globalized business environment and its impact on both the patent process and its products. Rapid scientific advances in technologies not only contribute to the growing complexity of applications, but also increase world competition for individuals trained in these subject areas. The advent of electronic work environments has raised the bar on user expectations for accessing information and communicating, bringing the issues of secure and reliable electronic systems into focus as never before.

In FY 2007 and beyond, the Patent organization will continue to emphasize the importance of quality and timely examination. To build and retain the high-quality examiner corps needed, the Patent organization will enhance recruitment to hire 1,200 examiners a year from FY 2007 through FY 2012. Results of training provided through the Patent Training Academy will be evaluated, and modified as necessary to optimize employee acquisition of the skills necessary to efficiently complete a quality examination and effectively communicate with applicants.

## BOARD OF PATENT APPEALS AND INTERFERENCES

The BPAI had a very successful FY 2006. The average pendency for decided patent appeals continued to be less than six months. Similarly, the average pendency for interferences remained below 12 months. Furthermore, the final decisions in over 90 percent of all interferences were mailed within 24 months. During the course of the year, the BPAI was restructured to streamline the internal processing of both patent appeals and interferences. The Board also opened its oral hearings to the public for the first time. Additionally, the Board's e-government initiatives continued to progress. Patent appeals are now entirely processed electronically. The testing of the fully electronic interference filing and information system is currently underway. This automation effort is laying the groundwork for the implementation of the proposed post-grant review proceedings that are currently planned to be conducted in the future at the BPAI.

## TRADEMARK PERFORMANCE

*USPTO Director Jon Dudas thanks Trademark employees for advancing trademark service goals through their exceptional service to applicants.*

The Trademark organization demonstrated unprecedented performance results by exceeding all of its quality, timeliness, e-government, production, and efficiency targets for the fiscal year. The level of accomplishment for FY 2006 further improved upon the success achieved in FY 2005 when all but one performance measure was met. Significant progress was demonstrated by capitalizing on process improvements that are the result of many years of investment in people and IT that has changed how work is performed and information is communicated. Performance results further reflect the ability of Trademark's to deliver results that are consistent with the level of funding necessary to support operations with increases in filings and demand for services.

The USPTO continues to demonstrate progress towards achieving its e-government objectives which rely on electronic communications and financial incentives to offer market-based services and improve the availability and participation in the U.S. trademark system by providing access to information to more effectively serve an increasingly larger, global client-base. Electronic access increases the opportunity for filing for federal registration, which provides protection to business owners and consumers by providing notice of marks in use. Electronic filing and information systems serve customers in two very important ways: by improving the time and accessibility of information and by improving the quality of the initial application and therefore the quality of the data that is captured and shared in the publication and registration of trademarks.

The USPTO continues to maximize electronic tools to make the trademark registration process fully transparent to the public. Anyone with Internet access anywhere in the world can review documents in the official trademark application file, including all decisions made by trademark examining attorneys and their reasons for making them through the Trademark Document Retrieval system. The complete file contents of the pending inventory of applications are available electronically as well as 43 percent of registered trademarks in use.

The USPTO has discontinued the practice of creating and maintaining paper file copies of trademark applications and now relies exclusively on trademark data submitted or captured electronically to support trademark examination, publication of documents, and granting of registrations. An assessment of the workflow and mapping of the process was initiated to assess opportunities for process and cycle time improvement by examining changes that have been made in the process with the elimination of paper processing. A number of improvements has been made and will continue to be made in how internal operations are conducted that will further improve the efficiency of the process, provide better internal controls for tracking the status of correspondence, and identify the progress of work performed and completed. These changes in practice are recognition of the on-going progress that has been made in creating and using electronic records to process and examine applications filed for the registration of a trademark. A complete electronic records database covering all trademark pending applications, including on-going correspondence has been created by capturing the text and image of all new applications as they are filed. The database supports paperless examination as the source of application records used within the Office as well as those accessible to the public.

Electronic systems continued to be upgraded to increase the number and type of transactions that can be completed. Significant process changes and enhancements have been incorporated that provide the capability to manage all examiner actions and dockets in a completely electronic environment as well as manage the assignment of new applications. Changes were made in the past year to remove the pending paper file docket based on process changes that have eliminated the need for manual processing of files for transactions that are required to support the core examination function. Additional changes, which were the result of an internal assessment of the process, were made to streamline post publication operations, reducing cycle time. Together, these changes have improved workflow efficiency that has led to significant gains in reducing pendency and drastically reducing the number of paper files that are identified as lost or requests to reinstate an application due to office error.

Electronic communications make it possible to conduct a preliminary search prior to filing an application, determine the status of pending and registered trademarks, respond to office actions, access general information, examination manuals, treaties, laws and regulations, obtain weekly information on marks published, registered and renewed, file initial applications, and maintain a registered mark through the USPTO website. The USPTO publishes a weekly on-line Trademark Official Gazette that contains information covering several thousand marks and other office actions. The weekly publication is fully electronic; text and images that contain the layout are extracted from electronic records and sent to the Government Printing Office for printing registration certificates. The weekly Trademark Official Gazette, Registration Certificates, and Updated Registration Certificates for the five most recent weekly issues are available electronically from the USPTO website. The entire publication, including registration certificates, is available as a PDF file that can be downloaded via the Internet for free, providing expanded as well as more timely access to trademark information.

The USPTO continues to support improvements in electronic filing that result in greater use of electronic filing and communications. In the eight years since trademark electronic filing first became available, more than 959,118 applications, including more than 1,235,933 classes, have been filed for the registration of a trademark. Today, 93.8 percent of all new trademark applications are filed using the award-winning Trademark Electronic Application System (TEAS), an increase of six percent over FY 2005 results.

Over the past year, the Trademark organization has continued to enhance the features available to the public and worked to ensure the overall transformation of the Trademark organization as an effective e-government operation. Twenty-six electronic TEAS forms are available with new features added in the past year that increase the functionality of the forms and attachments. Applicants may now submit PDF attachments with electronically filed responses to office actions, a feature that was requested by the user community. Applicants may also access the Identification Manual when completing the basic application form. The availability and the convenience of accessing trademark related information via the Internet has improved our ability to provide timely, useful information. It has stimulated demand for more services and enabled more complete filings and responses while improving the efficiency of the examination process.

### *Madrid Protocol*

The process of registering trademarks in one or more of the 60 member countries has been greatly improved since the United States became a member of the Madrid Protocol on November 2, 2003. U.S. business owners are now able to file a single application with the USPTO in English, pay in U.S. dollars, and potentially have their mark protected in any or all of the countries that are members of the Protocol. Non-U.S. trademark owners of member countries may elect to seek an extension of protection of their international registration in the U.S. by filing through the International Bureau of WIPO. The USPTO received 3,131 international applications and 12,718 requests for extension of protection or subsequent designation containing 27,621 classes from the International Bureau under the Protocol in FY 2006.

### *Trilateral Project*

Representatives from the USPTO, the Office for Harmonization in the Internal Market (OHIM), the European Trademark Office, and the JPO, continue their work on the harmonization of identifications and classification project. The objective of the Trilateral Identification and Classification Manual Project is to make the trademark application and examination process easier by agreeing on the acceptability of certain identifications of goods and services for use in all three offices. The Trademark Identification Manual is updated to incorporate identifications for goods and services that have been accepted as a result of efforts through this project.

The USPTO implemented a secure website to enable representatives from USPTO, OHIM, and JPO, to add to, delete from, or modify the identifications of goods and services in preparation for the 9th edition of the Nice Agreement – an international agreement on classification of goods and services.

### *Quality*

The Trademark organization continues to see improvements in examination quality as reflected by the decrease in the first and final office action deficiency rate. The criteria for assessing quality expands on the issues that are considered for determining the quality of "in-process" first and final office actions as "excellent" and "deficient" to better reflect more meaningful and rigorous standards of quality. The information evaluated from the quality review results has been used to identify and better focus training to enhance

overall quality and to improve the consistency of examination. Nine new training modules and seven exam guides were prepared to address some of the reoccurring problems that were determined based on analyses of the reviews. Examiners are required to take a series of self-paced tutorials, as part of the USPTO's commitment to improve the quality of examination and ensure that all examiners possess the knowledge and skills necessary to perform their jobs.

### *Customer Call Center*

The USPTO operates a modern call center system with caller relationship management technology to enhance its effectiveness in handling and responding to caller inquiries. The system is a state-of-the-art web-based information system that enables agents to manage caller data, track problems, fulfill information requests, answer e-mails, and provide consistent information. Data is used to identify trends, track problem resolution, conduct root cause analysis, and take action to prevent and eliminate the reoccurrence of problems.

*USPTO senior advisor for telework, Danette Campbell, testifies before the House Government Reform Subcommittee on Federal Workforce and Agency Organization at a hearing called, "Telecommuting: A 21st Century Solution to Traffic Jams and Tourism."*

### *Telecommuting*

The USPTO continues to gain recognition as a leader in the federal government for its successful telecommuting program. The Trademark telecommuting program was designed so that examiners could perform the same work and access the same IT systems from home that they do in the Office. Examiners work from home for a majority of the workweek using an automated reservation system to assign office space on an as-needed basis. The program met its objective to greatly reduce office space requirements and costs. The Trademark program was expanded to include 220 examiners in the past year; 85 percent of the eligible examiners now take advantage of the program. The program continues to be expanded to include other employees throughout the Trademark organization. All eligible employees, including examiners, were working from home at least one day per week.

The USPTO's Trademark work-at-home program received the Telework Program with Maximum Impact on Government Award in 2006 for its extremely successful model telecommuting program by the Telework Exchange. The program was recognized as an innovative Telework prototype for how to incorporate measurable performance goals in evaluating the performance of its teleworkers. The Trademark hoteling program is considered a "best practice" due to its success in addressing budgetary, space, retention, recruitment, and job satisfaction issues that face all government agencies and contribute to popularity of the program.

### *Filings*

New application filings for trademark registration increased by nine percent in the past year. The USPTO received 275,790 trademark applications, including 354,775 classes for registration in FY 2006.

### *Office Disposals*

Total office disposals were 256,002 including 315,783 classes, 5.9 percent above plan and 25 percent above FY 2005. Registrations were 16.6 percent above plan and more than 30 percent above FY 2005 with 147,118 marks registered, including 188,899 classes.

***Pending Inventory***

Total trademark applications pending in the USPTO decreased by nearly five percent in FY 2006 to 474,241 with 634,087 classes. Twenty-six percent of the pending file inventory is in a post Notice of Allowance status awaiting the filing of a statement of use. The inventory of unexamined applications (prior to first office action) at the end of the year was 99,890, containing 123,986 classes; the number of unexamined files decreased 29 percent from the prior fiscal year with a decrease of 27.6 percent in the number of classes consistent with the increase in office disposals and reduction in pendency.

## TRADEMARK QUALITY

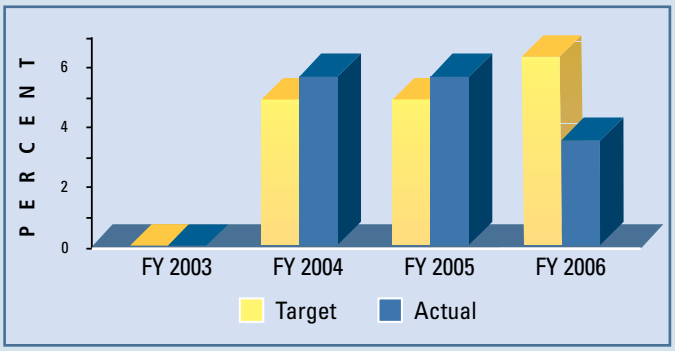
**PERFORMANCE GOAL:** ***Improve the quality of trademark products and services and optimize trademark processing time.***

The Trademark organization will continue to work towards the enhancement of quality assurance programs to include more-in-depth reviews of work in progress. This includes the implementation of in-process reviews that consider all elements of decision-making in evaluating examiner first and final office actions. The Trademark organization continues to work towards full automation of the management of its workflow to improve efficiency and reduce processing times. The following performance measures have been established to reflect the USPTO's success and progress in meeting these performance goals.

The Trademark organization implemented two new measures for assessing examination quality in 2004. These include an evaluation for all issues that could be considered deficient in making a first and final action substantive refusal. Evaluations are conducted on a random sample of applications to review the quality of decision making of the examiner's first office action and final action refusal. 2,415 files were reviewed with 4.3 percent of the files having at least one deficient substantive first action refusal. 2,508 files were reviewed with at least one issue determined for a final action deficiency rate of 3.6 percent.

**MEASURE:** ***Trademark Final Action Deficiency Rate***

### FINAL ACTION DEFICIENCY RATE




**DATA VALIDATION AND VERIFICATION**

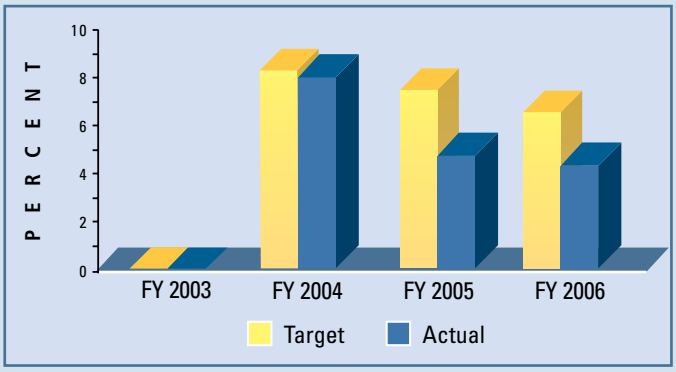
| | |
|---|---|
| **Data source:** | Office of Trademark Quality Review Report. |
| **Frequency:** | Daily input, monthly reporting. |
| **Data storage:** | Automated systems, reports. |
| **Verification:** | Manual reports and analysis. |
| **Data Limitations:** | None. |

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | 5.0% | 5.0% | 6.5% |
| **Actual** | — | 5.8% | 5.9% | 3.6% *met* |

***Discussion:*** *Target exceeded. The Trademark organization established an "in-process review" standard for assessing excellent and deficient work to create a more comprehensive meaningful and rigorous review of what constitutes quality. The results of an examiner's final refusal are reviewed for the quality of the substantive basis for decision-making, search strategy, evidence, and writing. The measure considers elements for review and evaluation with training targeted to topics that warrant improvement. Examiners are given specific feedback about excellent as well as deficient work to further improve quality. The target was exceeded because our numerous training efforts focusing on quality have had a more than additive effect. Also, quality improvements that first appeared in First Actions have now filtered through to Final Actions.*

**MEASURE:** ***Trademark First Action Deficiency Rate***

## FIRST ACTION DEFICIENCY RATE




**DATA VALIDATION AND VERIFICATION**

**Data source:** Office of Trademark Quality Review Report.
**Frequency:** Daily input, monthly reporting.
**Data storage:** Automated systems, reports.
**Verification:** Manual reports and analysis.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | 8.3% | 7.5% | 6.5% |
| **Actual** | — | 7.9% | 4.7% | 4.3% *met* |

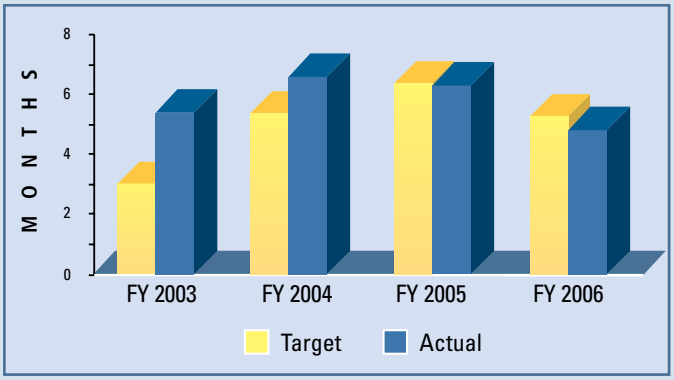
***Discussion:*** *Target met. The Trademark organization established an "in-process review" standard for assessing excellent and deficient work to create a more comprehensive, meaningful and rigorous review of what constitutes quality. The results of an examiner's first action are reviewed for the quality of the substantive basis for decision-making, search strategy, evidence, and writing. The new measure considers more elements for review and evaluation with training targeted to topics that warrant improvement. Examiners are given specific feedback about excellent as well as deficient work to further improve quality. Quality results achieved exceeded the target set.*

## TRADEMARK PENDENCY

**MEASURE:** ***Trademark Average First Action Pendency (months)***

This measure reflects the timeliness of the first office action as measured from the date of application filing to the first office action. The Trademark organization intends to reduce first action pendency to three months by FY 2008.

## TRADEMARK FIRST ACTION PENDENCY




**DATA VALIDATION AND VERIFICATION**

**Data source:** TRAM system.
**Frequency:** Daily input, monthly reporting.
**Data storage:** TRAM, automated systems, reports.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system. Program management performs final test for reasonableness.
**Data Limitations:** None.

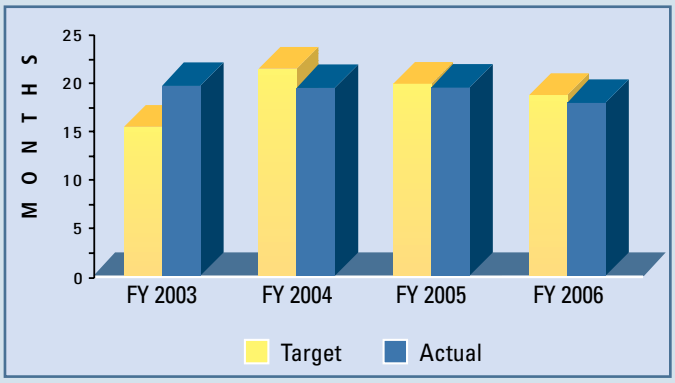
| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 3.0 | 5.4 | 6.4 | 5.3 |
| **Actual** | 5.4 | 6.6 | 6.3 | 4.8 met |

***Discussion:*** *Target met.*

## MEASURE: *Trademark Average Total Pendency (months)*

This measure reflects the timeliness related to the disposal of a trademark application as measured from the date of filing to registration, abandonment or issuance of a notice of allowance, including applications that are suspended awaiting further action or involved in inter partes proceedings. Disposal pendency, including suspended and inter partes cases, was 18.0 months. Excluding applications that were suspended or delayed for inter partes proceedings; disposal pendency was 15.5 months.

### TRADEMARK FINAL ACTION PENDENCY

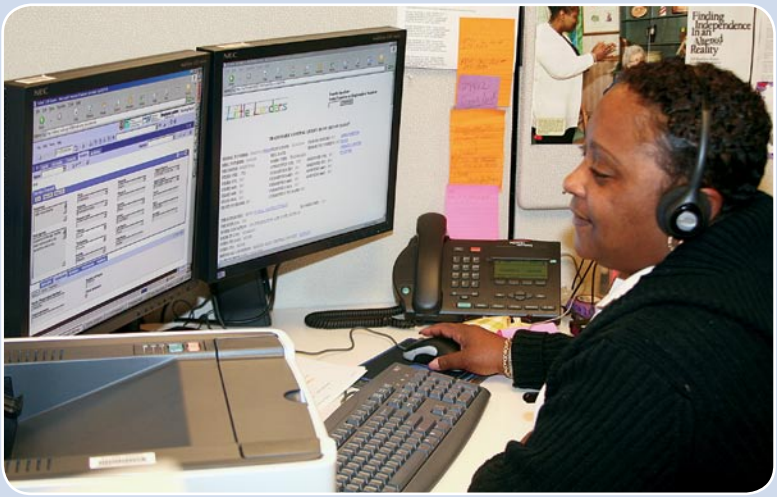



**DATA VALIDATION AND VERIFICATION**

**Data source:** TRAM system.
**Frequency:** Daily input, monthly reporting.
**Data storage:** TRAM, automated systems, reports.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system. Program management performs final test for reasonableness.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 15.5 | 21.6 | 20.3 | 18.8 |
| **Actual** | 19.8 | 19.5 | 19.6 | 18.0 *met* |

***Discussion:*** *Target met.*

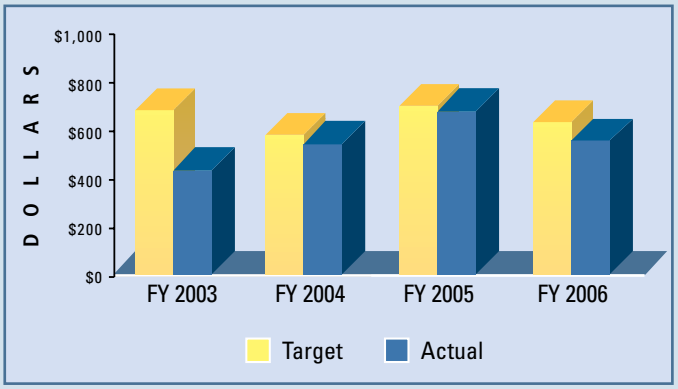


*Trademark Assistance Center employee Zina Carithers fields calls from the public. The assistance center expanded its hours this year to better serve trademark applicants.*

## MEASURE: *Trademark Efficiency*

This measure is a relative indicator of the efficiency of the trademark process as measured by the total cost of programs that support the examination and registration of trademarks compared to its core outputs or office disposals.

### TRADEMARK EFFICIENCY




**DATA VALIDATION AND VERIFICATION**

**Data source:** TRAM system, Momentum, ABM system.
**Frequency:** Daily input, quarterly reporting.
**Data storage:** TRAM, Data Warehouse, ABM system.
**Verification:** Accuracy of supporting data is controlled through internal program edits in TRAM, Momemtum, ABM system. Quality control review of data by ABC system and program organization teams.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | $683 | $583 | $701 | $635 |
| **Actual** | $433 | $542 | $677 | $565 *met* |

***Discussion:*** *Target met. The measure indicates the degree to which the program can operate within plan costs relative to outputs produced. The measure is calculated by dividing total USPTO expenses associated with the examination and processing of trademarks (including associated overhead and support expenses) by outputs (office disposals). It should be noted that this measure does not represent the average cost to process, examine, and register a trademark since office disposals are but one measure of USPTO products and services.*

## TRADEMARK COMMISSIONER'S PERFORMANCE FOR FY 2006

The AIPA, Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, established the USPTO as an agency of the U.S., within Commerce, on March 29, 2000. The legislation provides for appointment of a Commissioner for Patents as the Chief Operating Officer for Patents, and a Commissioner for Trademarks as the Chief Operating Officer for Trademarks. It also requires that an annual performance agreement be established between the Commissioners and the Secretary of Commerce. The agreement outlines measurable organizational goals and objectives for the organization. The Commissioners may be rewarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary.

The Trademark organization goals and the agency performance plan formed the foundation for the annual performance agreement between the Commissioner for Trademarks and the Secretary of Commerce, as required by the AIPA. The performance agreement outlined measurable organizational goals and objectives for the Trademark organization based on the above goals and performance measures. All nine of the trademark performance measures included in the agency performance plan were met for a score of 100 percent. The commissioner's performance for the past year had not been evaluated at the time that this report was completed.

## THE TRADEMARK ORGANIZATION – WHAT'S AHEAD

The Trademark organization will continue to move aggressively in the next year to continue to build upon the successes of the USPTO's *21st Century Strategic Plan* and move forward with the revision of the next five-year *Strategic Plan* by working with its constituencies to ensure the goals and objectives are aligned with their needs. Trademark's intends to continue to assess the efficiency of its operations as it proceeds with the incremental redesign of operations, which rely on e-government as the primary means of doing business with applicants and registrants, and, as the means for processing work inside the examining operation. In the next year Trademark's plans to:

- Continue to develop new forms and enhance existing TEAS forms to add functionality for the applicant and improve the efficiency of the process.
- Continue the enhancement and development of electronic systems and functionality to complete the incremental redesign of the trademark process.
- Continue to conduct assessments of the workflow and production process to identify options for improvements in how work is performed, reduce cycle time, and develop requirements to complete the electronic workflow process.
- Continue the development of training materials and documentation to address changes in process and practice; ensure all employees have the tools they need to perform their jobs.

The Trademark organization has achieved considerable success in implementing its business process re-engineering plan to move from primarily doing business with paper to doing business in an electronic environment. Completion of an electronic file management system, in addition to the currently available electronic filing and information systems permits:

- Reduction in cycle times by consolidating separate processes and eliminating the potential for lost or missing papers that create additional delays and poor service.
- Enhancements in the functionality and number of electronic filing options.
- The ability to offer a totally electronic filing and receiving process to handle applications from U.S. applicants seeking protection of their mark in foreign countries, and requests for protection of marks from foreign countries in the United States.

As paper records disappear from internal processes, the cost for handling applications and related materials, along with the reliance on increasing numbers of employees or contractors to handle increases in filings, will continue to be reduced. Data quality has improved as data is captured electronically to support examination and to publish documents and registrations. Electronic file management presents an opportunity for the USPTO to offer multiple options for filing that allow applicants to select the method of filing that best suits their business needs.

## TRADEMARK TRIAL AND APPEAL BOARD (TTAB)

The TTAB fell just shy of meeting its pendency goal for FY 2006. The goal was to issue final decisions and decisions on trial motions, on average, within ten weeks of the time they were submitted for decision. During FY 2006, the TTAB issued decisions, on average, in 10.9 weeks, although, for the last half of the fiscal year, the TTAB was nearly at goal, issuing decisions, on average, in 10.3 weeks. In FY 2006, the TTAB added an additional option to its suite of electronic filing forms. Now, parties may file confidential documents using the TTAB's electronic filing system, with assurance that these documents will remain accessible only to the TTAB and not to the public at large. For FY 2006, 91 percent of extensions of time to oppose were received and processed electronically, as were 70 percent of notices of opposition and 68 percent of petitions to cancel. During FY 2006, the TTAB launched a pilot program to permit one of its administrative trademark judges to work full-time from an alternate duty station in Dallas, Texas. The TTAB held several electronic oral hearings in the electronic courtroom it shares with the BPAI. The electronic courtroom permits parties to appear before the TTAB and BPAI from remote videoconferencing locations. To provide more legal guidance to the trademark bar and trademark examining attorneys, in FY 2006 the TTAB issued 55 of its decisions as citable precedents, a substantial increase over the number of citable decisions issued in recent years.

# E-GOVERNMENT AND INTELLECTUAL PROPERTY PERFORMANCE

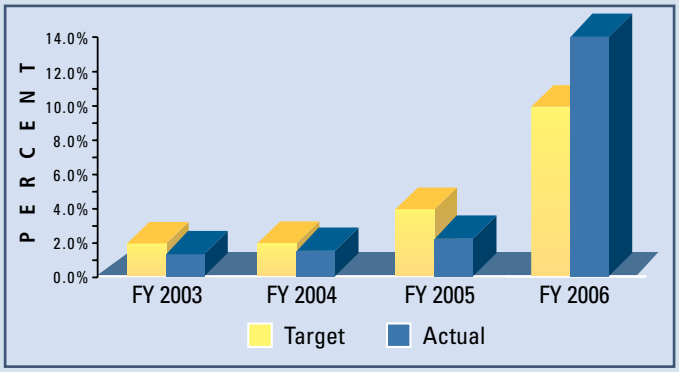
**PERFORMANCE GOAL:** ***Create a more flexible organization through transitioning the patent and trademark processes to e-government operations and participating in intellectual property development worldwide***

The USPTO will continue to work with our intellectual property partners to improve the efficiency of our processing systems by increasing the number of applications and communications received and processed electronically, create more coordinated and streamlined work processes, and best position the USPTO for the globalization that characterizes the 21st century economy. The following performance measure has been established to reflect the USPTO's success and progress in meeting our *Strategic Plan* goals.

## MEASURE: *Patent Applications Filed Electronically*

The USPTO pledged to work with our intellectual property partners to improve the efficiency of our processing systems by increasing the number of applications and communications received and processed electronically. In response to input from the patent community, the Patent organization launched a web-based tool (EFS-Web) in FY 2006, which allows applicants to submit patent applications in a PDF. Acceptance of the new tool is reflected in the significant increase in applications filed electronically: in the last quarter of FY 2006, 28.7 percent of applications were filed electronically. The following performance measures have been established to reflect the USPTO's success and progress in meeting the *Strategic Plan* goals.

### PATENT APPLICATIONS FILED ELECTRONICALLY




**DATA VALIDATION AND VERIFICATION**

**Data source:** PALM system.
**Frequency:** Daily input, weekly reporting.
**Data storage:** PALM and automated systems.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system and cross checks against other automated systems.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 2.0% | 2.0% | 4.0% | 10.0% |
| **Actual** | 1.3% | 1.5% | 2.2% | 14.1[1] % *met* |

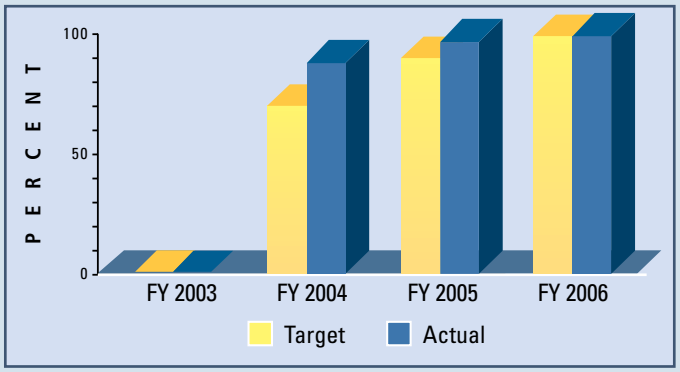
***Discussion:*** *Target met. This measure indicates USPTO's support of, and applicants' willingness to operate in, an e-government environment and identifies the percentage of applications filed electronically.*

[1]*This number is preliminary. Data is expected to be finalized by December 2006 and will be reported in the FY 2007 PAR.*

## MEASURE: *Patent Applications Managed Electronically*

With implementation of the Image File Wrapper (IFW) system, the USPTO created a fully electronic patent application process, eliminating the movement of paper applications. All patent examiners, technical support staff, and adjunct users can access an electronic image of all patent applications. In 2006, the USPTO commenced the first phases of creation of a text-based process, which will facilitate increased automation of manual processes, improve accuracy, and support more refined electronic management of the patent process.

### PATENT APPLICATIONS MANAGED ELECTRONICALLY




**DATA VALIDATION AND VERIFICATION**

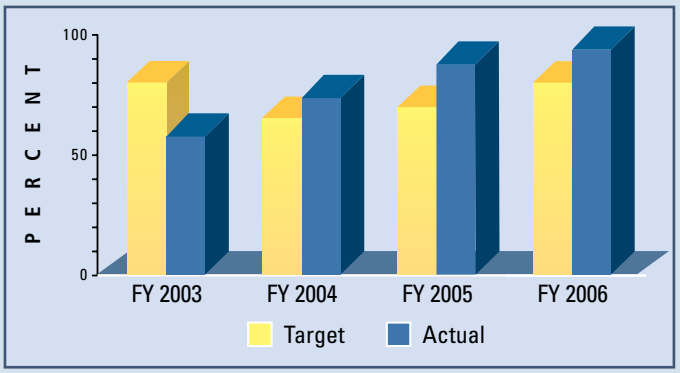
**Data source:** PALM system.
**Frequency:** Daily input, weekly reporting.
**Data storage:** PALM and automated systems.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system and cross checks against other automated systems.
**Data Limitations:** None.

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | 70.0% | 90.0% | 99.0% |
| **Actual** | — | 88.0% | 96.7% | 99.9% *met* |

***Discussion:*** *Target met.*

## MEASURE: *Trademark Applications Filed Electronically*

### TRADEMARK APPLICATIONS FILED ELECTRONICALLY




**DATA VALIDATION AND VERIFICATION**

**Data source:** TRAM system.
**Frequency:** Daily input, monthly reporting.
**Data storage:** TRAM and automated systems.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system and crosschecks against other automated systems.
**Data Limitations:** None.

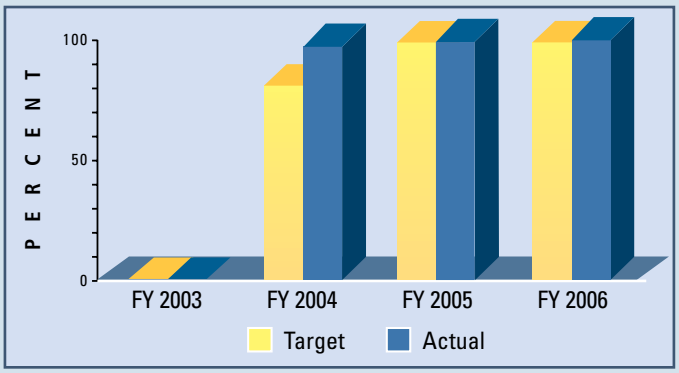
| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | 80.0% | 65.0% | 70.0% | 80.0% |
| **Actual** | 57.5% | 73.0% | 88.0% | 93.8% *met* |

***Discussion:*** *Target met. The measure indicates USPTO's support of and applicants' willingness to operate in an e-government environment and identifies the percent of basic trademark applications filed electronically. The rate of filing trademark applications has progressed steadily over the years as a result of promotional events, increased number and type of applications and documents that may be filed electronically, improved functionality and enhancements, and financial incentives (lower fees) that have been made to appeal to more customers.*

## MEASURE: *Trademark Applications Managed Electronically*

This measure was introduced in FY 2004 to demonstrate the progress the Trademark organization has made to examine and process applications in a completely electronic environment. Trademarks has captured nearly 100 percent of the application inventory as an electronic file record that includes text and image of the initial application and subsequent applicant and office correspondence for nearly 500,000 pending applications. Examining attorneys have been using the electronic record of the initial application to conduct their first office actions since July 2003 through a system that manages the workflow and their transactions. In July 2004, second and subsequent actions were added eliminating the need to use paper files to process and examine applications for the core examination function. Additional enhancements were made during FY 2005 and FY 2006 to improve the functionality and efficiency of the electronic system used by examining attorneys to manage their docket of pending work and take action on applications.

### TRADEMARK APPLICATIONS MANAGED ELECTRONICALLY




**DATA VALIDATION AND VERIFICATION**

**Data source:** TRAM system and Trademark Image Capture and Retrieval System database reports.
**Frequency:** Daily input, monthly reporting.
**Data storage:** TRAM and automated systems.
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system and crosschecks against other automated systems.
**Data Limitations:** None.

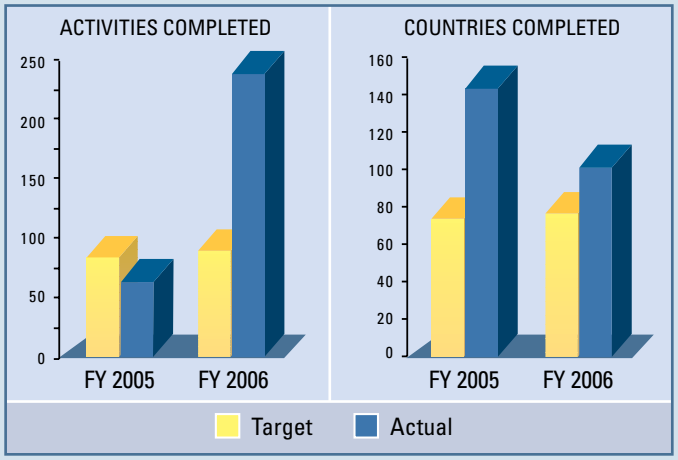
| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | 80.0% | 99.0% | 99.0% |
| **Actual** | — | 98.0% | 99.9% | 99.9% *met* |

***Discussion:*** *Target met. The measure indicates USPTO's progress towards conducting business in an e-government environment.*

## MEASURE: *Intellectual Property Technical Assistance Activities/Countries Completed*

This measure was introduced in FY 2005 to demonstrate the number and variety of training and technical assistance activities provided to the intellectual property offices and staff of countries with developing economies in need of strengthening the protection of intellectual property rights as part of their economic and trade development. Attorney specialists from USPTO's Office of International Relations and Office of Enforcement provide country specific review of intellectual property laws, and recommend strengthened enforcement provisions along with training of judges, prosecutors, customs officials, and intellectual property office technical staff. Broader multilateral training programs, such as our intellectual property Enforcement Academy and the Visiting Scholars Program, are offered to representatives of a variety of countries throughout the year.

### INTELLECTUAL PROPERTY TECHNICAL ASSISTANCE ACTIVITIES/COUNTRIES COMPLETED




**DATA VALIDATION AND VERIFICATION**

| | |
|---|---|
| **Data source:** | Office of Congressional Relations, International Relations and Enforcement Activity Report. |
| **Frequency:** | Weekly input, monthly reporting. |
| **Data storage:** | Automated systems, reports. |
| **Verification:** | Manual reports and analysis. |
| **Data Limitations:** | None. |

**INTELLECTUAL PROPERTY TECHNICAL ASSISTANCE ACTIVITIES COMPLETED**

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | — | 80 | 82 |
| **Actual** | — | — | 59 | 239 |

***Discussion:*** *Exceeded Target. The Office of External Affairs greatly exceeded the target for the Intellectual Property Technical Assistance in FY 2006 because it significantly expanded the technical assistance training programs provided to foreign government officials under the USPTO Global Intellectual Property Academy (GIPA). Attorney specialists from the Office of International Relations and the Office of Enforcement conducted GIPA programs both at the USPTO Headquarters and in several developing countries and countries in transition to a market economy. Furthermore, these Offices provided technical advice and assistance in the form of legal experts giving reviews of developing countries' laws for the protection (patents, trademarks, copyrights, etc.) and enforcement (civil and administrative, provisional, border and criminal enforcement measures) of intellectual property in FY 2006. These reviews and advice on intellectual property laws occur in the context of accession to the World Trade Organization (WTO), in WTO Trade Policy Reviews, and in the context of administration of the "Special 301" provisions of the Trade Act of 1974, as amended. The reviews and legislative advice are aimed at improving deficiencies in the intellectual property laws of our trading partners.*

**INTELLECTUAL PROPERTY TECHNICAL ASSISTANCE COUNTRIES COMPLETED**

| | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Target** | — | — | 75 | 77 |
| **Actual** | — | — | 142 | 102 |

***Discussion:*** *Target met.*

## INTELLECTUAL PROPERTY POLICY AND LEADERSHIP PERFORMANCE

The DOC and the USPTO fully appreciate the crucial role of intellectual property development and protection in promoting the economic competitiveness of the United States. In addition to the examination and issuance of patents and trademarks, the USPTO is leading efforts to improve protection of the intellectual property of American innovators and creators on both the domestic and international levels.

*The USPTO distributed more than 10,000 "STOP FAKES" brochures to small businesses across the United States in FY 2006. As part of the Bush Administration's Strategy Targeting Organized Piracy! (STOP!) initiative, the USPTO also worked with other U.S. government agencies to fight piracy and counterfeiting around the world.*

***STOP! Initiative Provides Information to Businesses about Protecting Intellectual Property:*** The USPTO continued throughout FY 2006 working with other governmental agencies and the private sector on the STOP! initiative, which is the most comprehensive U.S. government-wide initiative created to combat trade in pirated and counterfeit goods. The initiative's goals are to stunt the growth of global trade in fake goods that threaten America's innovation and economy, the competitiveness of U.S. businesses, and the livelihood of their workers.

As part of STOP!, the USPTO manages a hotline (1-866-999-HALT) that helps small- and medium-sized businesses leverage U.S. Government resources to protect their intellectual property rights in the United States and abroad. Callers receive information from a staff of over three dozen intellectual property attorneys at the USPTO with expertise on how to secure patents, trademarks, and copyrights, and on enforcement of these rights throughout the world. In FY 2006, the USPTO Hotline received 1,460 calls including calls regarding counterfeiting and piracy concerns with respect to China and other countries.

***STOP! Works Around the World:*** The USPTO has established a link from its USPTO website to the DOC website *www.stopfakes.gov*, which provides in-depth information about the STOP! initiative. One key feature of the website is the country-specific "toolkits" that have been created by our overseas embassies to assist small- and medium-sized businesses to understand the atmosphere and how to protect and enforce their rights in a particular country. During FY 2006, toolkits for Brazil and Malaysia were added to those already in existence for China, Korea, Mexico, Taiwan, and Russia. Additional toolkits will be posted in FY 2007.

STOP! also seeks to increase global awareness of the risks and consequences of intellectual property theft through a section of its website, *www.stopfakes.com/smallbusiness*, that is specifically designed and operated by the USPTO to answer common questions of small businesses so they can better identify and address their intellectual property protection needs. This information emphasizes the need for businesses to consider securing their trademark and patent rights on a country-by-country basis.

***STOP! Works for Small- and Medium-Sized Businesses:*** While counterfeiting and piracy pose a serious threat to all American businesses, small businesses are particularly at risk since they often lack the knowledge and expertise to effectively combat that theft. In addition, since small businesses typically do not have personnel or maintain large operations in other countries, theft of their intellectual property overseas can go undetected.

As part of the STOP! initiative in FY 2006, the USPTO continued its intensive national public awareness campaign by offering conferences targeting small- and medium-sized businesses where participants learned what intellectual property rights are, why they are important, and how to protect and enforce these rights. Six workshops were conducted throughout the country in FY 2006. The USPTO will continue to hold small-business outreach seminars in FY 2007 to give American businesses face-to-face contact with intellectual property experts.

***USPTO Efforts in China and Other Countries:*** The USPTO also organized and conducted China intellectual property-focused programs in FY 2006 in four U.S. cities for companies with an established presence in China, companies contemplating entering China, and companies that simply want to know more about how to protect and enforce their intellectual property rights against counterfeiting and piracy in China. Topics included a review of recent laws and regulations promulgated by the Chinese government that affect protection and enforcement of intellectual property, what the U.S. Government is doing to improve intellectual property protection and enforcement in China, how to best protect business assets to avoid intellectual property problems, how to recognize product infringement, and steps to take if infringement occurs. Additional China intellectual property-focused programs are being planned for FY 2007. These will include expanded technical assistance programs for Chinese government officials and greater outreach to U.S. businesses.

The USPTO expanded its intellectual property awareness campaign in FY 2006 through its increased participation in U.S. Export Assistance Center (USEAC) programs, the federal government's program run by DOC's U.S. & Foreign and Commercial Service (U.S.&FCS), that promotes and assists businesses in exporting and financing U.S. goods and services worldwide. These programs allow the USPTO to reach a wide audience of small businesses and help them integrate intellectual property protection into their business strategy. Through these programs, the USPTO attorney-advisors provided personalized assistance to small- and medium-sized businesses in various cities throughout the U.S. with respect to the STOP! initiative, the resources on the *www.stopfakes.gov* website, and the need to consider securing patents and trademarks on a country-by-country basis. The USPTO plans to continue its partnership with the USEAC programs in FY 2007.

In FY 2006, in conjunction with DOC's U.S.&FCS and the Department of State, the USPTO placed attorney-advisor intellectual property experts in high-profile countries with serious intellectual property challenges. These individuals, posted in Bangkok, Thailand; New Delhi, India; Cairo, Egypt; Beijing, China; and Sao Paulo, Brazil, will support U.S. embassies and consulates on IPR issues, advocate U.S. intellectual property policies, coordinate training on IPR matters, and assist U.S. businesses that rely on IPR protection abroad. These five postings complement the USPTO attaché currently detailed in Beijing, China. The USPTO plans to continue expanding its overseas IPR initiative in FY 2007 by placing additional experts in Moscow, Russia and Guangzhou, China.

***GIPA Trains Foreign Officials in Intellectual Property Management:*** The USPTO greatly increased its training and capacity-building initiatives on intellectual property protection and enforcement by creating the GIPA in FY 2005. Through GIPA, USPTO brings foreign government officials - including judges, prosecutors, police, customs officials, patent, trademark, and copyright officials and policy makers - to the United States to learn, discuss, and strategize about global IPR protection and enforcement.

In FY 2006, the USPTO conducted 17 GIPA programs for foreign officials at its headquarters in Alexandria, Virginia. One of these included an additional four-city study tour for 21 judges and prosecutors from seven different countries in the Middle East and Northern Africa that highlighted U.S. Government and private industry/rights holder initiatives to combat IPR theft and infringement. The program also provided the participants the opportunity to interact with U.S. judges, prosecutors, and private rights holders to learn more about the harm caused by IPR infringement. Another initiative, with 19 Middle Eastern and Northern African librarians and legal advisors participating, continued its program by touring seven U.S. cities where participants were provided information on how to modernize their libraries and implement library information management in their countries while balancing the needs for stronger intellectual property protection and enforcement to stimulate research and education. In FY 2007, the USPTO plans to conduct at least 21 such programs domestically as well as numerous other programs around the world. Through these GIPA programs, foreign government officials are equipped to improve protection and enforcement of intellectual property rights in their home countries through intellectual proprty rights practices.

***USPTO Advises the President on Intellectual Property Issues:*** Under the AIPA of 1999 (Public Law 106-113), the USPTO is directed to advise the President, through the Secretary of Commerce and all federal agencies, on national and international intellectual property policy issues, including intellectual property protection in other nations. The USPTO is also authorized by the AIPA to provide guidance, conduct programs and studies, and otherwise interact with foreign intellectual property offices and international intergovernmental organizations on matters involving the protection of intellectual property.

*USPTO Deputy Director Steve Pinkos speaks to attendees of the USPTO Intellectual Property Awareness Conference for small businesses in Nashville, Tennessee.*

Through the Offices of Congressional Relations, International Relations, and Enforcement, the USPTO: (1) helps negotiate and works with Congress to implement international intellectual property treaties and develop domestic intellectual property related legislation; (2) provides technical assistance to foreign governments that are looking to develop or improve their intellectual property laws and systems; (3) provides capacity-building training programs to foreign intellectual property officials on intellectual property enforcement; (4) advises the Department of State and the USTR on drafting and reviewing of intellectual property sections in bilateral and multilateral investment treaties and trade agreements; (5) advises the USTR and the Department of State on intellectual property issues in the WTO; (6) works with USTR, the Department of State, and American industry on the annual review of intellectual property protection and enforcement under the Special 301 provisions of the Trade Act of 1974; and (7) consults with the Department of Justice and other federal law enforcement entities who are responsible for intellectual property enforcement.

## INTELLECTUAL PROPERTY TREATIES/AGREEMENTS

***PCT Reform:*** The USPTO continued to participate in WIPO's Working Group on Reform of the PCT in an effort to achieve a simpler, more cost-effective system. Major treaty reforms, based on a U.S. initiative, became effective on January 1, 2004. In FY 2006, the USPTO initiated discussions in two sessions of the Meeting of the International Authorities of pending proposals from the Working Group on Reform of the PCT. These discussions continue to refine the reforms initiated in 2004, including adoption of quality management standards for international searching and examining authorities. As a result of this effort, the PCT Assembly approved a number of outstanding reform proposals in FY 2006.

***Standing Committee on the Law of Patents (SCP) and Patent Law Harmonization:*** The USPTO participated in WIPO's informal meeting of the SCP in an effort to agree to a work program for that body and move forward the discussions on substantive patent law harmonization. The United States maintained its strong support for the proposal, sometimes referred to as the "limited package." The proposal was introduced previously by the Trilateral Offices consisting of the USPTO, JPO, and EPO, to limit the discussions to prior-art related issues. Although a number of compromise proposals were considered, a work program was not adopted due to firm opposition from Brazil, Argentina, and a number of other member states. In FY 2006, the WIPO General Assembly raised the issue of the future work of the SCP and agreed that consultations would be held on this matter. In the interim, due to the advocacy of the United States, the members of the so-called "Group B+" continue progress on the limited package work program of patent law harmonization and have agreed to pursue work based on a compromise by the body Chair, with the view of reaching agreement in the near term.

***WIPO Internet Treaties:*** The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), commonly known as the WIPO Internet Treaties, are designed to ensure international protection of copyrighted works, performances, and sound recordings in the digital environment. Over the last several years, the USPTO has worked to ensure the ratification and full implementation of the treaties, which entered into force in FY 2002. Currently, 59 countries are members of the WCT and 58 are members of the WPPT, helping to create a seamless web of protection for copyright works on-line.

***Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications (SCT):*** The USPTO continued to promote United States Goverment policy goals within the discussions of the Standing Committee regarding future work items for the SCT now that the Trademark Law Treaty (TLT) reform efforts ended with a successful Diplomatic Conference in March of 2006. These

goals include expert discussions regarding geographical indications, opposition procedure best practices, and Article 6*ter* of the Paris Convention, all of which have been included on the future agenda of the SCT.

***Singapore Treaty on the Law of Trademarks:*** In March of 2006, a Diplomatic Conference of WIPO adopted the text of the Singapore Treaty on the Law of Trademarks. The USPTO represented the United States at the Diplomatic Conference and was one of 41 delegations to sign the treaty. The USPTO continues to work to ensure ratification of the treaty by the U.S. The Singapore Treaty updates the 1994 TLT to adapt to certain business realities. The TLT is designed to harmonize formalities and simplify procedures in the application for, registration, and renewal of trademarks by establishing maximum requirements that contracting parties can impose on trademark applicants and holders. The beneficial features of the 1994 TLT are included in the text of the Singapore Treaty in addition to improvements, such as allowing for national trademark offices to take advantage of electronic communication systems as an efficient and cost saving alternative to paper communications. License recordal provisions in the treaty will reduce the formalities trademark owners must face when doing business in a country that is a party to the Singapore Treaty requiring recordal and will reduce the damaging effects that can result from failure to record a license in those jurisdictions. In addition, the Assembly provisions create a more attractive treaty for WIPO member states since the Assembly can discuss matters relating to the regulations governing implementation of the treaty.

***Standing Committee on Copyright and Related Rights (SCCRR):*** The USPTO continued in FY 2006 to participate in the work of the SCCRR to develop its proposal on treaty language for a new WIPO treaty for the Protection of the Rights of Broadcasting, Cablecasting, and Webcasting Organizations. The SCCRR also monitored national developments in the legal protection of databases and reported on related developments in U.S. legislation.

***Free Trade Agreements (FTA):*** The USPTO is participating in FTA negotiations with several countries, including South Korea, Malaysia, Thailand, Ecuador, United Arab Emirates, and the Southern Africa Customs Union, composed of Botswana, Lesotho, Namibia, South Africa, and Swaziland. In these negotiations, the USPTO works with the USTR and delegations from each country to ensure that standards are created which build on the foundation established in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIP) and other international agreements to protect intellectual property. In addition, the USPTO has been engaged in talks with our FTA trading partners, the most recent being El Salvador, Nicaragua, Honduras, Guatemala, and the Central America Free Trade Agreement – Dominican Republic (CAFTA-DR), to address the implementation of their FTA obligations. These implementation discussions serve to make certain that the IPR legislation of our new trading partners reflect the obligations found in the FTA. Moreover, the USPTO, in cooperation with the USTR, continues to monitor compliance with existing FTAs such as the United States FTA agreements with Australia, Chile, Bahrain, and Morocco.

***WTO/TRIPs:*** The USPTO actively participated in U.S. delegations to the WTO's Council for TRIPs of the WTO throughout FY 2006. The TRIPs Council continued to review the intellectual property regimes of numerous countries and advanced its discussions relating to traditional knowledge, genetic resources, technology transfer, and the protection of Geographical Indications (GI). Included were the negotiations for the establishment of a multilateral system of notification and registration of GI wines and spirits, and other issues. Although the ongoing round of multilateral trade negotiations in the WTO was suspended on July 24, 2006, the USPTO will remain actively involved in WTO intellectual property issues as discussions in the TRIPs Council continue.

***WIPO Intergovernmental Committee:*** The USPTO headed the U.S. delegation to the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore. The focus of U.S. efforts is to encourage developing countries to meet stated concerns about protecting genetic resources, traditional knowledge, and folklore either through current intellectual property regimes or through non-intellectual property laws. Progress has been made in the development of model contractual provisions and traditional knowledge databases. In FY 2006, the USPTO worked with the Australian, Canadian, and Japanese Patent Offices to block a proposed negotiation of treaty language on the misappropriation of traditional knowledge (TK) and traditional cultural expressions (TCE), and instead encouraged working toward common objectives and principles with respect to protection of TK and TCEs.

***International Science and Technology (S&T) Agreements:*** Throughout FY 2006, the USPTO continued working closely with the Department of State in the negotiation of cooperative S&T agreements with other countries, including provisions of the intellectual property annex to S&T agreements that ensure equitable allocation of rights to intellectual property created in the course of cooperative research.

## ENFORCEMENT

***Technical Assistance and Capacity-Building:*** The USPTO participated in FTA negotiations and/or follow-up with Malaysia, Panama, Thailand, Andean Community, Oman, United Arab Emirates, South Korea, and Morocco by providing advice relating to enforcement obligations. Technical assistance was provided in the implementation of the Dominican Republic-Central America FTA and FTAs with Australia, Bahrain, Singapore, and Morocco. The Office of Enforcement assisted the USTR with the negotiation of trade and investment framework agreements with Malaysia, Brunei, Singapore, Turkey, and the Philippines and provided comments, analyses, and questions in connection with WTO TRIPs Council or Trade Policy Reviews. Within the context of WTO accession negotiations, the Office of Enforcement provided policy guidance to the USTR. Additionally, guidance and recommendations were provided to the USTR relating to the Special 301 review, FTA negotiations, and bilateral and multilateral negotiations.

*Examiners from the State Intellectual Property Office of China (SIPO) and their USPTO hosts meet as part of an examiner exchange program.*

The Office of Enforcement partnered with numerous international and non-governmental organizations in designing and delivering technical assistance programs including the Association of South East Asian Nations (ASEAN), United Nations Economic Commission for Europe (UNECE), International Intellectual Property Institute (IIPI), WIPO, Asia-Pacific Economic Cooperation (APEC), Secretariat for Central American Integration (SIECA), Bureau for International Narcotics and Law Enforcement Affairs (INL), and carried out a range of capacity-building programs under the auspices of the Middle East Partnership Initiative (MEPI). The Office of Enforcement analyzed IPR enforcement components, provisions, and ramifications in international documents, including position papers or proposed policy statements of the World Health Organization, WIPO, Organization for Economic Cooperation and Development, APEC, ASEAN, and the Caribbean Community and Common Market.

The Office of Enforcement increased technical assistance offered in China, with a focus on providing the provinces with capacity-building programs relating to civil, criminal, and border enforcement. Programs in China included: World Customs Organization Regional Forum, Shanghai; Criminal Copyright Enforcement Seminar in Guangzhou; Criminal Copyright Seminar, "How to File a Criminal Case," Beijing; and the Pearl River Delta Seminar on Intellectual Property Enforcement in southern China. The Office of Enforcement also participated in the following programs: the Ambassador's Roundtable Meeting and training, Beijing and Shanghai; U.S. Chamber IP Enforcement seminars in Guangzhou and Nanjing; meeting/training with local Chinese officials on IP Enforcement in Yiwu; a program with Temple University and Qinghua University on IP Enforcement for Chinese prosecutors in China, Beijing; American Chamber of Commerce Programs on IP Enforcement in Shanghai and Guangzhou; Trade Fair Enforcement and a Customs Training program, Guangzhou; and an automotive anti-counterfeiting seminar in Shanghai.

The USPTO, in coordination with IIPI, provided technical assistance in Russia for border enforcement officials in St. Petersburg and Vladivostok. These programs utilized a case study method involving discussions of problem solving exercises. Additional programs in Europe and Central Asia included: UNECE Intellectual Property Advisory Group consultations with Romania and Turkey; USPTO Intellectual Property Enforcement Conference in Azerbaijan; USPTO/IIPI Intellectual Property Border Enforcement Workshop for customs officials and judges in Russia; Commercial Law Development Program Workshop on the Implementation and Coordination of IP Border Enforcement for 35 customs officials from Russia and Ukraine; Intellectual Property Enforcement program for government officials in Lithuania; Intellectual Property Enforcement program for government officials from new European Union member states on copyright infringement in the digital environment in Estonia; a joint USPTO-Patent Office of the United Kingdom-Slovenian Intellectual Property Office workshop on IPR border and market enforcement in Slovenia; WIPO-UNECE-World Customs Organization Sub-regional Seminar on Enforcement of Intellectual Property Rights in Almaty, Kazakhstan; and an IPR roundtable in Madrid.

In Asia, the Office of Enforcement conducted intellectual property protection and enforcement programs that included: ASEAN-USPTO Workshop on Optical Media Regulation and Enforcement, Bangkok, Thailand; International Association for the Protection of Intellectual Property-Japan IPR Enforcement Symposia on Anti-Counterfeiting, Tokyo and Fukuoka, Japan; U.S.-Vietnam Trade Council Program in Ho Chi Minh City, Vietnam; U.S. Consulate-United States Vietnam Trade Council-Association of American Publishers Seminar on Copyright Licensing, Ho Chi Minh City, Vietnam; Support for Trade Acceleration Program Vietnam-KI Asia-IIPI Judicial Education Program on IPR Protection and Enforcement, Hanoi, Vietnam; ASEAN-USPTO Workshop on Effective Practices in Combating Trade in Counterfeit Hard Goods, Bangkok, Thailand; ASEAN-USPTO Seminar on IPR Capacity-Building for Small- and Medium-Size Enterprises in Bangkok, Thailand; Combating Internet Piracy, Taipei, Taiwan; Intellectual Property Enforcement Program for 28 judges from Vietnam in Ho Chi Minh City, Vietnam; USPTO/ASEAN and U.S. Department of Justice IP Enforcement Workshop for 56 customs and enforcement officials from ten Asian countries in Bangkok, Thailand; USPTO/IIPI Intellectual Property Enforcement program in Bangladesh; regional IPR Enforcement training for officials from ten Asian countries in Hong Kong; USPTO/ASEAN Workshop on IP Office Administration and Enforcement for 88 government officials from 12 countries in the Asian region in Bangkok, Thailand; intellectual property training program for the Thai IP Court in Bangkok, Thailand; IPR Enforcement program in Phnom Penh, Cambodia; lectures, meetings, and training on IPR issues in China throughout various cities in Japan; regional IPR Training for Law Enforcement Officials in Hong Kong; a training program on IPR Enforcement for 29 government officials in Jakarta, Indonesia; International IP Enforcement Training Event in Delhi, India; four IP Enforcement Training Seminars throughout India; and intellectual property protection and enforcement workshops and public awareness seminars in Ulaan Baatar, Mongolia.

In addition, the Office of Enforcement participated in the following programs: IP Judicial Education Program for 36 judges from four Asian countries in Bangkok, Thailand; meeting and training with government of Vietnam officials regarding amending intellectual property enforcement laws in Vietnam; WIPO Asia Pacific Regional Symposium on IP Enforcement for 120 officials from 22 countries in Kuala Lumpur, Malaysia; ASEAN Regional Workshop on IP Enforcement for prosecutors in Kuala Lumpur, Malaysia; ASEAN Workshop on Optical Media Piracy for 85 regional government officials in the Philippines; U.S. Government of Malaysia Roundtable event on IPR enforcement with government officials and business in Malaysia; and Judicial Education Workshop on IP Law and Civil Procedures with U. S. Agency for International Development for 70 judges in Vietnam.

Through partnership with MEPI, programs were provided that focused on a variety of enforcement issues including: IPR Enforcement Seminar for Kuwaiti officials in Kuwait; Workshop on IP Enforcement for 70 enforcement officials in Kuwait; USPTO/MEPI Border Enforcement seminar for over 20 Moroccan Customs officials in Casablanca, Moroco; and USPTO/MEPI IPR Enforcement program for copyright enforcement officials in Rabat, Morocco. The Office of Enforcement also participated in the following programs: USPTO/MEPI regional judicial workshop for judges on IP Enforcement in Dubai, United Arab Emirates; USPTO/MEPI regional workshop for prosecutors on IP Enforcement in Oman; and MEPI regional customs program for 43 government officials in Bahrain. In addition, a special program and study tour was conducted for Middle Eastern librarians and information legal advisors on copyright protection and library management in the digital environment.

*An international study group of 21 law enforcement officers, judges, and public prosecutors from the Middle East and Northern Africa attend a four-day training program at the USPTO on intellectual property rights enforcement. The USPTO held 17 Global IP Academies for foreign officials in FY 2006.*

Technical assistance programs were offered in Africa, which included: USPTO-IIPI Botwana program on Making IP Work for Development; and INL, Department of State/USPTO Program on Combating Counterfeit Medicines in Sub-Saharan Africa, Johannesburg.

In the Americas and Caribbean, the Office of Enforcement organized and/or participated in intellectual property protection and enforcement programs that included: a program on the Enforcement of Intellectual Property Rights at the border for

customs officials in Lima, Peru; USPTO/SIECA intellectual property training for judges and prosecutors from seven regional countries in Antigua, Guatemala; a conference for police and prosecutors in San Pedro Sula, Honduras; and a conference for Honduran diplomats in Tegucigalpa, Honduras focusing on intellectual property enforcement obligations under CAFTA-DR.

Several enforcement programs were conducted in the Washington, D.C. area for foreign officials including: USPTO Enforcement Academies; the USPTO-WIPO Academy for the Judiciary on the Enforcement of Intellectual Property Rights; a week-long Enforcement seminar followed by a study tour of the U.S. for 21 judges and prosecutors from countries throughout the Middle East and North Africa; and GIPA trainings and seminars on intellectual property enforcement including those for MEPI region and for CAFTA-DR countries plus Belize and Panama. In addition, the Office of Enforcement participated in the Department of State's International Visitors Programs. Training was also provided to U.S. Government officials whose portfolios include intellectual property issues, including briefing numerous offices of the U.S. Congress including authorizing and appropriation committees on intellectual property matters ranging from patent reform and trademark disputes, trade agreements, international intellectual property enforcement, and a two-day conference for U.S. Government personnel on intellectual property protection in China.

The USPTO also participated in conferences for U.S. businesses and industries that specifically were concerned with intellectual property enforcement. Some of these conferences included: the Motor Equipment Manufacturing Association's Meeting in Detroit; the International Anti Counterfeiting Coalition (IACC) Anti-Counterfeiting Summit in New York City; the American Intellectual Property Law Association Conference in Philadelphia; the U.S. Chamber of Commerce's Conference on Trade Roots in Seattle; the American Apparel and Footwear Association Anti-Counterfeiting Conference in New York City; the American Made Alliance's "The Buyer's Market of American Craft" trade show in Philadelphia; the National Confectioners Association Annual Meeting in Orlando; the National Association of Manufacturers Meeting in Chicago; an IACC Anti-Counterfeiting Conference in Toronto; and the International Trademark Association Conference in Toronto.

## TRILATERAL

*Patent examiners from the Japan Patent Office and the European Patent Office visit the USPTO through the Trilateral Examiner Exchange Program to learn more about how the USPTO operates and exchange ideas.*

***Patent Trilateral Offices:*** The USPTO, JPO, and EPO continued working together, building on a cooperative effort that began in 1983, to find mechanisms to streamline processing and avoid redundancies among the offices as well as for applicants.

In FY 2006, the USPTO and JPO implemented a one-year trial program known as the "Patent Prosecution Highway" which leverages fast-track patent examination procedures available in both offices to allow applicants in both countries to obtain corresponding patents faster and more efficiently. The program is an important step toward reducing duplication of searching through work-sharing as it permits each office to benefit from work previously done by the other office, in turn reducing examination workload and improving patent quality.

The USPTO successfully deployed the TDA system with the EPO and the JPO that permits examiners of the three offices electronic access to the contents of each office's published application files. This tool is an important component in facilitating work sharing activities.

The USPTO and EPO are working toward implementing a pilot for electronic priority document exchange. The system will allow for direct office-to-office transmission of priority documents that would streamline the process by eliminating the need for customers to request and mail these documents. Full implementation of both the USPTO and EPO exchange and the USPTO and JPO exchange is expected to occur in FY 2007.

At the request of the Industry Trilateral Group, the Trilateral Offices began working towards standardization of the formal aspects of patent applications to allow applicants to file in the same format for all three of the offices. This effort will allow for the implementation of the first step towards a phased approach to patent harmonization.

***Trademark Trilateral Offices:*** The USPTO, together with the JPO and Europe's OHIM, continued its work on the Trademark Trilateral Identification Manual Project's list of identifications for goods and services that will be accepted in trademark applications filed in the three offices. This list of accepted identifications streamlines the trademark application process for those filing applications within the United States, Europe, and Japan.

## GEOGRAPHICAL INDICATIONS

***WTO GI Issues:*** The USPTO actively works on GI issues in the WTO context including the WTO Agriculture Committee, TRIPs Council, and the WTO Dispute Settlement Body. Negotiations continue on establishing a multilateral system of notification and registration of GIs wines and spirits. The USPTO and other U.S. Government agencies do not support establishing a multilateral system that treats GIs differently from trademarks and undermines the existing protection for trademark rights. Discussions also continue regarding extension of higher-level protection to products other than wine and spirits. The United States opposes amending the TRIPs Agreement to change the level of protection for all GI products, as there has not been any demonstration that existing protection is inadequate. Also, the topic of GIs continues to be included in the modalities on the WTO Agriculture negotiations where generic terms (i.e., parmesan, feta, chablis) would be considered intellectual property of a particular region. In March 2005, the USPTO worked with the USTR to obtain a win at the WTO on a GI case against the European Communities (EC). The WTO Panel affirmed the U.S.' assertion that the EC regulations discriminate against foreign owners of GIs and that the EC cannot deny trademark owners their rights. The USPTO continues to work on an inter-agency basis to ensure that the domestic and export interests of U.S. trademark holders are not damaged through WTO proposals and national legislation of our trading partners.

## CHINA INITIATIVES

***Technical Assistance:*** The USPTO continued technical assistance offered in China, with a focus on providing the provinces with capacity-building programs relating to civil, criminal, and border enforcement. In addition to enforcement programs, the USPTO hosted various seminars on substantive intellectual property issues, including a seminar on the protection of GIs through use of a trademark system in Beijing and Xiamen and a seminar on Traditional Knowledge and Genetic Resources with China's State Intellectual Property Office (SIPO) in Beijing and Kunming. In early FY 2007, the USPTO in coordination with JPO and EPO, will host a two-day conference on intellectual property protection and enforcement of pharmaceuticals.

***Diplomatic Initiatives:*** In FY 2006, the USPTO strengthened its bilateral relationships with Chinese intellectual property offices. In February 2006, the USPTO signed a Work Plan for Strategic Cooperation with SIPO. The work plan is intended to increase office-to-office cooperation as a means to assist each office with reducing workloads and improving the quality of patent examination for the benefit of both Chinese and U.S. patent applicants. Both offices have already begun implementing the first phase of the work plan and are actively pursuing the next steps.

*Under Secretary Jon Dudas and Deputy Under Secretary Steve Pinkos meet with Chinese officials discussing intellectual property enforcement in China.*

In FY 2006, the USPTO hosted the head of the China Trademark Office and his delegation to discuss capacity building, improving administration and management of the China Trademark Office and the Trademark Review and Adjudication Board. Also discussed was improving trademark protection in China for foreign and Chinese brand owners. Also in FY 2006, Under Secretary Dudas met with the General Administration for Press and Publication (which includes China's copyright office) to discuss copyright issues, including how to improve China's newly-promulgated protections for copyrights on the Internet.

*USPTO IPR experts Dorian Mazurkevich, Minna Moezie, Jennifer Ness, and Dominic Keating were sworn into the U.S. Commercial Service on Sept. 18, 2006, as intellectual property rights commercial officers. They will be stationed at U.S. embassies around the world to promote IP rights and enforcement..*

***Training:*** The USPTO hosted visiting Chinese delegations from both Beijing and from the provinces. The visitors have included Chinese officials from Shanghai and Guangzhou, as well as intellectual property officials from Guangdong, Hubei, and Zhejiang provinces. These officials visited the USPTO to learn about our legal system, the administrative procedures followed by the USPTO, how IPRs are protected and enforced in the U.S., and the functions and responsibilities of the USPTO and other U.S. Government intellectual property-related agencies.

During FY 2006, the USPTO also utilized GIPA to greatly expand USPTO-led training and capacity-building programs on IPR protection and enforcement. Through GIPA, the USPTO brings foreign government officials to the United States to learn and strategize about global IPR protection and enforcement issues facing the global economy. In FY 2006, several Chinese intellectual property officials participated in programs offered through GIPA, including the Copyright Program offered in August 2006.

***Diplomatic Negotiations:*** In early FY 2006, Under Secretary Dudas led a U.S. interagency delegation to Beijing, China for the U.S.-China JCCT IPR Working Group meeting. The IPR Working Group, co-chaired on the U.S. side by the USTR and the USPTO, helped negotiate an additional set of commitments from the Chinese government to reduce counterfeiting and piracy in China. Later in FY 2006, Under Secretary Dudas took part in the 17th Plenary Session of the JCCT in Washington, DC. In August 2006, Deputy Under Secretary Pinkos led a U.S. interagency delegation to Beijing, China for another JCCT IPR Working Group meeting. The next meeting of the JCCT IPR Working Group is scheduled to take place in December 2006 in Washington, DC.

In early FY 2007, a delegation from the DOC is expected to participate in the Ambassador's Roundtable on IPR in China.

***Expert Posting:*** During FY 2006, the USPTO posted an additional intellectual property expert in Beijing with the U.S.&FCS and another expert will be placed in Guangzhou in early FY 2007. This will supplement the work of USPTO's already existing intellectual property attaché who has been in Beijing since FY 2004. The new team of experts will expand the USPTO's program of providing in-country assistance to U.S. businesses facing intellectual property problems and work with local officials on efforts to curb piracy.

## CONGRESSIONAL ACTIVITY

During FY 2006, Under Secretary Dudas, Deputy Under Secretary Pinkos, and the USPTO's Offices of Congressional, International Relations, and Enforcement participated in numerous meetings, hearings, and briefings with members of Congress and staff relating to patent, trademark, and copyright issues including patent reform and intellectual property protection and enforcement. In addition, the USPTO was host to several congressional delegations throughout FY 2006 at its USPTO facilities. The Office of Congressional Relations furthered outreach between industry and government by meeting and working with property rights groups, business associations such as the U.S. Chamber of Commerce, and interested industry groups. The Offices of Congressional, International Relations, and Enforcement continued developing its intergovernmental partnerships with federal agencies, including Department of Justice, U.S. Customs and Border Protection, USTR, DOC, International Trade Administration, and Department of State.

***Patent Quality:*** During FY 2006 Under Secretary Dudas testified on "Patent Quality Enhancement in the Information-Based Economy" and on "H.R. 5120, To Amend title 35, United States Code (USC), to conform certain filing provisions within the Patent and Trademark Office" before the House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property. The ever-increasing importance of intellectual property in today's economy is putting greater pressures on the patent examination system. The USPTO has taken

important steps to improve patent quality and plans to propose additional changes that will have a positive impact. Under Secretary Dudas and the Office of Congressional Relations will continue working with Congress throughout FY 2007 to help ensure a quality-focused, efficient patent system that benefits all interested parties and the American economy.

***Strategy Targeting Organized Piracy!:*** Deputy Under Secretary Pinkos provided testimony to the Senate Committee on Homeland Security and Governmental Affair's Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on "STOP!: A Progress Report on Protecting and Enforcing Intellectual Property Rights Here and Abroad." The USPTO has made combating piracy and counterfeiting a top priority and will work with Congress, other federal agencies, and all other interested parties to ensure that the efforts are successful.

***Patenting of Tax Strategies:*** USPTO's General Counsel testified before the House Ways and Mean's Subcommittee on Select Revenue Measures on "Issues Relating to the Patenting of Tax Advice." Consistent with applicable law, the USPTO has issued patents on various business methods including those involving tax-planning strategies. This issue will be a topic of continued interest in FY 2007.

***Telework:*** USPTO's Senior Advisor for Telework testified before the House Government Reform's Subcommittee on Federal Workforce and Agency Organization on "Telecommuting: A 21st Century Solution to Traffic Jams and Tourism." During FY 2006, the Trademark work-at-home program received the "Telework Program with Maximum Impact on Government" award from the Telework Exchange for its extremely successful program with 80 percent of its eligible trademark attorneys working from home. The PHP was introduced in 2006 with 506 patent examiners participating in the program through the end of FY 2006. The USPTO will continue to serve as a role model and leader in promoting telework opportunities and programs throughout FY 2007.

***Patent Reform:*** Patent reform was the subject of several House and Senate subcommittee hearings during FY 2006 with various parties weighing in, including independent inventors, high tech companies, legal academics, pharmaceutical groups, software companies, economists, financial services representatives, and U.S. Government officials.

Various legislative initiatives offered in the House during FY 2005 and FY 2006 contained numerous provisions intended to overhaul the U.S. patent system by improving patent quality, limiting litigation abuses, and harmonizing the U.S. patent laws with those of our key trading partners. Some of the major proposals include a shift from a first-to-invent system to a first-inventor-to-file, the establishment of a post-grant opposition proceeding at the USPTO, the submission of prior art by third parties, a modified definition of prior art, expansion of the *inter partes* reexamination proceeding, a limitation on treble damages for willful infringement, a codification into law of an apportionment rule for calculating damages, allowance of assignee filing, the publication of all patent applications after 18 months, the elimination of the best mode requirement, a codification of duty of candor, the transfer of venue for certain patent cases, and broadening of the scope of prior user rights.

In August 2006, the Senate introduced its own version of patent reform legislation, which contains many of the provisions included in the various House versions, including first-inventor-to-file, post-grant review, a revised definition for prior art, assignee filing, apportionment of damages, willful infringement, prior user rights, *inter partes* reexamination, 18-month publication, third party submission of prior art, and venue. However, the Senate bill contains additional provisions, including the award of attorney's fees to the prevailing party, substantive rulemaking authority for the USPTO, and the right to an interlocutory appeal on claims construction.

*Elaine Gin, attorney-advisor in the USPTO Office of Enforcement, meets dog trainer, Neil Powell* **(LEFT)**, *and Flo, the Motion Picture Association of America's DVD-sniffing dog. The MPAA hosted an event in Washington D.C. to launch its new program which uses specially trained dogs to help prevent the import and export of fake DVDs. A USPTO-sponsored enforcement class from around the world attended the launch.*

Under Secretary Dudas welcomes the discussion of reform initiatives and shares Congress' commitment to ensure the USPTO's policies and practices promote invention, disseminate new technologies, and reduce patent pendency. Discussions on patent reform initiatives to ensure the U.S. patent system remains the world's leader will resume in FY 2007.

*USPTO Director Jon Dudas talks to children at the Fort Hunt Elementary School in Alexandria, Virginia, about their ability to innovate and the concept of respecting others' intellectual property rights.*

***Piracy and Counterfeiting:*** Under Secretary Dudas applauded the President's March 2006 signing of H.R. 32, the "Stop Counterfeiting in Manufactured Goods Act," that significantly strengthens U.S. anti-piracy and counterfeiting laws. This legislation provides for the mandatory destruction of counterfeit goods, the forfeiture of equipment used to manufacture or package counterfeit goods, prohibits trafficking in counterfeit labels, patches, tags or medallions that are unattached to goods, criminalizes the possession of counterfeit goods with the intent to sell or traffic in those goods, expands the definition of "traffic," and criminalizes the unauthorized import or export of goods bearing a counterfeit mark or copies of copyrighted works.

***Trademark Dilution:*** The Trademark Dilution Revision Act of 2006 passed in FY 2006. The bill clarifies the standard for injunctive relief under the Federal Trademark Dilution Act of 1995 by providing the owner of a famous mark entitlement to injunctive relief against another person's use of a mark that is likely to cause dilution by blurring or tarnishment, regardless of actual confusion, competition, or economic injury. The legislation sets forth the definition of a "famous mark," as those "widely recognized by the general consuming public of the United States." The legislation also defines "dilution by blurring," and "dilution by tarnishment." Finally, the bill allows the owner of a famous mark to seek additional remedies if the defendant acted willfully.

***Pilot Program for Patent Judges:*** Legislation passed the House and was introduced in the Senate in FY 2006 that would establish a pilot program in certain U.S. district courts where judges would have the choice of opting-in to hear patent cases while maintaining random assignments. The goal of this bill is to enhance the expertise of district court judges who hear patent cases while avoiding forum shopping. These discussions are expected to continue in FY 2007.

The Office of Congressional Relations is a vital component of the USPTO that provides outreach and informational support to members of Congress, their staff, and congressional bodies including the House and Senate Judiciary Committees, the House and Senate Appropriations Committees, the House Government Reform Committee, the House Ways and Means Committee, the Joint Committee on Taxation, the House and Senate Small Business Committees, the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Education and the Workforce, the U.S. China Interparliamentary Exchange, the U.S.-China Economic and Security Review Commission, the Intellectual Property Caucus, and the Congressional International Anti-Piracy Caucus. During FY 2006, the Office of Congressional Relations reviewed and prepared analyses of numerous legislative proposals regarding intellectual property matters that originated in other Executive agencies or were proposed by members of Congress. In addition, Congressional Relations responded to and consulted with Congressional staff on hundreds of diverse constituent-related intellectual property issues throughout FY 2006.

## INTELLECTUAL PROPERTY POLICY DEVELOPMENTS AND DOMESTIC LITIGATION

Under USC § 2, the Under Secretary of Commerce for Intellectual Property and Director of the USPTO advises the President and other agencies on both domestic and international intellectual property policy.

In domestic litigation, the USPTO advises the Solicitor General of the United States on intellectual property matters before the Supreme Court in addition to defending cases in which the USPTO is sued for decisions it has rendered. This year, the USPTO assisted the Solicitor General in formulating the government's position before the Supreme Court in several important intellectual property cases. First, in *eBay Inc. v. MercExchange, L.L.C.*, 126 S.Ct. 1837 (2006), the USPTO prepared a memorandum to the Department of Justice, recommending that the traditional four-factor injunction test should be applied in the patent context and helped the Solicitor General's Office prepare the government's *amicus curiae* brief advocating that position in favor of the petitioner. The USPTO also helped prepare the Solicitor General's Office for oral argument. The Supreme Court issued a unanimous decision and, as advocated by the government, reversed the Federal Circuit and remanded the case to the district court for application of the four-factor test.

Second, in *KSR International Co. v. Teleflex, Inc.*, No. 04-1350, the Supreme Court's invited the views of the government regarding whether to grant a petition for writ of *certiorari* to address whether the Federal Circuit misapplies the motivation-suggestion-teaching test for combining prior art references under 35 USC § 103 in light of the Supreme Court's precedent on obviousness. The USPTO assisted the Solicitor General's Office in formulating a recommendation, which the Supreme Court followed in granting *certiorari*. Thereafter, the USPTO assisted the Solicitor General's Office in preparing the government's *amicus curiae* brief on the merits, arguing that the Supreme Court should reverse Federal Circuit precedent and its application of the motivation-suggestion-teaching test as too stringent. Oral argument is presently pending and will be heard in FY 2007.

Third, in *SmithKline Beecham Corporation v. Apotex Corporation*, No. 05-489, the Supreme Court invited the views of the government regarding whether to grant a petition for writ of *certiorari* to address whether the Federal Circuit's finding of inherent anticipation conflicted with Supreme Court precedent. The USPTO provided a memorandum to the Department of Justice, indicating that the Federal Circuit decision did not conflict with precedent and thus recommending against the grant of *certiorari*. The USPTO also helped the Solicitor General's Office prepare the government's brief reflecting that position. The Supreme Court, following the government's suggestion, denied *certiorari*.

Fourth, in *Federal Trade Commission v. Schering-Plough Corporation*, No. 05-273, the Federal Trade Commission filed a petition for writ of *certiorari* pursuant to its independent litigating authority without the participation of the Solicitor General's Office. The Supreme Court invited the views of the government regarding whether to grant *certiorari* to address whether a settlement of pharmaceutical patent litigation wherein the patent holder makes a payment to a potential generic competitor violates antitrust laws. Upon request, the USPTO gave input to the Solicitor General's Office, and the Solicitor General's Office in turn filed a brief recommending against *certiorari*. Following the government's recommendation, the Supreme Court denied *certiorari*.

In addition to the USPTO's work before the Supreme Court, the USPTO appeared as a party in several important patent cases before the U.S. Court of Appeals for the Federal Circuit. As one example, the USPTO appeared as an appellee in *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006), a case involving the issue of obviousness, specifically, whether the BPAI correctly found that there was motivation to combine the prior art. In affirming the BPAI, the Federal Circuit addressed the origins of the motivation-suggestion-teaching test, noting that it was developed by the Court of Customs and Patent Appeals to pick up where the analogous art test set forth in *Graham v. John Deere Co.*, 383 U. S. 1 (1966), left off. The Federal Circuit also explained that the purpose of test is to guard against hindsight and to ensure predictable patentability determinations. Patent scholars have commented that the Federal Circuit's discussion of the motivation-suggestion-teaching test was made in reaction to the Supreme Court's grant of *certiorari* in *KSR International*.

Lastly, the Office of the Solicitor defended the USPTO in several civil actions before the trial courts. For example, in *Sony v. Dudas*, No. 05-1447, 2006 WL 1472462 (E.D. Va. May, 22, 2006), the USPTO defended the Office's decision (1) to suspend the *inter partes* reexamination of two patents, given that the validity of the two patents was pending before the Federal Circuit as a result of private litigation; and (2) not to reexamine every claim of a patent when the request for reexamination is for less than all the claims. The USPTO filed a motion for summary judgment before the U.S. District Court for the Eastern District of Virginia and argued the case. The District Court granted the USPTO's motion. It held that the USPTO did not abuse its discretion in finding "good cause" to suspend

the *inter partes* reexamination. It also held that the USPTO, in its discretion, may review claims for which reexamination was not requested, but that the USPTO is not required to do so when the request identifies less than all the claims.

As a further example, in *Michels v. United States*, No. 06-290, 2006 WL 2524040 (Fed. Cl. Sept. 1, 2006), plaintiffs sued the United States for an unconstitutional taking of their patents without just compensation in violation of the Fifth Amendment when their patents expired because they failed to pay the statutorily required maintenance fees under 35 USC § 41(b). The USPTO prepared a memorandum for the Department of Justice, recommending a motion to dismiss for failure to state a claim upon which relief could be granted. The USPTO in turn helped the Department of Justice to file the motion. The U.S. Court of Federal Claims granted the government's motion, agreeing with the government that the expiration of plaintiffs' patents for failure to pay maintenance fees did not constitute an unconstitutional taking.

## REGISTRATION

### *Office of Enrollment and Discipline*

The Office of Enrollment and Discipline (OED) had a very successful FY 2006. In the last three months of the fiscal year, OED experienced a 23 percent increase in applicants taking the fully implemented computerized testing of applicants for registration to practice in patent cases before the USPTO. Several important advantages of computerized testing that were expected have been realized. These include: steady-state, non-cyclical workflow in processing applications and preparing examination questions; and greater convenience for applicants scheduling examinations. Turnaround time for processing applications and examination results has been reduced. Applicants who take the examination via computer obtain their unofficial results on the day of the examination. In FY 2006, OED processed 3,662 applications concerning the registration examination. OED admitted 3,490 applicants to take the computerized registration examination and 31 applicants who took the examination in a paper format. OED registered 1,089 individuals as agents and 505 individuals as attorneys.

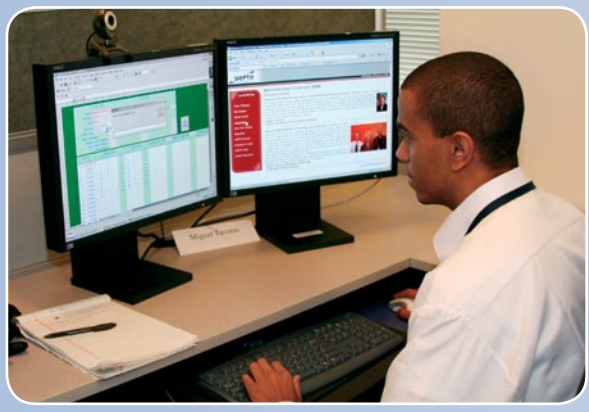
Sixty-two limited recognition numbers were issued to non-citizens of the United States. During the course of the year, OED also supported USPTO's Patents organization, with emphasis on assuring quality patent examination, by successfully administering promotion examinations for patent examiners and patent manager candidates. In FY 2006, OED continued to effectively protect members of the public. Upon OED's review of the applications for registration that were received, OED determined that information in 62 applications raised the issue of an applicant's present moral character. Three applicants were denied registration in decisions by the OED Director for lack of good moral character. One applicant withdrew the application after the OED Director issued a Show Cause requirement. OED either dismissed or closed the investigations regarding 35 candidates and proceeded with their registration. During the course of the year, OED received 155 grievances concerning possible misconduct by registered practitioners. OED opened 82 investigations. Forty-one grievances were dismissed, after thorough review and analysis, without investigation. OED closed 65 pending investigations through a combination of warning letters, memorandums for the Committee on Discipline, and closure for lack of probable cause to determine that a USPTO Disciplinary Rule had been violated.

# MANAGEMENT CHALLENGES

The Agency will achieve the vision of leading the world in intellectual property policy by optimizing patent and trademark quality and timeliness and improving intellectual property protection and enforcement domestically and abroad in concert with focused management priorities that encompass:

***Shift in Complexity of Filings / Sustained Emphasis on Quality*** – The USPTO must address the dual challenges of rising workloads and a shift of applications from traditional arts to more complex technologies. To address rising workloads the USPTO will continue to hire additional examiners and explore process changes. Quality was the most important component of the USPTO's *21st Century Strategic Plan*. Quality will be assured throughout the examination process with the implementation of several quality initiatives, including an enhanced Quality Assurance Program for end product reviews, in-process reviews, and the development of quality measures and performance targets in conjunction with external stakeholders.

***Electronic Workplace*** – The Patent and Trademark organizations are rapidly moving to eliminate paper documents from their processes. Electronic communications will be improved, encouraging more applicants to do business electronically with the delivery of web-based text and image systems. Both Patent and Trademark organizations have made significant progress in support of the long-term goal to create an e-government operation, and the Trademark organization now relies exclusively on trademark data submitted or captured electronically to support examination, publish documents, and issue registrations. However, this increased reliance on electronic systems presents challenges in storage and maintenance for data recovery in the event of an outage. Keeping systems robust and adaptable to continuous improvement is imperative.



*Patent examiner Miguel Taveras demonstrates the new dual-monitor setup, which helps patent examiners work more efficiently.*

***Strengthening IPR System*** – An effective IPR system is important to trade because it provides confidence to businesses that rights will be respected and that profits will be returned to IPR holders. The tremendous ingenuity of American inventors, coupled with a strong intellectual property system, encourages and rewards innovation and helps propel the economic and technological growth of our nation. The challenges include deepening the dialogue on global intellectual property policy, facilitating technical cooperation with foreign countries, surveying and exchanging information on the current status of IPR protection and administrative systems, and arriving at agreement on standards of enhanced intellectual property enforcement to include increased criminal and civil protection, as well as tighter controls on circumventing technological protection. Reaching bilateral and multilateral agreements will require all sides to openly communicate and strive toward a more global convergence of patent and trademark standards.

***Sustained Funding Stream*** – Permanent enactment of the fee changes made with the Consolidated Appropriations Act 2005, is necessary to provide a stable and predictable funding stream for the agency. In the United States, demands for products and services have created substantial workload challenges in the processing of patents. Permanent enactment of these fee changes and continued implementation of strategic initiatives will address these challenges. Long-term funding stability is essential to the creation of a predictable environment for planning purposes.

# THE PRESIDENT'S MANAGEMENT AGENDA (PMA)

The USPTO is committed to the objectives of the PMA, which is the President's strategy for improving the management and performance of the federal government. Each quarter OMB releases an executive scorecard that rates progress and overall status in each of the PMA initiatives. Agencies are scored green, yellow, or red on their status in achieving overall goals or long-term criteria, as well as their progress in implementing improvement plans. The success is evidenced by the progress we have made in improving the strategic management of human capital, competitive sourcing, improved financial performance, expanded e-government, and budget and performance integration.

## STRATEGIC MANAGEMENT OF HUMAN CAPITAL

In order to effectively carry out our mission, the USPTO needs to attract, hire, develop, and retain people with knowledge and skills in an increasing range and depth of technologies. The performance of the USPTO springs from the knowledge, energy, commitment, and professionalism of the people who work here. To build an outstanding performance-based organization, we must do an outstanding job of attracting, leading, and managing our people – our human capital.

The USPTO made excellent progress in the area of strategic management of human capital. The USPTO established, by Agency Administrative Order, the first ever Human Capital Council (HCC). This Council brings together leaders from the business units to work together and address the most pressing human capital challenges of the USPTO. The HCC is responsible for making recommendations to the Under Secretary and Director and the executive Management Council on USPTO-wide human capital policies, priorities, goals, objectives, and initiatives. Additionally, the HCC assesses workforce characteristics and future needs in order to align USPTO's human capital policies to meet mission goals.

The USPTO's recruitment program was a huge success. We hired 1,218 examiners for the Patent organization in FY 2006. We also added 87 examining attorneys to the Trademark organization. We have implemented a number of authorities, including pay flexibilities such as recruitment and retention incentives to attract and retain the best and brightest in hard-to-fill positions.

*Technology Center Director Janice Falcone welcomes newly hired patent examiners to the first class of the new USPTO Patent Training Academy.*

The USPTO established a new training program, the Patent Training Academy, for newly hired examiners with the goal to provide more effective and efficient training, reduce the one-on-one training burden faced by supervisors, and develop a more informed and productive class of examiners. The first training class under this program was initiated in January 2006, and completed the training in September 2006. Additional classes began in May, June, July, and September. We are in the process of evaluating the effectiveness of this program.

The USPTO continues to be a recognized leader in federal government Telework programs, and has received numerous awards for our accomplishments in this regard. In FY 2006, the USPTO received another award for the Telework program. The Telework Exchange recognized that the Trademark organization has created the model of an extremely successful telecommuting program for other government agencies, and awarded us the *Telework Program with Maximum Impact on Government*. At the beginning of FY 2006, we launched a hoteling program for patent examiners and provided participants the ability to work-at-home with complete access to online USPTO-provided resources. This program has resulted in space saving and better balance of work life for patent examiners.

In its September 18, 2006 issue of *Business Week*, the magazine named the USPTO as one of the 55 best places to launch a career. This is a guide, the magazine states, of employers that "really shine".

The USPTO continues to build on our success and has begun an effort to develop a comprehensive Strategic Human Capital Plan, taking into account the OPM's Human Capital Assessment and Accountability Framework to provide a consistent, comprehensive roadmap of human capital management for the USPTO.

## COMPETITIVE SOURCING

The USPTO is committed to achieving performance enhancements and cost-savings through competitive sourcing. In past years, the USPTO has competitively sourced many functions, such as payroll, mail processing/handling, clerical support, data transcription, systems maintenance and development, help desk support, etc. While preserving the inherently governmental responsibility for patentability determinations, the USPTO is committed to increasing total patent examiner output by competitively sourcing multiple patent functions. For example, PCT (international) Search, Reclassification, and Pre-Grant Publication Classification services were competitively sourced during FY 2006. The award of contracts to perform these functions will permit patent examiners to focus on reduction of patent application backlog and on improving the quality of determinations made during the patent review process.

## IMPROVED FINANCIAL PERFORMANCE

Again in FY 2006, the USPTO is in compliance with all federal accounting principles and standards and has encountered no instances of material weaknesses in internal controls or non-compliance with financial related laws and regulations. We will continue to maintain and strengthen our internal controls and improve the timeliness and usefulness of our financial management information. In fact, for FY 2006, the USPTO met all quarterly financial reporting requirements instituted by OMB. Again, the USPTO sustained its clean audit opinion, with FY 2006 marking the 14th consecutive unqualified audit opinion and the 10th consecutive year with no material weaknesses. The USPTO has a certified and accredited, fully integrated financial management system and uses a data warehouse to accommodate both financial and operational data. The data warehouse is used by managers for analyzing financial results and performance and by supervisory patent examiners for managing patent processing timeframes. The USPTO also operates a mature ABC system that captures costs of core mission activities and both direct and indirect costs for the entire Office. Managers use data from the ABC system to analyze the cost of operations when making decisions regarding improving processes, setting fees, or developing budget requirements.

## E-GOVERNMENT

The USPTO chooses IT projects that best support its mission and comply with its enterprise architecture. Individual projects are evaluated in the broader context of technical alignment with other IT systems, as well as the investment's impact to the USPTO IT portfolio's performance, as measured by cost, benefit, and risk. As part of the Capital Planning and Investment Control process, the USPTO prioritizes its investments and decides which projects will be funded in subsequent fiscal years. Once selected, each project is managed and monitored consistently throughout its life cycle. At key milestone dates, progress reviews are conducted to compare the project's status to planned benefit, cost, schedule technical efficiency, and effectiveness measures. All major IT system investments are included in the OMB Exhibit 53 and Exhibit 300 business cases.

The USPTO is accelerating deployment of critical automated information systems that will allow patent applicants to create, and USPTO internal users to process, electronic patent applications and follow-on papers more easily and accurately; reduce time required for processing and responding to customers; automate routine patent formalities tasks so that patent examiners can focus on the intellectual aspects of examination; and continuously improve quality throughout the processes. Additional benefits will be realized through reduced contractor costs, elimination of lost paper files, improved workflow tracking, and automated support functions to yield a higher quality product.

The Patent File Wrapper (PFW) is one major initiative under the Patent Automation program that will allow the USPTO to close an identified agency performance gap by implementing a text-based, integrated file wrapper system in the coming years. A new system is proposed that will adequately support the Office as the issues of an overwhelming increase in filings, an urgent need for many types of remote access, and quantum changes in the examined technologies are faced. The USPTO plans to develop and implement: Workflow, Intelligent Text Processing, and Content Management Systems. PFW development and implementation will significantly advance the automation and management control over several major patent examination processes from initial application receipt through final patent grant and publication.

During 2006, the USPTO deployed EFS-Web, the new patent electronic filing system for e-filing of documents with the USPTO. EFS-Web is a web-based tool that eliminates the need for special software and regular upgrades from the USPTO that were required to submit eXtensible Markup Language (XML) format electronic applications using the previous version of the EFS. EFS-Web provides users a simple, safe, and secure method for submitting initial and follow-on patent applications over the Internet as a PDF file, including PDF fillable forms such as the Application Data Sheet and the IDS. As a result, the filing of documents with the USPTO via EFS-Web can be done in less time and at a lower cost by avoiding printing, postage, and courier costs, as compared with paper filings. The time required to file documents via EFS-Web may depend, inter alia, on the speed of the user's Internet connection and the size of the PDF files being submitted. EFS-Web submissions are automatically processed through the USPTO, and an immediate notification is provided to the filer that their submission has been received by the USPTO. Opened to the public on March 16th, 2006, EFS-Web has proven a reliable success. In FY 2006, over 14 percent of all patent applications were filed using EFS-Web. The USPTO hopes to achieve 40 percent of all patent applications electronically in FY 2007.

The USPTO also provided patent applicants access to IFW contents for U.S. patent applications via Private Patent Application Information Retrieval (PAIR). Private PAIR is part of the USPTO's PAIR system, which is a safe, simple, and secure means that allows patent applicants to electronically view the status of their patent applications and download their patent material. PAIR also includes Public PAIR, which only displays issued or published application status to the general public. Registered users (patent applicants) of Private PAIR can view and download the electronic file wrapper in PDF format at no cost. In addition, Private PAIR includes a direct login feature that allows access to Private PAIR through a web browser window, rather than having to access through USPTO directly. As EFS-Web is integrated with Private and Public PAIR, a trusted filer (someone who has a Digital Certificate), can view EFS-Web submissions in Private PAIR within hours instead of days or weeks. In addition, Private PAIR includes a feature which provides an estimated date (in months) of issuance of a first office action.

In addition, in FY 2006, the USPTO provided patent applicants the ability to file petitions for accelerated examination. Applicants meeting published filing requirements, including the use of electronic filing, will receive final patentability decisions from an examiner within 12 months.

The Trademark Automation Program enhances the current manual trademark-application processes with electronic processing and improves the maintenance of all the records associated with trademark applications. By implementing the Trademark Automation Program, USPTO reduces operations costs, improves efficiency and quality through workload and process management, reduces pendency, increases visibility and control through improved management reporting capabilities, and supports the expansion of the Trademark work-at-home program. Trademark Automation enables improved access to USPTO information by internal users and the public and facilitates the international exchange of information and protection of intellectual property.

The USPTO is improving the processing of trademark applications and registrations and providing improved support for the staff. This includes managing work items with computer systems that enforce routing work items through optimized processes and facilitate prompt and efficient communication with internal and external customers. The electronic workflow system will provide a consistent user interface, extensible across functions; coordination of specialized system components via Web Services and a middle component; migration of business logic from the database servers to web services; and increase the level of integration of the Trademark systems. These functions provide increased system flexibility to easily and quickly adapt to changing technology and add new capabilities such as accepting PDF formatted forms and attachments, resulting in reduced software enhancement and maintenance costs.

TEAS provides trademark customers the ability to submit their trademark applications electronically over the Internet. TEAS supports the receipt of all Trademark forms electronically through standardized transactions using XML formatted data. In addition, TEAS was enhanced in FY 2006 to be able to accept PDF formatted documents.

The USPTO completed the development of the First Action System for Trademarks (FAST) 2.0 Automated Information System in September 2006 to provide Trademark Legal Instrument Examiners with the functionality to perform actions from a unified client interface interacting with many disparate USPTO data sources and subsystems. Specifically, FAST 2.0 provides faster processing of applications and other correspondence by reducing many manual processes, improves the quality of work produced by integration of support tools and enforcing defined processing work steps, provides more efficient management of caseloads, reduces the number of misrouted correspondences, and improves process visibility.

The USPTO made significant strides in FY 2006 to expand remote access to its employees in support of Telework initiatives by providing the technical and logistical support to implement a complete equipment setup in an employee's home or other remote location. Remote access involves providing USPTO equipment to employees to work-at-home so that they have the same capability as if they were working at the Alexandria campus. The Telework systems have many features to ensure security and the protection of sensitive data. The effective use of telecommuting will further provide for continued government operations during an emergency or disaster situation, increased efficiency and productivity in the federal government, and an increase in the quality of life of federal employees. The PHP was expanded in May 2006 to include all patent examiners who meet PHP telecommuting prerequisites as defined in the PHP Policy Guideline. The PHP was formerly open only to Patents Telework Program participants.

In May 2006, BPAI launched the USPTO's first official remote duty station. Under the new program, a senior BPAI judge and a work-at-home participant will conduct official USPTO functions via a remote workstation and will not be required to periodically report to work on the USPTO's Alexandria campus.

## BUDGET AND PERFORMANCE INTEGRATION

Since FY 1999, the USPTO has developed an annual corporate plan that links the annual performance plan and budget request such that resource requirements for continuing programs and new initiatives are aligned with outputs and performance goals. The USPTO is in the process of updating our *Strategic Plan*. The new *Plan* will build on the infrastructure developed in the previous *Plan* and outline specific strategies to meet the goals of optimizing patent and trademark quality and timeliness. We have refined the Agency's budget formulation process to better equate budgetary resources with both enterprise-wide strategic goals and individual organization performance targets. The annual integrated budget/performance plan is an effective and efficient way of establishing accountability of resources against performance. The agency routinely monitors program performance targets to ensure achievement of performance goals. Performance goals are evaluated regularly against stakeholder requirements, business conditions, and planned and actual resources available. Organizational goals and crosscutting performance measures are also included in senior executive members' performance appraisal plans to ensure alignment with agency mission, goals, and *Strategic Plan* objectives.

The USPTO achieved notable success in support of the PMA by attaining Green in the Budget and Performance Integration initiative.

# MANAGEMENT ASSURANCES AND COMPLIANCE WITH LAWS AND REGULATIONS

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

- Federal Managers' Financial Integrity Act
- Federal Financial Management Improvement Act (FFMIA)
- Federal Information Security Management Act
- Inspector General (IG) Act Amendments
- OMB Financial Management Indicators
- Prompt Payment Act
- Civil Monetary Penalty Act
- Debt Collection Improvement Act
- Biennial Review of Fees
- Improper Payments Information Act of 2002

## MANAGEMENT ASSURANCES

### FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

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

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

The statement of assurance is provided below, which includes one Section 2 material weakness for IT security discussed in further detail in the Federal Information Security Management Act section below. This statement was based on the review and consideration of a wide variety of evaluations, control assessments, internal analyses, reconciliations, reports, and other information, including the DOC OIG audits, and the independent public accountants' opinion on the USPTO's financial statements and their reports on internal control and compliance with laws and regulations. In addition, USPTO is not identified on the GAO's High Risk List related to controls governing various areas.

On the basis of the USPTO's comprehensive internal control program during FY 2006, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2006, was operating effectively, except for the one material weakness identified. Accordingly, I am pleased to certify with reasonable assurance, except for the one Federal Information Security Management Act material weakness regarding information technology security, that our agency's systems of internal control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, *Management's Responsibility for Internal Control*. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over financial reporting as of June 30, 2006 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting. In addition, no material weaknesses related to internal control over financial reporting were identified between July 1, 2006 and September 30, 2006.

*Jon W. Dudas*
*Under Secretary of Commerce for Intellectual Property and*
*Director of the United States Patent and Trademark Office*
*November 6, 2006*

## FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

The FFMIA requires Federal agencies to report on agency substantial compliance with Federal financial management system requirements, standards promulgated by the Federal Accounting Standards Advisory Board, and the U.S. Standard General Ledger at the transaction level. The USPTO complied substantially with the FFMIA for FY 2006.

# OTHER COMPLIANCE WITH LAWS AND REGULATIONS

## FEDERAL INFORMATION SECURITY MANAGEMENT ACT

The USPTO continues to stay vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our secure configuration. All mission and business systems are fully certified and accredited, with full authority to operate since September 2004, with the exception of the Network Perimeter, which has interim authority to operate. In conjunction with the DOC's continued emphasis on improving the certification and accreditation (C&A) process, the USPTO submitted the C&A package for the Network Perimeter, along with C&A packages for two contractor master systems new to the C&A process this fiscal year, to the DOC during the fourth quarter of FY 2006. The DOC did not consider the C&A packages to be of sufficient quality to be

provided to the OIG. As a result, the USPTO has declared a material weakness for IT Security in recognition of the need for compliance with Government guidance on IT Security and to reconfirm its commitment to the protection of our Nation's intellectual capital information systems.

While the USPTO IT Security Program has made significant strides within the past year, there remain several security areas that require improvement. Specific areas that require improvement include C&A of contractor systems, continuous monitoring of IT systems, and improvement of C&A packages for federal systems.

The USPTO implemented processes and procedures in the later part of FY 2006 and has taken immediate steps to remediate these weaknesses. The USPTO expects significant improvement in the near future. During FY 2007, the USPTO will continue to improve upon the C&A packages for the Network Perimeter, as well as for the contractor master systems. In addition, C&A activities for the remaining five contractor master systems new to the C&A process this fiscal year are scheduled for completion during FY 2007.

## INSPECTOR GENERAL ACT AMENDMENTS

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

The USPTO's follow-up actions on audit findings and recommendations are essential to improving the effectiveness and efficiency of our programs and operations. As of September 30, 2006, management had two recommendations outstanding from a report issued in FY 2004 (USPTO-BTD-16432-4-0001: "USPTO Needs Strong Office of Human Resources Management Capable of Addressing Current and Future Challenges"). No new reports had been issued during FY 2006. A summary of audit findings and recommendations follows.

**STATUS OF IG ACT AMENDMENTS AUDIT RECOMMENDATIONS**
*as of September 30, 2006*

| Report for Fiscal Year | Status | Recommendation | Action Plan | Completion Date |
|---|---|---|---|---|
| FY 2004 | Open | Ensure that the USPTO works with Commerce and OPM to officially obtain delegated examining authority. | The USPTO has coordinated with OPM to grant us formal delegated examining authority status. The final decision is pending contingent on a follow-up audit scheduled for September 2006. | Estimated March 2007 |
| FY 2004 | Open | Ensure that the USPTO develops Office of Human Resources (OHR) organizational descriptions, policies, and procedures, in accordance with the intent of DOO 10-14. | The USPTO is continuing to work on the development of Agency Administrative Orders, policies, and Standard Operating Procedures. These documents cover all of the human resources functions and effectively establish a set of rules and procedures for providing OHR services. | Estimated October 2007 |

The estimated date of completion for the delegated examining authority was moved from last year to allow time to make corrections in response to a recent OPM audit.

The estimated date of completion for the organizational policies was moved from last year to allow time for development and approval of all agency administrative orders, policies, and standard operating procedures.

## OMB FINANCIAL MANAGEMENT INDICATORS

The OMB prescribes the use of quantitative indicators to monitor improvements in financial management. The USPTO tracks other financial performance measures as well. The table below shows the USPTO's performance during FY 2006 against performance targets established internally and by OMB and the government-wide Metric Tracking System (MTS):

| Financial Performance Measure | FY 2006 Target | FY 2006 Performance |
|---|---|---|
| Percentage of Timely Vendor Payments (MTS) | 98% | 97% |
| Percentage of Payroll by Electronic Transfer (OMB) | 90% | 99% |
| Percentage of Treasury Agency Locations Fully Reconciled (OMB) | 95% | 100% |
| Timely Reports to Central Agencies (OMB) | 95% | 100% |
| Audit Opinion on FY 2006 Financial Statements (OMB) | Unqualified | Unqualified |
| Material Weaknesses Reported by OIG (OMB) | None | None |
| Timely Posting of Inter-Agency Charges (USPTO) | 30 days | 29 days |
| Average Processing Time for Travel Payments (USPTO) | 8 days | 12 days |

## PROMPT PAYMENT ACT

The Prompt Payment Act requires Federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2006, the USPTO did not pay interest penalties on 97.2 percent of the 9,071 vendor invoices processed, representing payments of approximately $514.0 million. Of the 496 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 254 invoices, and was not required to pay interest penalties on 242 invoices, where the interest was calculated at less than $1. The USPTO paid only $60 in interest penalties for every million dollars disbursed in FY 2006. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

## CIVIL MONETARY PENALTY ACT

There were no Civil Monetary Penalties assessed by the USPTO during FY 2006.

## DEBT COLLECTION IMPROVEMENT ACT

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

## BIENNIAL REVIEW OF FEES

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

## IMPROPER PAYMENTS INFORMATION ACT OF 2002

During FY 2006, the USPTO did not have any erroneous payments that exceeded the ten million dollar threshold. While our erroneous payments were only 0.06 percent of total disbursements and primarily related to inaccurate banking information, we plan to further reduce this percentage through our use of a government-wide Central Contractor Registration database maintained by the Department of Defense, which requires all government contractors to maintain current contact and banking information. The USPTO identifies overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions.

**Improper Payment Reduction Outlook *(Dollars in millions)***

| | FY 2005 | | | FY 2006 | | | FY 2007 | | FY 2008 | | FY 2009 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Program | Outlays | Improper Payment Percent | Improper Payment Dollars | Outlays | Improper Payment Percent | Improper Payment Dollars | Estimated Outlays | Improper Payment Percent | Estimated Outlays | Improper Payment Percent | Estimated Outlays | Improper Payment Percent |
| Patent | $ 1,247 | 0.18% | $ 2.21 | $ 1,335 | 0.06% | $ 0.82 | $ 1,593 | 0.00% | $ 1,642 | 0.00% | $ 1,692 | 0.00% |
| Trademark | 155 | 0.19% | 0.30 | 179 | 0.06% | 0.11 | 213 | 0.00% | 220 | 0.00% | 227 | 0.00% |
| Total | $ 1,402 | 0.18% | $ 2.51 | $ 1,514 | 0.06% | $ 0.93 | $ 1,806 | 0.00% | $ 1,862 | 0.00% | $ 1,919 | 0.00% |

**Summary of Recovery Audit Effort *(Dollars in millions)***

| | |
|---|---|
| **Amount subject to review** | $ 159.4 |
| ***# of invoices*** | *4,433* |
| **Actual amount reviewed** | $ 107.3 |
| ***# of invoices*** | *985* |

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

The audit was completed in FY 2006 and resulted in three invoices that were identified as recoverable improper payments, which are insignificant. The improper payments identified of $0.1 million were recovered during FY 2006.

# FINANCIAL HIGHLIGHTS

The USPTO is a self-sufficient Federal agency that funds the cost of its operations through product and service fees paid by applicants for and owners of patents and trademarks. Over 84 percent of Patent and Trademark fees collected are set by statute. The USPTO uses ABC techniques to report costs incurred for operations. This cost information is used to establish non-statutory fees for products and services at an amount that recovers full costs, and is used as one factor in determining statutory fee amounts.

The following summary presents the USPTO's FY 2006 financial highlights for budgetary resources and requirements, along with results of operations. Details behind these highlights are included in the discussion of the USPTO's financial statements beginning on page 61.

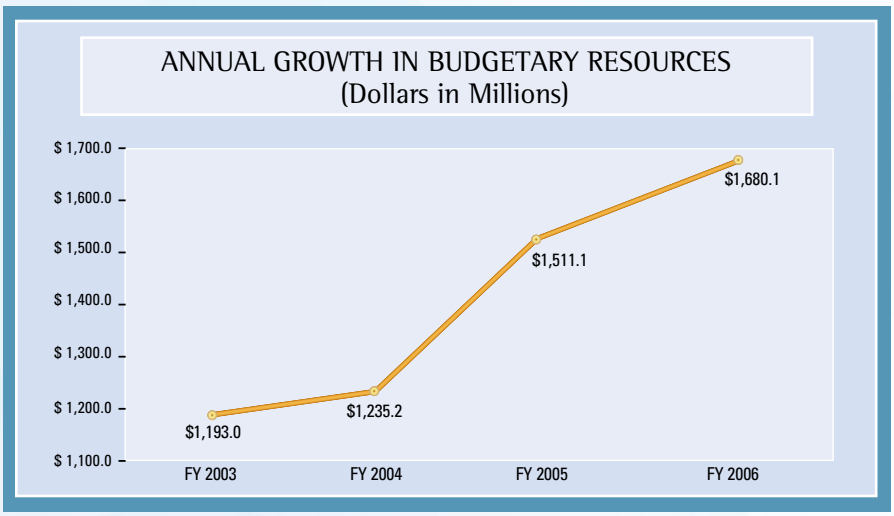
## BUDGETARY RESOURCES AND REQUIREMENTS

The USPTO was provided appropriation authority to spend all planned fee collections in FY 2006. In the past, the appropriation authority was less than planned fee collections. When spending authority is less than fee collections, the additional fee collections are temporarily unavailable.

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

| Source and Status of Funds *(Dollars in millions)* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| **Source of Funds:** | | | | |
| Unobligated Beginning Balance | $ 5.6 | $ 3.5 | $ 2.3 | $ 5.7 |
| Recovery of Prior Year Obligations | 5.9 | 10.4 | 7.6 | 9.1 |
| Spending Authority from Offsetting Collections | 1,194.7 | 1,321.7 | 1,504.2 | 1,665.4 |
| Non-Expenditure Transfer | – | – | – | (0.1) |
| Net Increase in Unavailable Fees | (11.7) | (99.9) | – | – |
| Total Source of Funds | $ 1,194.5 | $ 1,235.7 | $ 1,514.1 | $ 1,680.1 |
| **Status of Funds:** | | | | |
| Obligations Incurred | $ 1,191.0 | $ 1,233.4 | $ 1,508.4 | $ 1,674.4 |
| Unobligated Balance, Available | 2.0 | 1.8 | 2.7 | 5.7 |
| Unobligated Balance, Unavailable | 1.5 | 0.5 | 3.0 | – |
| Total Status of Funds | $ 1,194.5 | $ 1,235.7 | $ 1,514.1 | $ 1,680.1 |

During FY 2006, total budgetary resources available for spending increased 11.2 percent over the amount available in the preceding year. This significant increase in budgetary resources available for use is depicted by the graph to the right.




For the second year in a row, the USPTO was provided with full use of its fee collections. This allowed the USPTO continued flexibility towards meeting the goals of the *21st Century Strategic Plan*, including transitioning to a fully electronic operating environment, improving the quality of its services and products, and addressing patent and trademark pendency. The additional funding has enabled the USPTO to substantially increase the number of patent and trademark examiners to assist in addressing the growing average complexity of patent applications and increasing workloads and to allocate additional resources towards protecting intellectual property in the United States and abroad. As a result, the USPTO was able to meet virtually all of the performance goals and continue reforms that assure intellectual property relevancy in a highly competitive, global marketplace.

## RESULTS OF OPERATIONS

The USPTO generated a net income of $80.2 million in FY 2006, an increase of $124.0 million over the net cost in FY 2003 of $43.8 million.

Typically, federal governmental agencies reflect a fiscal year gross cost of operations that exceed the total obligations incurred in that same fiscal year. This is due to including the costs of non-budgetary items, such as imputed costs. However, beginning in FY 2005, the USPTO's gross cost of operations was less than obligations incurred. This difference is partly due to a change in the method to recognize the cost of post-employment benefits. In prior years, the USPTO recognized an imputed financing source and corresponding expense to represent its share of the cost to the federal government of providing pension and post-retirement health and life insurance benefits to all eligible USPTO employees. Beginning in FY 2005, the USPTO is now using fees to fund the cost of post-retirement benefits, resulting in increased obligations of approximately $42.7 million each fiscal year.

Another contributing factor for the gross cost of operations being less than obligations incurred arises from decisions that were made to promote more efficient operations of the agency. As the USPTO receives no-year reimbursable appropriations, the agency was able to make optimal use of the funding structure during FY 2006 by realigning the period of performance for many contracts to increase effectiveness and by investing in several significant projects to advance the electronic operating environment, such as the PFW, disaster recovery, and technology improvements.

Due to the increase in pendency (the amount of time an application is waiting before a patent is issued or trademark is registered), the USPTO has been recognizing a steadily increasing deferred revenue liability for fees received prior to the revenue being earned. From FY 2003 through FY 2006, unearned patent fees increased 55.7 percent, with a 13.3 percent increase from FY 2005. In FY 2006, for each month patent pendency to first action increased, deferred revenue increased approximately $28.4 million, with a corresponding decrease in earned revenue. While unearned trademark fees increased $26.6 million over the past three years, unearned trademark fees decreased $11.8 million in FY 2006, a result of the increased staffing to address the backlog and the decrease in pendency. In addition to the 1,218 patent examiners and 87 trademark examining attorneys hired during FY 2006, the USPTO plans to continue hiring at least 1,200 new patent examiners each fiscal year through FY 2012, as well as implementing new operating practices, to reduce the backlog of unprocessed applications and reduce pendency.

## FINANCIAL STATEMENTS

The USPTO received an unqualified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2006 financial statements, provided on pages 76 to 97. This is the 14th consecutive year that the USPTO received a clean opinion. Our unqualified audit opinion provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses or reportable conditions in the USPTO's internal control, and no instances of non-compliance with laws and regulations affecting the financial statements.

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

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

## STATEMENT OF BUDGETARY RESOURCES

The following table displays the USPTO's total budgetary resources available for spending over the past four years. Also presented are the human resources that the USPTO has employed to respond to the increases in patent and trademark filings. In prior years, the budgetary resources available for spending did not include amounts that were not available through the end of the fiscal year that became available for spending at the beginning of the following fiscal year once apportioned by the OMB.

| Resources | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Budgetary Resources Available for Spending *(dollars in millions)* | $1,193.0 | $1,235.2 | $1,511.1 | $1,680.1 |
| *Percentage Change* | *4.0%* | *3.5%* | *22.3%* | *11.2%* |
| | | | | |
| Patent Examiners | 3,579 | 3,681 | 4,177 | 4,779 |
| *Percentage Change* | *1.2%* | *2.8%* | *13.5%* | *14.4%* |
| | | | | |
| Trademark Examining Attorneys | 256 | 286 | 357 | 413 |
| *Percentage Change* | *(0.8)%* | *11.7%* | *24.8%* | *15.7%* |

As evident from the above table, total budgetary resources available for spending increased significantly in FY 2006, a 11.2 percent increase over the prior fiscal year and a 40.8 percent increase over the past three fiscal years. Almost half of the increase in available budgetary resources was used to fund the increased cost of additional human capital to address the growing average complexity of patent applications and the increase in patent and trademark filings.

| Filings | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Patent Filings | 355,418 | 378,984 | 409,532 | 443,652[1] |
| *Percentage Change* | *0.6%* | *6.6%* | *8.1%* | *8.3%* |
| Trademark Filings | 267,218 | 298,489 | 323,501 | 354,775 |
| *Percentage Change* | *3.2%* | *11.7%* | *8.4%* | *9.7%* |

[1] *Preliminary data*

The increase in available budgetary resources also allows the USPTO to apply additional funds towards the accomplishment of strategic goals and other initiatives that are associated with the performance goals contained in the *21st Century Strategic Plan* and the PMA. This year, in support of the overall USPTO goal of reducing pendency, the USPTO successfully competitively sourced PCT prior art searches, classification of patent documents, and patent reclassification functions. Competitive sourcing work in these areas will allow our internal resources to concentrate on other strategic goals and initiatives for more efficient management of our performance goals.

The USPTO fee collections did not exceed the fee appropriation of $1,683.1 million during FY 2006, therefore the USPTO was able to spend all $1,657.6 million of fees collected during the year. The USPTO did not meet planned fee collections primarily due to a decrease in the expected number of claims being filed per application and less issue fee collections due to focusing resources on reducing patent allowance error rates. The reduction in patent allowance error rates resulted from the recent quality initiatives implemented as a part of the continuing emphasis on patent quality. Although less than planned, the FY 2006 fee collections increased 10.7 percent over FY 2005 collections of $1,497.2 million, all of which was appropriated. This increase in collections is due to an increase in patent and trademark application filings, as well as an increase in maintenance fees received.

As defined earlier, temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. During FY 2006, the USPTO did not collect any fee collections that were designated as temporarily unavailable. As a result, the $516.5 million in temporarily unavailable fee collections at the end of FY 2004 remained the same through FY 2006.

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

| Temporary Unavailable Fee Collections *(Dollars in millions)* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Fiscal year fee collections | $ 1,193.7 | $ 1,321.0 | $ 1,497.2 | $ 1,657.6 |
| Fiscal year collections appropriated | (1,015.2) | (1,222.5) | (1,497.2) | (1,657.6) |
| Reductions - Rescissions | – | 77.0 | – | – |
| Fiscal year unavailable collections | $ 178.5 | $ 175.5 | $ – | $ – |
| Prior year collections unavailable | 329.3 | 341.0 | 516.5 | 516.5 |
| Prior year collections subsequently appropriated | (166.8) | – | – | – |
| Cumulative temporarily unavailable fee collections | $ 341.0 | $ 516.5 | $ 516.5 | $ 516.5 |

In addition to these annual restrictions, collections of $233.5 million are unavailable in accordance with the OBRA of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury.

## STATEMENT OF NET COST

The Statement of Net Cost presents the USPTO's results of operations by Patent and Trademark business areas. The following table presents the total USPTO's results of operations for the past four fiscal years. From FY 2003 through FY 2005, the USPTO's operations resulted in a net cost. However, in FY 2006, the USPTO generated a net income of $80.2 million due to the increased maintenance fees received and revenue recognition of previously deferred revenue collected subsequent to the fee increase on December 8, 2004.

| **Net (Cost)/Income** *(Dollars in millions)* | **FY 2003** | **FY 2004** | **FY 2005** | **FY 2006** |
|---|---|---|---|---|
| Earned Revenue | $ 1,162.3 | $ 1,239.0 | $ 1,372.8 | $ 1,594.4 |
| Program Cost | (1,206.1) | (1,289.2) | (1,424.0) | (1,514.2) |
| Net (Cost)/Income | $ (43.8) | $ (50.2) | $ (51.2) | $ 80.2 |

The Statement of Net Cost compares fees earned to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon the groups of work that have been completed over the various phases of the production life cycle. The net income calculation is based on fees earned during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees also play a large part in whether a total net income or net cost is recognized. Maintenance fees collected in FY 2006 are a reflection of patent issue levels 3.5, 7.5, and 11.5 years ago, rather than a reflection of patents issued in FY 2006. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

While the backlog for patent applications continues to increase, increasing deferred revenue and decreasing earned revenue, during FY 2006 the Patent organization disposed of 11.3 percent more applications than were disposed of during FY 2005. In addition, the separation of the patent application fee into a discrete filing fee, search fee, and examination fee during FY 2005 resulted in an increase of $24.3 million in fees, recognized immediately as earned revenue during FY 2006.

During FY 2006, while the number of trademark applications increased 9.7 percent over the prior year, the Trademark organization was able to significantly reduce its backlog and register 31.7 percent more trademarks over FY 2005. While additional costs were incurred in reducing the backlog, the Trademark organization was able to recognize a significant increase in revenue earned.

## EARNED REVENUE

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

| **Earned Revenue** *(Dollars in Millions)* | **FY 2003** | **FY 2004** | **FY 2005** | **FY 2006** |
|---|---|---|---|---|
| Patent | $ 1,004.5 | $ 1,092.5 | $ 1,197.8 | $ 1,384.2 |
| *Percentage Change in Patent Earned Revenue* | *10.4%* | *8.8%* | *9.6%* | *15.6%* |
| Trademark | 157.8 | 146.5 | 175.0 | 210.2 |
| *Percentage Change in Trademark Earned Revenue* | *4.3%* | *(7.2)%* | *19.5%* | *20.1%* |
| Total Earned Revenue | $ 1,162.3 | $ 1,239.0 | $ 1,372.8 | $ 1,594.4 |
| *Percentage Change in Earned Revenue* | *9.5%* | *6.6%* | *10.8%* | *16.1%* |

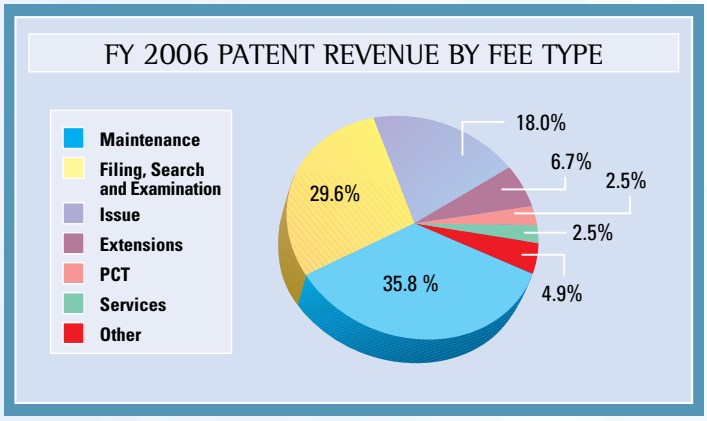
Earned revenue totaled $1,594.4 million for FY 2006, an increase of $221.6 million, or 16.1 percent, over FY 2005 earned revenue of $1,372.8 million. Of revenue earned during FY 2006, $378.5 million related to fee collections that were deferred for revenue recognition in prior fiscal years, $493.6 million related to maintenance fees collected during FY 2006, which were considered earned immediately, $716.4 million related to work performed for fees collected during FY 2006, and $5.9 million were not fee-related.

The actions being taken to address the backlog of patent and trademark applications are evident, as the amount of revenue deferred during FY 2006 was only 17.9 percent greater than revenue earned from prior year fee collections, as compared to 38.8 percent during FY 2005.

Work performed for fees collected during FY 2006 increased $95.4 million over these same fees earned during FY 2005. This increase can primarily be attributed to $30.7 million in fees considered earned immediately, $32.5 million in earned patent filing fees, $17.9 million in earned trademark application fees, $7.0 million in earned patent issue fees, and $5.5 million in earned recording fees.

## PATENT

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees, initial application fees for filing, search, and examination, and issue fees. These fees account for over 80 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.




Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2006, maintenance fees collected increased $74.8 million, or 17.9 percent, over FY 2005. As they are recognized immediately as earned revenue, any fluctuations in the rates of renewal have a significant impact on the total earned revenue of the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown below, the renewal rates for all three stages of maintenance fees have been increasing modestly over the last four years and the trend indicates that this growth pattern will continue.

| Patent Renewal Rates* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| First Stage | 86.8% | 91.9% | 83.1% | 93.1% |
| Second Stage | 61.1% | 65.7% | 65.4% | 69.2% |
| Third Stage | 42.9% | 43.8% | 45.0% | 44.4% |

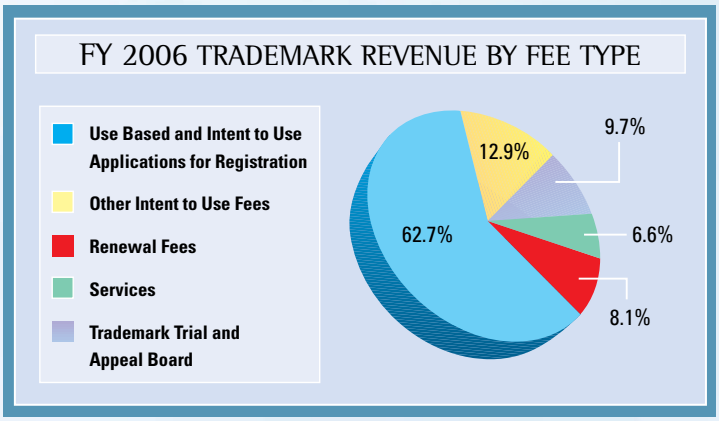
*** Note:** *The First Stage refers to the end of the 3rd year after the initial patent is issued; the Second Stage refers to the end of the 7th year after the initial patent is issued; and the Third Stage refers to the end of the 11th year after the initial patent is issued. For example, in FY 2006, 93.1 percent of the patents issued three years ago were renewed, 69.2 percent of the patents issued seven years ago were renewed, and 44.4 percent of the patents issued 11 years ago were renewed.*

Application fee revenue earned upon filing increased from $72.6 million in FY 2005 to $96.9 million in FY 2006, with the number of applications increasing from 409,532 to 443,652 over the same period, increases of 33.5 percent and 8.3 percent, respectively. The variance in the percentage increases is due to the fee structure change in FY 2005, with only ten months of these fees collected in FY 2005, as compared to a full 12 months in FY 2006. The USPTO's most recent estimates project an increase of 7.0 percent in patent applications filed beginning in FY 2007, and then 8.0 percent extending through FY 2012, which will contribute to the continued growth in earned fee revenue.

Earned issue fee revenue increased from $199.5 million in FY 2005 to $202.5 million in FY 2006, with the number of patents issued increasing from 165,483 to 183,187 over the same period, increases of 1.5 percent and 10.7 percent, respectively. The USPTO's most recent estimates project that patents issued will increase an average of 8.4 percent each fiscal year through FY 2012.

## TRADEMARK

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




Earned revenue for trademark applications increased from $101.5 million in FY 2005 to $131.7 million in FY 2006, with the number of trademarks registered increasing from 143,396 to 188,899 over the same period, increases of 29.8 percent and 31.7 percent, respectively. The FY 2007 President's Budget projects that trademark applications filed will continue to increase, which will contribute to the continued growth in earned fee revenue.

Trademark registration can be a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process. As shown below, the renewal rates for trademarks have remained fairly stable over the last four years, indicating continued earned revenue from this source. Further, in the USPTO's most recent estimates, earned revenue from trademark renewals is expected to continue in the future.

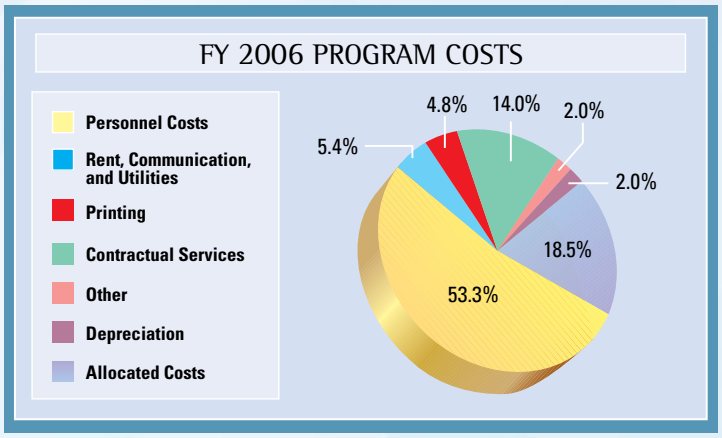
| Trademark Renewal Rates | FY 2003 | FY 2004 | FY 2005 | FY 2006[1] |
|---|---|---|---|---|
| Renewals | 29.6% | 28.7% | 28.6% | 24.0% |

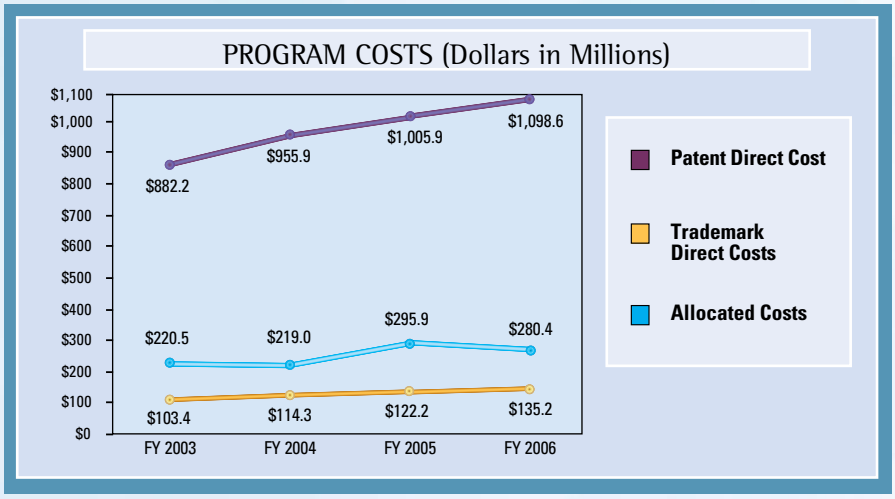
**Note:** *The renewals occur every 10th year for trademarks registered after November 15, 1989. For trademarks issued or renewed before November 15, 1989, renewal will occur after the 20th year and the renewal will be for a ten-year period. For example, in FY 2006, 24.0 percent of the trademarks granted ten and 20 years ago were renewed.*

[1] *Preliminary data*

## PROGRAM COSTS

Program costs totaled $1,514.2 million for the year ended September 30, 2006, an increase of $90.2 million, or 6.3 percent, over FY 2005 program costs of $1,424.0 million. The USPTO's most significant program cost is personnel services and benefits, which traditionally comprise over half of USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total program costs from year to year. Total personnel services and benefits costs for the year ended September 30, 2006, were $883.4 million, an increase of $81.2 million, or 10.1 percent, over FY 2005 personnel services and benefits costs of $802.2 million. This change, 90.0 percent of the total increase in program costs, was a result of a 3.4 percent increase in the Federal pay scale, combined with a net increase of 826 personnel, from 7,363 at the end of FY 2005 to 8,189 at the end of FY 2006.






The USPTO directs maximum resources to the priority functions of patent and trademark examination. For FY 2006, costs directly attributable to the Patent and Trademark business areas represent 81.5 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using ABC accounting.

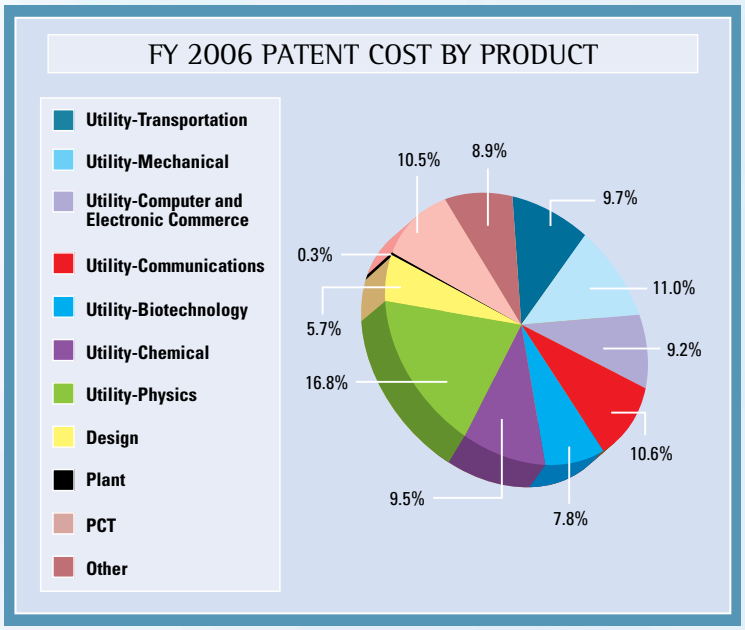
## PATENT

Total costs for the Patent business unit increased $261.5 million, 24.3 percent, from FY 2003 through FY 2006. The following table presents the major components of Patent costs for the past four years.

| **Patent Costs** ***(Dollars in millions)*** | **FY 2003** | **FY 2004** | **FY 2005** | **FY 2006** |
|---|---|---|---|---|
| Personnel Costs | $ 566.3 | $ 603.6 | $ 646.5 | $ 718.3 |
| Contractual Services | 125.1 | 150.4 | 156.1 | 184.3 |
| Printing and Reproduction | 72.7 | 71.8 | 68.9 | 71.9 |
| Rent, Communications, and Utilities | 62.9 | 76.3 | 82.6 | 72.5 |
| Depreciation, Amortization, or Loss on Asset Disposition | 36.4 | 32.5 | 26.1 | 24.9 |
| Other | 18.8 | 21.3 | 25.7 | 26.7 |
| Direct Costs | 882.2 | 955.9 | 1,005.9 | 1,098.6 |
| Allocated Costs | 191.9 | 189.9 | 247.2 | 237.0 |
| Total Patent Costs | $ 1,074.1 | $ 1,145.8 | 1,253.1 | $1,335.6 |
| *Percentage Change in Patent Costs* | *5.1%* | *6.7%* | *9.4%* | *6.6%* |

The Patent organization's most significant program costs relate to personnel services, and account for 58.1 percent of the increase in total cost of Patent operations during the past three years. Patent personnel costs for the year ended September 30, 2006, were $718.3 million, an increase of $71.8 million, or 11.1 percent, over FY 2005 personnel costs of $646.5 million. Of the total USPTO-wide program costs increases during FY 2006, 79.5 percent of the 90.0 percent increase in personnel costs are attributable to the Patent organization. Rent, communications, and utilities, printing and reproduction, and contractual service costs represent 24.6 percent of the Patent program costs for FY 2006. Over the last three years, these costs increased in line with the overall increase in total Patent costs due to additional rental costs for the new USPTO headquarters in Alexandria, increases in the number of patents issued, and increased spending on indexing and scanning documents for the PFW. In addition, while rental costs increased 15.3 percent over the past three years, these costs decreased during FY 2006 by $10.1 million as the move to Alexandria has been completed.

Patent costs were spread over four main patent products: utility patents, design patents, plant patents, and PCT patents. Utility patents were further broken down into the technology of the utility patent. The cost percentages presented below are based on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.



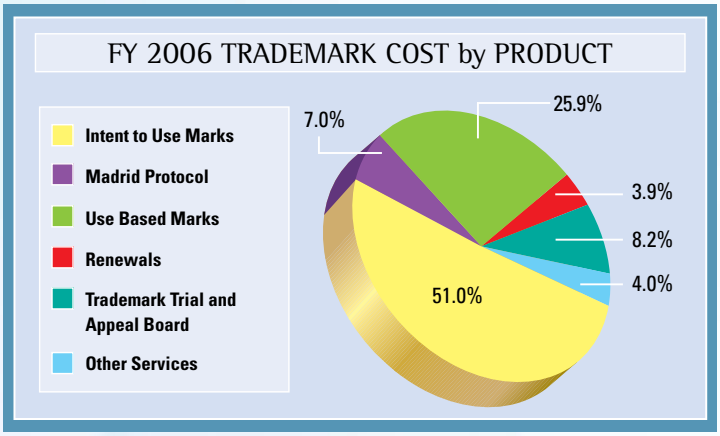

## TRADEMARK

Total costs for the Trademark business unit increased $46.6 million, 35.3 percent, from FY 2003 through FY 2006. The following table shows the major components of Trademark costs for that period.

| Trademark Costs *(Dollars in millions)* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Personnel Costs | $ 65.4 | $ 72.6 | $ 80.0 | $ 89.5 |
| Contractual Services | 19.9 | 22.3 | 23.2 | 27.1 |
| Printing and Reproduction | 2.6 | 1.2 | 0.8 | 0.3 |
| Rent, Communications, and Utilities | 7.5 | 8.9 | 8.4 | 8.6 |
| Depreciation, Amortization, or Loss on Asset Disposition | 4.5 | 4.9 | 6.1 | 6.1 |
| Other | 3.5 | 4.4 | 3.7 | 3.6 |
| Direct Costs | 103.4 | 114.3 | 122.2 | 135.2 |
| Allocated Costs | 28.6 | 29.1 | 48.7 | 43.4 |
| Total Trademark Costs | $ 132.0 | $ 143.4 | $ 170.9 | $ 178.6 |
| *Percentage Change in Total Trademark Costs* | *(4.8%)* | *8.6%* | *19.2%* | *4.5%* |

The Trademark organization's most significant program costs relate to personnel services, and account for 51.7 percent of the increase in total cost of Trademark operations during the past three years. Of the total USPTO-wide program costs increases during FY 2006, 10.5 percent of the 90.0 percent increase in personnel costs are attributable to the Trademark organization. Contractual services have increased $7.2 million, which represents 15.5 percent of the increase in total Trademark costs over the past three years, primarily attributable to the increased costs associated with operating in a fully electronic environment.

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




## BALANCE SHEET AND STATEMENT OF CHANGES IN NET POSITION

At the end of FY 2006, the USPTO's consolidated Balance Sheet presents total assets of $1,580.3 million, total liabilities of $1,082.3 million, and a net position of $498.0 million.

Total assets increased 37.2 percent over the last three years, resulting largely from the increase in Fund Balance with Treasury and Property, Plant, and Equipment. The following table shows the changes in assets during this period.

| Composition of USPTO Assets *(Dollars in millions)* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Cash | $ 11.4 | $ 11.9 | $ 8.8 | $ 6.8 |
| Fund Balance with Treasury | 985.6 | 1,135.2 | 1,240.8 | 1,401.8 |
| Property, Plant, and Equipment, Net | 117.4 | 137.3 | 148.4 | 164.5 |
| Accounts Receivable and Prepayments | 37.1 | 12.9 | 11.1 | 7.2 |
| Total Assets | $ 1,151.5 | $ 1,297.3 | 1,409.1 | $ 1,580.3 |
| *Percentage Change in Total Assets* | *5.1%* | *12.7%* | *8.6%* | *12.1%* |

Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 88.7 percent of total assets at the end of FY 2006. This asset is comprised of unpaid obligated funds of $554.9 million, temporarily unavailable fees of $516.5 million, unavailable special fund receipts under OBRA of $233.5 million, other funds held on deposit for customers of $91.2 million, and unobligated funds of $5.7 million.

The unavailable special fund receipts and the temporarily unavailable funds require Congressional appropriation before they will be available for USPTO's use. These funds, together with amounts obligated and held on deposit, represent 99.6 percent of the Fund Balance with Treasury.

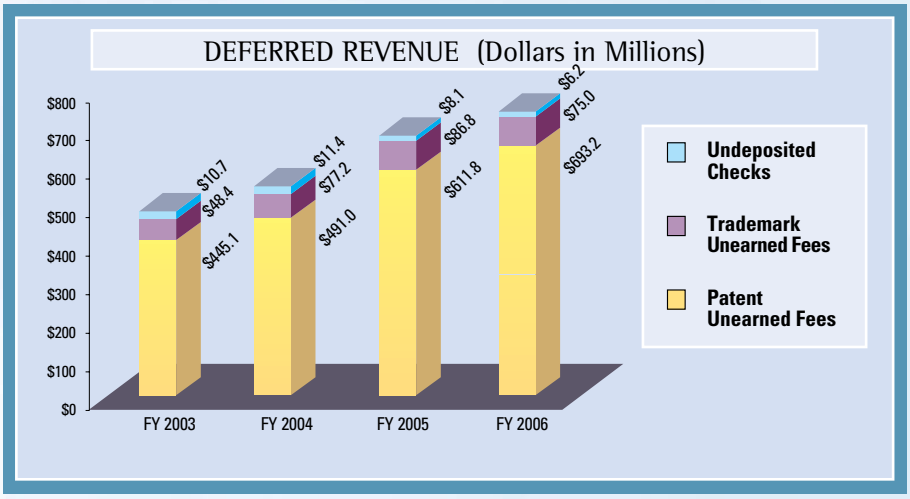
The other major asset is property, plant, and equipment. The net balance of this asset has increased by $47.1 million during the past three years, with the acquisition values of property, plant, and equipment increasing by $110.0 million. Leasehold improvements to the consolidated headquarters in Alexandria of $69.8 million are expected to provide significant cost savings in the future. In addition, investments in IT software and software in development increased $38.9 million, in conjunction with enhancing the existing e-government capabilities in areas such as e-filing, application information retrieval, data and image capture, and web-based search systems.

Total liabilities increased from $991.3 million at the end of FY 2005 to $1,082.3 million at the end of FY 2006, representing an increase of $91.0 million, or 9.2 percent. The following table shows the change in liabilities during the past four years.

| Composition of USPTO Liabilities *(Dollars in millions)* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Deferred Revenue | $ 504.2 | $ 579.6 | $ 706.7 | $ 774.4 |
| Accounts Payable | 80.1 | 77.3 | 101.8 | 104.4 |
| Accrued Payroll, Leave, and Benefits | 75.4 | 83.4 | 90.7 | 101.4 |
| Customer Deposit Accounts | 74.4 | 70.7 | 74.1 | 83.8 |
| Other Liabilities | 14.2 | 17.2 | 18.0 | 18.3 |
| Total Liabilities | $ 748.3 | $ 828.2 | $ 991.3 | $ 1,082.3 |
| *Percentage Change in Total Liabilities* | *9.3%* | *10.7%* | *19.7%* | *9.2%* |

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

At the end of FY 2006, deferred revenue liability was $774.4 million, representing an increase of $270.2 million, or 53.6 percent, over the past three years. The deferred revenue liability includes unearned patent and trademark fees, as well as undeposited checks. The unearned patent fees represented 89.5 percent of this liability. The following graph depicts the composition of the deferred revenue liability, in addition to the increase in this liability during each of the past four years.




Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency rates, and changes in fee rates. From FY 2003 through FY 2004, the percentage increase in deferred revenue is consistent with the percentage increases in the first action pendency months. However, in FY 2005 and FY 2006, the percentage change in first action pendency months was less than the percentage change in deferred revenue as a result of the increased fees associated with the unearned patent and trademark application filings. The following table depicts the changes in the filings and pendencies during the past four years.

| Filings and Pendencies | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Patent Filings | 355,418 | 378,984 | 409,532 | 443,652[1] |
| *Percentage Change in Patent Filings* | *0.6%* | *6.6%* | *8.1%* | *8.3%* |
| Patent First Action Pendency (months) | 18.3 | 20.2 | 21.1 | 22.6 |
| *Percentage Change in Patent First Action Pendency* | *9.6%* | *10.4%* | *4.5%* | *7.1%* |
| Total Patent Pendency (months) | 26.7 | 27.6 | 29.1 | 31.1 |
| *Percentage Change in Total Patent Pendency* | *11.3%* | *3.4%* | *5.4%* | *6.9%* |
| Trademark Filings | 267,218 | 298,489 | 323,501 | 354,775 |
| *Percentage Change in Trademark Filings* | *3.2%* | *11.7%* | *8.4%* | *9.7%* |
| Trademark First Action Pendency (months) | 5.4 | 6.6 | 6.3 | 4.8 |
| *Percentage Change in Trademark First Action Pendency* | *25.6%* | *22.2%* | *(4.5)%* | *(23.8)%* |
| Total Trademark Pendency (months) | 19.8 | 19.5 | 19.6 | 18.0 |
| *Percentage Change in Total Trademark Pendency* | *(0.5)%* | *(1.5)%* | *0.5%* | *(8.2)%* |

[1] *Preliminary data*

Deferred revenue associated with the patent process is expected to further increase. In the USPTO's most recent estimates, the number of patent applications filed in FY 2007 is expected to increase approximately 7.0 percent, followed by increases of 8.0 percent from FY 2008 through FY 2012, with first action pendency increasing to 23.9 months in FY 2009 and total pendency increasing to 33.9 months in FY 2010. Once the pendency starts to decrease in FY 2011, patent deferred revenue should in turn begin decreasing.

While the deferred revenue associated with the trademark process had been increasing, during FY 2006, trademark deferred revenue decreased by $11.8 million, or 13.6 percent, from FY 2005. This was consistent with trademark first action pendency decreasing to 4.8 months and total trademark pendency decreasing to 18.0 months. Estimates included in the USPTO's most recent estimates project this decrease to continue in FY 2007 when first action pendency decreases to 3.7 months and total pendency decreases to 17.3 months.

The Statement of Changes in Net Position presents the changes in the financial position of the USPTO due to results of operations and unexpended appropriations. The major components of the movement in net position are the net income or net cost for the year, and the post-retirement costs for USPTO employees. For FY 2004 and prior, the USPTO recognized an imputed financing source and corresponding expense to represent its share of the cost to the federal government of providing pension and post-retirement health and life insurance benefits to all eligible USPTO employees. Beginning in FY 2005, the USPTO is now funding the costs of post-retirement benefits and the pension liabilities, resulting in an expense using earned revenue in the statement of net cost, without an imputed financing source. The change in the net position during the past four years is presented in the following table.

| USPTO Net Position *(Dollars in millions)* | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|---|---|---|---|
| Net Position | $ 403.2 | $ 469.1 | $ 417.8 | $ 498.0 |
| *Percentage Change in Net Position* | *(1.8)%* | *16.3%* | *(10.9)%* | *19.2%* |

The increase in net position from $417.8 million at the end of FY 2005 to $498.0 million at the end of FY 2006, or 19.2 percent, is attributable largely to the results of operations. The significant increase in net position during FY 2004 is attributable largely to the permanent rescission reversing to a temporarily unavailable reduction in budgetary resources for $75.6 million.

## LIMITATIONS

The USPTO has prepared its FY 2006 financial statements in accordance with the requirements of OMB Circular A-136, *Financial Reporting Requirements,* as amended, and guidance provided by the DOC. OMB Circular A-136 incorporates the concepts and standards contained in the Statements of Federal Financial Accounting Concepts (SFFAC) and the Statements of Federal Financial Accounting Standards (SFFAS) recommended by the Federal Accounting Standards Advisory Board (FASAB) and approved by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General.

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

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

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

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

## MANAGEMENT RESPONSIBILITIES

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

# Financial Section

UNITED STATES PATENT AND TRADEM
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## MESSAGE FROM THE CHIEF FINANCIAL OFFICER

The USPTO continued its high standard of financial management and accountability reporting during FY 2006. As a result of the dedicated efforts of the financial management staff throughout the USPTO we have received an unqualified opinion on our financial statements for the 14th consecutive year. Along with the unqualified opinion, the auditors reported no material weaknesses or reportable conditions in the design and operation of the USPTO's system of internal control over financial reporting and our financial system complies with federal financial systems requirements. For the fourth consecutive year, the Association of Government Accountants awarded the USPTO the Certificate of Excellence in Accountability Reporting for our *FY 2005 Performance and Accountability Report*.

The most significant change in financial management this fiscal year was the new requirement for an annual assurance statement on the effectiveness of internal control over financial reporting, in accordance with the Office of Management and Budget's revised Circular A-123, *Management's Responsibility for Internal Control*. We enhanced our existing internal control review program and established a Senior Assessment Team and Senior Management Council comprised of managers and executives across the organization. Internal control evaluation permeated throughout the agency, which heightened awareness and continued to advance financial management at the USPTO. The evaluation included assessing internal controls at the process level for the material financial processes, as well as for the associated IT controls over financial management processes. Tests of these controls proved yet again that the USPTO should be proud of the internal control culture it has created.

Sound financial management continued to guide the USPTO in the analysis and review of major strategic initiatives during the past fiscal year. In conjunction with the overall USPTO goal of optimizing pendency, competitive sourcing efforts were focused in the areas of Patent Cooperation Treaty prior art searches, classification of patent documents, and patent reclassification functions. Competitive sourcing work in these areas will free our internal resources to focus on key government functions for more efficient management of our goals.

We will propose a new five-year *Strategic Plan* designed to foster American innovation and competitiveness at home and around the globe. This new *Plan* was drafted with input from the public and employees. We hope to publish the final *Plan* early in calendar year 2007, at which time it will be made available on our website. Full details on how the USPTO will implement the *Strategic Plan*, including funding and performance metrics, will be included in the USPTO's FY 2008 President's Budget.

We pride ourselves in providing our senior leadership and business units with high quality and timely financial reporting and program performance information to facilitate better decision-making. We continue to review financial management and related processes to identify areas for improvement in efficiency, financial and performance data integration, and internal controls to ensure unmatched reliability in financial activities.

Identified improvements will enhance capabilities to serve the public and USPTO's business units better and provide for timelier, more useful, and more accurate data for decision-making.

*Barry K. Hudson*
*Chief Financial Officer*
*November 6, 2006*

# UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED BALANCE SHEETS

## As of September 30, 2006 and 2005

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| **ASSETS** | | |
| Intragovernmental: | | |
| Fund Balance with Treasury (Note 2) | $ 1,401,771 | $ 1,240,798 |
| Accounts Receivable | — | 50 |
| Advances and Prepayments | 1,607 | 2,729 |
| Total Intragovernmental | 1,403,378 | 1,243,577 |
| Cash | 6,790 | 8,874 |
| Accounts Receivable, Net | 2,882 | 2,666 |
| Advances and Prepayments | 2,708 | 5,631 |
| Property, Plant, and Equipment, Net (Note 4) | 164,538 | 148,401 |
| Total Assets | $ 1,580,296 | $ 1,409,149 |
| **LIABILITIES** | | |
| Intragovernmental: | | |
| Accounts Payable | $ 12,165 | $ 5,163 |
| Accrued Payroll and Benefits | 6,174 | 5,409 |
| Accrued Post-employment Compensation | 1,563 | 1,367 |
| Customer Deposit Accounts (Note 3) | 4,498 | 4,230 |
| Total Intragovernmental | 24,400 | 16,169 |
| Accounts Payable | 92,225 | 96,607 |
| Accrued Payroll and Benefits | 51,382 | 46,221 |
| Accrued Leave | 43,812 | 39,097 |
| Customer Deposit Accounts (Note 3) | 79,309 | 69,844 |
| Patent Cooperation Treaty Account (Note 3) | 8,746 | 9,035 |
| Madrid Protocol Account (Note 3) | 279 | 334 |
| Deferred Revenue (Note 6) | 774,425 | 706,734 |
| Actuarial Liability (Note 7) | 7,470 | 7,278 |
| Contingent Liability (Note 15) | 250 | — |
| Total Liabilities (Note 5) | $ 1,082,298 | $ 991,319 |
| **NET POSITION** | | |
| Unexpended Appropriations – Earmarked Funds (Note 10) | $ 26 | $ 26 |
| Cumulative Results of Operations – Earmarked Funds (Note 10) | 497,972 | 417,804 |
| Total Net Position | $ 497,998 | $ 417,830 |
| Total Liabilities and Net Position | $ 1,580,296 | $ 1,409,149 |

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

# UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF NET COST

## For the years ended September 30, 2006 and 2005

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| **Strategic Goal 1: Enhance Patent Quality and Minimize Processing Time** | | |
| Total Program Cost | $ 1,215,459 | $ 1,149,793 |
| Total Program Earned Revenue | (1,384,274) | (1,197,781) |
| Net Program Income | (168,815) | (47,988) |
| **Strategic Goal 2: Enhance Trademark Quality and Minimize Processing Time** | | |
| Total Program Cost | 154,798 | 149,145 |
| Total Program Earned Revenue | (210,163) | (175,026) |
| Net Program Income | (55,365) | (25,881) |
| **Strategic Goal 3: Create a Flexible Organization through E-Government and Worldwide Intellectual Property** | | |
| Total Program Cost | 143,912 | 125,090 |
| Net (Income)/Cost from Operations (Note 11) | $ (80,268) | $ 51,221 |
| **Total Entity** | | |
| Total Program Cost (Notes 12 and 13) | $ 1,514,169 | $ 1,424,028 |
| Total Earned Revenue | (1,594,437) | (1,372,807) |
| Net (Income)/Cost from Operations (Note 11) | $ (80,268) | $ 51,221 |

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

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

## For the years ended September 30, 2006 and 2005

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| | Earmarked Funds | Consolidated Total |
| **Cumulative Results of Operations** | | |
| Beginning Balances | $ 417,804 | $ 469,028 |
| Budgetary Financing Sources: | | |
| Appropriations Used | — | (3) |
| Transfers In (Out) Without Reimbursement | (100) | — |
| Total Financing Sources | (100) | (3) |
| Net Income/(Cost) from Operations | 80,268 | (51,221) |
| Net Change | 80,168 | (51,224) |
| Cumulative Results of Operations | $ 497,972 | $ 417,804 |
| **Unexpended Appropriations** | | |
| Beginning Balances | $ 26 | $ 23 |
| Budgetary Financing Sources: | | |
| Appropriations Used | — | 3 |
| Total Unexpended Appropriations | $ 26 | $ 26 |
| Net Position, End of Year | $ 497,998 | $ 417,830 |

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

# UNITED STATES PATENT AND TRADEMARK OFFICE COMBINED STATEMENTS OF BUDGETARY RESOURCES

## For the years ended September 30, 2006 and 2005

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| **BUDGETARY RESOURCES** | | |
| Unobligated Balance - Brought Forward, October 1 (Note 14) | $ 5,728 | $ 2,363 |
| Recoveries of Prior Year Unpaid Obligations | 9,150 | 7,543 |
| Spending Authority from Offsetting Collections: | | |
| Earned: | | |
| Collected | 1,595,964 | 1,373,808 |
| Customer Receivables and Refund Payables | (116) | (52) |
| Change in Unfilled Customer Orders - Advance Received | 69,531 | 130,458 |
| Total Spending Authority from Offsetting Collections | 1,665,379 | 1,504,214 |
| Nonexpenditure Transfers, Net, Anticipated and Actual | (100) | — |
| Total Budgetary Resources | $ 1,680,157 | $ 1,514,120 |
| **STATUS OF BUDGETARY RESOURCES** | | |
| Obligations Incurred - Reimbursable | $ 1,674,441 | $ 1,508,392 |
| Unobligated Balance: | | |
| Apportioned (Note 14) | 5,660 | 2,763 |
| Unobligated Balance not Available (Note 14) | 56 | 2,965 |
| Total Status of Budgetary Resources | $ 1,680,157 | $ 1,514,120 |
| **CHANGE IN OBLIGATED BALANCE** | | |
| Obligated Balance, Net | | |
| Unpaid Obligations, Brought Forward, October 1 | $ 402,212 | $ 303,503 |
| Less: Customer Receivables and Refund Payables, Brought Forward, October 1 | 927 | 875 |
| Total Unpaid Obligated Balance Brought Forward, Net | 403,139 | 304,378 |
| Obligations Incurred, Net | 1,674,441 | 1,508,392 |
| Less: Gross Outlays | (1,513,677) | (1,402,140) |
| Less: Recoveries of Prior Year Unpaid Obligations, Actual | (9,150) | (7,543) |
| Change in Customer Receivables and Refund Payables | 116 | 52 |
| Total Unpaid Obligated Balance, Net, Current Year | 151,730 | 98,761 |
| Obligated Balance, Net, End of Year | | |
| Unpaid Obligations | 553,826 | 402,212 |
| Less: Uncollected Customer Receivables and Unpaid Refund Payables | 1,043 | 927 |
| Total Unpaid Obligated Balance, Net, End of Year | $ 554,869 | $ 403,139 |
| **NET OUTLAYS** | | |
| Gross Outlays | $ 1,513,677 | $ 1,402,140 |
| Less: Offsetting Collections | (1,665,495) | (1,504,266) |
| Net Collections | $ (151,818) | $ (102,126) |

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

# UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF FINANCING

## For the years ended September 30, 2006 and 2005

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| **RESOURCES USED TO FINANCE ACTIVITIES** | | |
| Budgetary Resources Obligated: | | |
| Obligations Incurred | $ 1,674,441 | $ 1,508,392 |
| Spending Authority from Offsetting Collections and Recoveries | (1,674,529) | (1,511,757) |
| Net Obligations | (88) | (3,365) |
| Total Resources Used to Finance Activities | (88) | (3,365) |
| **RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS** | | |
| Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered but not yet Provided | (141,315) | (67,450) |
| Resources that Fund Costs Recognized in Prior Periods (Note 14) | — | (360) |
| Budgetary Offsetting Collections that do not Affect Net Cost of Operations (Note 14) | 69,531 | 130,458 |
| Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet | (70,001) | (66,181) |
| Total Resources Used to Finance Items not Part of the Net Cost of Operations | (141,785) | (3,533) |
| **COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD** | | |
| Components Requiring or Generating Resources in Future Periods: | | |
| Costs that will be Funded by Resources in Future Periods (Note 14) | 7,580 | 3,647 |
| Net Decrease/ (Increase) in Revenue Receivables not Generating Resources until Collected | 80 | (576) |
| Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods | 7,660 | 3,071 |
| Components not Requiring or Generating Resources: | | |
| Depreciation, Amortization, or Loss on Asset Dispositions | 53,864 | 55,083 |
| Other Costs that will not Require Resources | 81 | (35) |
| Total Components of Net Cost of Operations that will not Require or Generate Resources | 53,945 | 55,048 |
| Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period | 61,605 | 58,119 |
| Net (Income)/Cost of Operations | $ (80,268) | $ 51,221 |

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

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

## For the years ended September 30, 2006 and 2005

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES** | | |
| Net Income/(Cost) of Operations | $ 80,268 | $ (51,221) |
| Adjustments Affecting Cash Flow: | | |
| Increase in Accounts Receivable | (166) | (1,378) |
| Decrease in Advances and Prepayments | 4,045 | 3,172 |
| Increase in Accounts Payable | 2,620 | 24,483 |
| Increase in Accrued Payroll and Benefits | 5,926 | 7,157 |
| Increase in Accrued Leave and Post-employment Compensation | 4,911 | 7 |
| Increase in Customer Deposit Accounts | 9,733 | 3,305 |
| (Decrease)/Increase in Patent Cooperation Treaty Account | (289) | 840 |
| (Decrease)/Increase in Madrid Protocol Account | (55) | 334 |
| Increase in Deferred Revenue | 67,691 | 127,138 |
| Increase in Contingent Liability | 250 | — |
| Increase/(Decrease) in Actuarial Liability | 192 | (206) |
| Depreciation, Amortization, or Loss on Asset Dispositions | 53,864 | 55,083 |
| Total Adjustments | 148,722 | 219,935 |
| Net Cash Provided by Operating Activities | 228,990 | 168,714 |
| **CASH FLOWS FROM INVESTING ACTIVITIES** | | |
| Purchases of Property and Equipment | (70,001) | (66,181) |
| Net Cash Used in Investing Activities | (70,001) | (66,181) |
| **CASH FLOWS FROM FINANCING ACTIVITIES** | | |
| Transfers In (Out) Without Reimbursement | (100) | — |
| Net Cash Used in Financing Activities | (100) | — |
| Net Cash Provided by Operating, Investing, and Financing Activities | $ 158,889 | $ 102,533 |
| Fund Balance with Treasury and Cash, Beginning of Year | $ 1,249,672 | $ 1,147,139 |
| Net Cash Provided by Operating, Investing, and Financing Activities | 158,889 | 102,533 |
| Fund Balance with Treasury and Cash, End of Year | $ 1,408,561 | $ 1,249,672 |

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

# UNITED STATES PATENT AND TRADEMARK OFFICE
# NOTES TO FINANCIAL STATEMENTS

**As of and for the years ended September 30, 2006 and 2005**

## NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Reporting Entity

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

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

These financial statements report the accounts for salaries and expenses (13X1006), special fund receipts (135127), customer deposits from the public (13X6542), customer deposits from other federal agencies (13F3885.10), Patent Cooperation Treaty collections (13X6538), and the Madrid Protocol collections (13X6554) that are under the control of the USPTO. The federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have custodial responsibility, nor does it have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

### Basis of Presentation

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

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

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

### Basis of Accounting

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

**Earmarked Funds**

The USPTO implemented Statement of Federal Financial Accounting Standard Number 27, *Identifying and Reporting Earmarked Funds,* in FY 2006, which required separate identification of the earmarked funds on the *Consolidated Balance Sheets (Net Position section), Consolidated Statements of Changes in Net Position*, and further disclosures in a footnote (Note 10).

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

In accordance with the implementation guidance, earmarked funds are not separately identified in FY 2005.

**Budgets and Budgetary Accounting**

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. In FY 2006 and FY 2005, the USPTO was appropriated up to $1,683,185 thousand and $1,554,754 thousand for fees collected during each fiscal year, respectively. As of September 30, 2006 and 2005, the USPTO collected $25,669 thousand and $57,603 thousand less than the amount appropriated, respectively.

The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2006 are $750,027 thousand. Of this amount, certain USPTO collections of $233,529 thousand were withheld in accordance with the Omnibus Budget Reconciliation Act (OBRA) of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury.

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

**Use of Estimates**

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

**Revenue and Other Financing Sources**

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

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

**Entity/Non-Entity**

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

**Fund Balance with Treasury**

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

**Accounts Receivable**

Most of the USPTO's public accounts receivable balance consists of electronic funds transfer and credit card payments for fees that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. As of September 30, 2006 and 2005, respectively, $2,506 thousand and $2,244 thousand are in transit due to the lag time between deposits in commercial bank accounts and the confirmation received from Treasury.

The remaining portion of accounts receivable is mainly comprised of amounts due from former employees for the reimbursement of education expenses and other benefits. This balance in accounts receivable remains as a very small portion of the USPTO's assets, as the USPTO requires payment prior to the provision of goods or services during the course of its core business activities.

The USPTO has written-off, but not closed-out, $91 thousand of accounts receivables that are currently not collectible as of September 30, 2006. The USPTO had an allowance of $1 thousand for uncollectible amounts as of September 30, 2005. These offsets are established for receivables older than two years with little or no collection activity that have been transferred to Treasury, subsequently adjusting the gross amount of its employee-related accounts receivable to the net realizable value. The gross amount of USPTO's employee-related accounts receivable as of September 30, 2006 and 2005 were $467 thousand and $423 thousand, respectively.

**Advances and Prepayments**

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

Total prepayments and advances to non-governmental vendors as of September 30, 2006 and 2005 were $2,708 thousand and $5,631 thousand, respectively. The largest prepayments as of September 30, 2006 were $1,389 thousand for various cooperative efforts with the National Inventors Hall of Fame, the International Intellectual Property Institute, and the World Intellectual Property Organization. Travel advances to personnel as of September 30, 2006 were $25 thousand.

Total prepayments and advances to governmental vendors as of September 30, 2006 and 2005 were $1,607 thousand and $2,729 thousand, respectively. The governmental prepayments include the USPTO deposit accounts held with the U.S. Government Printing Office and the DOC to facilitate recurring transactions. Deposit accounts held with the U.S. Government Printing Office as of September 30, 2006 were $1,002 thousand. Deposit accounts held with the DOC as of September 30, 2006 were $605 thousand.

**Cash**

Most of the USPTO's cash balance consists of undeposited checks for fees that were not processed at the Balance Sheet date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. As of September 30, 2006 and 2005, the cash balance includes undeposited checks of $6,788 thousand and $8,872 thousand, respectively. Of these balances, $542 thousand and $787 thousand were non-entity Patent Cooperation Treaty Account assets as of September 30, 2006 and 2005, respectively. Cash is also held outside the Treasury to be used as imprest funds. An imprest fund of $2 thousand was held as of September 30, 2006 and 2005.

**Property, Plant, and Equipment, Net**

The USPTO's capitalization policies are summarized below:

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

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

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

The USPTO does not defer to a future period maintenance on property, plant, and equipment.

**Injury Compensation**

Claims brought by USPTO employees for on-the-job injuries fall under the Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL). The DOL bills each agency annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process. As of September 30, 2006, the USPTO had a $1,492 thousand liability for estimated claims paid on its behalf during the benefit period July 1, 2004 through September 30, 2006. As of September 30, 2005, the USPTO had a $1,328 thousand liability for estimated claims paid on its behalf during the benefit period July 1, 2003 through September 30, 2005.

**Post-employment Compensation**

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid. As of September 30, 2006 and 2005, the USPTO liability was $71 thousand and $39 thousand, respectively, for estimated claims paid by the DOL on behalf of the USPTO.

**Annual, Sick, and Other Leave**

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

Accrued leave as of September 30, 2006 and 2005 was $43,812 thousand and $39,097 thousand, respectively.

**Employee Retirement Systems and Benefits**

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

The USPTO's financial statements do not report CSRS or FERS assets, accumulated plan benefits, or liabilities applicable to its employees. The reporting of such amounts is the responsibility of the U.S. Office of Personnel Management (OPM), who administers the plans. While the USPTO reported no liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the various agencies administering these programs. The USPTO financial statements, since FY 2005, recognize an expense, which represents the USPTO's share of the costs to the federal government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. Prior to FY 2005, the USPTO did not fully fund the pension, post-retirement health, and life insurance benefits of all eligible USPTO employees. Instead, the USPTO recognized an imputed financing source and corresponding expense to represent its share of the cost to the federal government of providing pension and post-retirement health and life insurance benefits to all eligible USPTO employees. The USPTO appropriation, since FY 2005, required full funding of the present costs of post-retirement benefits such as the Federal Employees Health Benefit Program (FEHB) and the Federal Employees Group Life Insurance Program (FEGLI), and to fully fund the CSRS and FERS pension liabilities. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by various federal government agencies, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors.

For the years ended September 30, 2006 and 2005, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 18.0 percent and 11.2 percent of the employee's basic pay for those employees covered by CSRS and FERS, respectively, based on OPM cost factors.

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

### Deferred Revenue

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

### Environmental Cleanup

The USPTO does not have any liabilities for environmental cleanup.

## NOTE 2. FUND BALANCE WITH TREASURY

As of September 30, 2006 and 2005, Fund Balance with Treasury consisted of the following:

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| Obligated Balance Not Yet Disbursed | $ 554,869 | $ 403,139 |
| Unobligated Balance Available | 5,660 | 2,763 |
| Unobligated Balance Unavailable | 56 | 2,965 |
| Temporarily Not Available Pursuant to Public Law | 516,498 | 516,498 |
| Non-Budgetary Fund Balance with Treasury | 324,688 | 315,433 |
| Total Fund Balance with Treasury | $ 1,401,771 | $ 1,240,798 |

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

As of September 30, 2006 and 2005, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts of $233,529 thousand and Non-Entity Fund Balance with Treasury of $91,159 thousand and $81,904 thousand, respectively.

## NOTE 3. NON-ENTITY ASSETS

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

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| Fund Balance with Treasury: | | |
| Intragovernmental Deposit Accounts | $ 4,498 | $ 4,230 |
| Other Customer Deposit Accounts | 78,224 | 69,092 |
| Patent Cooperation Treaty Account | 8,158 | 8,248 |
| Madrid Protocol Account | 279 | 334 |
| Total Fund Balance with Treasury | 91,159 | 81,904 |
| Cash: | | |
| Patent Cooperation Treaty Account | 542 | 787 |
| Accounts Receivable: | | |
| Other Customer Deposit Accounts | 1,085 | 752 |
| Patent Cooperation Treaty Account | 46 | — |
| Total Non-Entity Assets | $ 92,832 | $ 83,443 |

## NOTE 4. PROPERTY, PLANT, AND EQUIPMENT, NET

As of September 30, 2006, property, plant, and equipment, net consisted of the following:

**(Dollars in Thousands)**

| Classes of Property, Plant, and Equipment | Depreciation/ Amortization Method | Service Life (Years) | Acquisition Value | Accumulated Depreciation/ Amortization | Net Book Value |
|---|---|---|---|---|---|
| IT Equipment | SL | 3-5 | $ 227,350 | $ 180,831 | $ 46,519 |
| Software | SL | 3-5 | 198,492 | 166,811 | 31,681 |
| Software in Progress | — | — | 8,041 | — | 8,041 |
| Furniture | SL | 5 | 21,986 | 7,969 | 14,017 |
| Equipment | SL | 3-5 | 11,659 | 8,648 | 3,011 |
| Leasehold Improvements | SL | 5-20 | 69,765 | 8,496 | 61,269 |
| Total Property, Plant, and Equipment | | | $ 537,293 | $ 372,755 | $ 164,538 |

As of September 30, 2005, property, plant, and equipment, net consisted of the following:

**(Dollars in Thousands)**

| Classes of Property, Plant, and Equipment | Depreciation/ Amortization Method | Service Life (Years) | Acquisition Value | Accumulated Depreciation/ Amortization | Net Book Value |
|---|---|---|---|---|---|
| IT Equipment | SL | 3-5 | $ 197,719 | $ 163,412 | $ 34,307 |
| Software | SL | 3-5 | 179,566 | 147,274 | 32,292 |
| Software in Progress | — | — | 6,099 | — | 6,099 |
| Furniture | SL | 5 | 15,318 | 5,691 | 9,627 |
| Equipment | SL | 3-5 | 10,150 | 7,989 | 2,161 |
| Leasehold Improvements | SL | 5-20 | 68,724 | 4,809 | 63,915 |
| Total Property, Plant, and Equipment | | | $ 477,576 | $ 329,175 | $ 148,401 |

## NOTE 5. LIABILITIES

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances as of September 30, 2006. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2006, but become available for spending on October 1, 2006 once apportioned by the OMB. In addition, cash and Fund Balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, undeposited collections, and amounts collected by the USPTO on behalf of other organizations.

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

As of September 30, 2006 and 2005, liabilities covered and not covered by budgetary resources were as follows:

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| Liabilities Covered by Resources | | |
| Intragovernmental: | | |
| Accounts Payable | $ 9,799 | $ 2,797 |
| Accrued Payroll and Benefits | 6,174 | 5,409 |
| Customer Deposit Accounts | 4,498 | 4,230 |
| Total Intragovernmental | 20,471 | 12,436 |
| Accounts Payable | 92,101 | 96,487 |
| Accrued Payroll and Benefits | 27,798 | 24,862 |
| Customer Deposit Accounts | 79,309 | 69,844 |
| Patent Cooperation Treaty Account | 8,746 | 9,035 |
| Madrid Protocol Account | 279 | 334 |
| Deferred Revenue | 11,962 | 13,812 |
| Total Liabilities Covered by Resources | $ 240,666 | $ 226,810 |
| Liabilities Not Covered by Resources | | |
| Intragovernmental: | | |
| Accounts Payable | $ 2,366 | $ 2,366 |
| Accrued Post-employment Compensation | 1,563 | 1,367 |
| Total Intragovernmental | 3,929 | 3,733 |
| Accounts Payable | 124 | 120 |
| Accrued Payroll and Benefits | 23,584 | 21,359 |
| Accrued Leave | 43,812 | 39,097 |
| Deferred Revenue | 762,463 | 692,922 |
| Actuarial Liability | 7,470 | 7,278 |
| Contingent Liability | 250 | — |
| Total Liabilities Not Covered by Resources | $ 841,632 | $ 764,509 |
| Total Liabilities | $ 1,082,298 | $ 991,319 |

## NOTE 6. DEFERRED REVENUE

As of September 30, 2006, deferred revenue consisted of the following:

| (Dollars in Thousands) | Patent | Trademark | Total |
|---|---|---|---|
| Unearned Fees | $ 693,174 | $ 75,005 | $ 768,179 |
| Undeposited Checks | 5,538 | 708 | 6,246 |
| Total Deferred Revenue | $ 698,712 | $ 75,713 | $ 774,425 |

As of September 30, 2005, deferred revenue consisted of the following:

| (Dollars in Thousands) | Patent | Trademark | Total |
|---|---|---|---|
| Unearned Fees | $ 611,778 | $ 86,871 | $ 698,649 |
| Undeposited Checks | 7,125 | 960 | 8,085 |
| Total Deferred Revenue | $ 618,903 | $ 87,831 | $ 706,734 |

## NOTE 7. ACTUARIAL LIABILITY

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

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

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

| 2006 | 2005 |
|---|---|
| 5.17% in year 1,<br>5.31% in year 2,<br>and thereafter | 4.53% in year 1,<br>5.02% in year 2,<br>and thereafter |

Based on information provided by the DOL, the DOC estimated the USPTO's liability as of September 30, 2006 and 2005 to be $7,470 thousand and $7,278 thousand, respectively.

## NOTE 8. LEASES

**Operating Leases:**

The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings expire at various dates between FY 2007 and FY 2024. During the years ended September 30, 2006 and 2005, the USPTO paid $82,651 thousand and $95,613 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as September 30, 2006 are as follows:

| Fiscal Year | (Dollars in Thousands) |
|---|---|
| 2007 | $ 62,070 |
| 2008 | 58,724 |
| 2009 | 58,452 |
| 2010 | 58,237 |
| 2011 | 57,428 |
| Thereafter | 723,117 |
| Total Future Minimum Lease Payments | $ 1,018,028 |

The commitments shown above relate primarily to the operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in FY 2004 and extending to FY 2024. The operating lease commitments for the USPTO offices in Crystal City, Virginia, will expire in FY 2007.

## NOTE 9. POST-EMPLOYMENT BENEFITS

As of September 30, 2006 and 2005, the post-employment benefit expenses were as follows:

| (Dollars in Thousands) | 2006 | 2005 |
|---|---|---|
| CSRS | $ 15,578 | $ 16,622 |
| FERS | 59,208 | 52,566 |
| FEHB | 32,972 | 32,319 |
| FEGLI | 95 | 105 |
| FICA | 40,903 | 36,463 |
| Total Cost | $ 148,756 | $ 138,075 |

## NOTE 10. EARMARKED FUNDS

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

The following tables provide the status of the USPTO's earmarked funds.

| | Salaries and Expenses Fund | Surcharge Fund | Total Earmarked Funds |
|---|---|---|---|
| **Balance Sheet as of September 30, 2006** | | | |
| Fund Balance with Treasury | $ 1,077,083 | $ 233,529 | $ 1,310,612 |
| Cash | 6,248 | — | 6,248 |
| Accounts Receivable, Net | 1,751 | — | 1,751 |
| Other Assets | 168,853 | — | 168,853 |
| Total Assets | $ 1,253,935 | $ 233,529 | $ 1,487,464 |
| Total Liabilities | $ 989,466 | $ — | $ 989,466 |
| Unexpended Appropriations | $ 26 | $ — | $ 26 |
| Cumulative Results of Operations | 264,443 | 233,529 | 497,972 |
| Total Liabilities and Net Position | $ 1,253,935 | $ 233,529 | $ 1,487,464 |
| **Statement of Net Cost For the Year Ended September 30, 2006** | | | |
| Total Program Cost | $ 1,514,169 | $ — | $ 1,514,169 |
| Less Earned Revenue | (1,594,437) | — | (1,594,437) |
| Net Income from Operations | $ (80,268) | $ — | $ (80,268) |
| **Statement of Changes in Net Position For the Year Ended September 30, 2006** | | | |
| Net Position, Beginning of Year | $ 184,301 | $ 233,529 | $ 417,830 |
| Budgetary Financing Sources | $ (100) | $ — | $ (100) |
| Net Income from Operations | 80,268 | — | 80,268 |
| Change in Net Position | $ 80,168 | $ — | $ 80,168 |
| Net Positon, End of Year | $ 264,469 | $ 233,529 | $ 497,998 |

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

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

## NOTE 11. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Total intragovernmental costs and exchange revenue, by Strategic Goal, for the years ended September 30, 2006 and 2005 were as follows:

| (Dollars in Thousands) | 2006 | | |
|---|---|---|---|
| | Patent | Trademark | Total |
| **Strategic Goal 1: Enhance Patent Quality and Minimize Processing Time** | | | |
| Intragovernmental Gross Cost | $ 244,846 | $ — | $ 244,846 |
| Gross Cost with the Public | 970,613 | — | 970,613 |
| Total Program Cost | 1,215,459 | — | 1,215,459 |
| Intragovernmental Earned Revenue | (6,870) | — | (6,870) |
| Earned Revenue from the Public | (1,377,404) | — | (1,377,404) |
| Total Program Earned Revenue | (1,384,274) | — | (1,384,274) |
| Net Program Income | $ (168,815) | $ — | $ (168,815) |
| **Strategic Goal 2: Enhance Trademark Quality and Minimize Processing Time** | | | |
| Intragovernmental Gross Cost | $ — | $ 31,183 | $ 31,183 |
| Gross Cost with the Public | — | 123,615 | 123,615 |
| Total Program Cost | — | 154,798 | 154,798 |
| Intragovernmental Earned Revenue | — | (252) | (252) |
| Earned Revenue from the Public | — | (209,911) | (209,911) |
| Total Program Earned Revenue | — | (210,163) | (210,163) |
| Net Program Income | $ — | $ (55,365) | $ (55,365) |
| **Strategic Goal 3: Create a Flexible Organization through E-Government and Worldwide Intellectual Property** | | | |
| Intragovernmental Gross Cost | $ 24,208 | $ 4,782 | $ 28,990 |
| Gross Cost with the Public | 95,965 | 18,957 | 114,922 |
| Total Program Cost | 120,173 | 23,739 | 143,912 |
| Net Income from Operations | $ (48,642) | $ (31,626) | $ (80,268) |
| **Total Entity** | | | |
| Total Program Cost (Notes 12 and 13) | $ 1,335,632 | $ 178,537 | $ 1,514,169 |
| Total Earned Revenue | (1,384,274) | (210,163) | (1,594,437) |
| Net Income from Operations | $ (48,642) | $ (31,626) | $ (80,268) |

| (Dollars in Thousands) | 2005 | | |
|---|---|---|---|
| | Patent | Trademark | Total |
| **Strategic Goal 1: Enhance Patent Quality and Minimize Processing Time** | | | |
| Intragovernmental Gross Cost | $ 240,733 | $ — | $ 240,733 |
| Gross Cost with the Public | 909,060 | — | 909,060 |
| Total Program Cost | 1,149,793 | — | 1,149,793 |
| Intragovernmental Earned Revenue | (5,869) | — | (5,869) |
| Earned Revenue from the Public | (1,191,912) | — | (1,191,912) |
| Total Program Earned Revenue | (1,197,781) | — | (1,197,781) |
| Net Program Income | $ (47,988) | $ — | $ (47,988) |
| **Strategic Goal 2: Enhance Trademark Quality and Minimize Processing Time** | | | |
| Intragovernmental Gross Cost | $ — | $ 31,227 | $ 31,227 |
| Gross Cost with the Public | — | 117,918 | 117,918 |
| Total Program Cost | — | 149,145 | 149,145 |
| Intragovernmental Earned Revenue | — | (239) | (239) |
| Earned Revenue from the Public | — | (174,787) | (174,787) |
| Total Program Earned Revenue | — | (175,026) | (175,026) |
| Net Program Income | $ — | $ (25,881) | $ (25,881) |
| **Strategic Goal 3: Create a Flexible Organization through E-Government and Worldwide Intellectual Property** | | | |
| Intragovernmental Gross Cost | $ 21,635 | $ 4,555 | $ 26,190 |
| Gross Cost with the Public | 81,699 | 17,201 | 98,900 |
| Total Program Cost | 103,334 | 21,756 | 125,090 |
| Net Cost/(Income) from Operations | $ 55,346 | $ (4,125) | $ 51,221 |
| **Total Entity** | | | |
| Total Program Cost (Notes 12 and 13) | $ 1,253,127 | $ 170,901 | $ 1,424,028 |
| Total Earned Revenue | (1,197,781) | (175,026) | (1,372,807) |
| Net Cost/(Income) from Operations | $ 55,346 | $ (4,125) | $ 51,221 |

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

## NOTE 12. PROGRAM COSTS

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2006 and 2005 by cost category were as follows:

| (Dollars in Thousands) | 2006 | | |
|---|---|---|---|
| | Direct | Allocated | Total |
| Personnel Services and Benefits | $ 807,879 | $ 75,473 | $ 883,352 |
| Travel and Transportation | 1,399 | 7,280 | 8,679 |
| Rent, Communications, and Utilities | 81,063 | 30,273 | 111,336 |
| Printing and Reproduction | 72,187 | 413 | 72,600 |
| Contractual Services | 211,401 | 111,589 | 322,990 |
| Training | 3,430 | 1,512 | 4,942 |
| Maintenance and Repairs | 10,982 | 25,499 | 36,481 |
| Supplies and Materials | 7,927 | 1,495 | 9,422 |
| Equipment not Capitalized | 6,435 | 3,982 | 10,417 |
| Insurance Claims and Indemnities | 85 | 1 | 86 |
| Depreciation, Amortization, or Loss on Asset Dispositions | 30,965 | 22,899 | 53,864 |
| Total Program Costs | $1,233,753 | $ 280,416 | $1,514,169 |

| (Dollars in Thousands) | 2005 | | |
|---|---|---|---|
| | Direct | Allocated | Total |
| Personnel Services and Benefits | $ 726,540 | $ 75,673 | $ 802,213 |
| Travel and Transportation | 663 | 5,649 | 6,312 |
| Rent, Communications, and Utilities | 90,993 | 37,363 | 128,356 |
| Printing and Reproduction | 69,695 | 388 | 70,083 |
| Contractual Services | 179,337 | 114,505 | 293,842 |
| Training | 2,727 | 1,154 | 3,881 |
| Maintenance and Repairs | 11,038 | 31,896 | 42,934 |
| Supplies and Materials | 7,234 | 1,578 | 8,812 |
| Equipment not Capitalized | 7,691 | 4,821 | 12,512 |
| Depreciation, Amortization, or Loss on Asset Dispositions | 32,208 | 22,875 | 55,083 |
| Total Program Costs | $1,128,126 | $ 295,902 | $1,424,028 |

The unfunded portion of personnel services and benefits for the years ended September 30, 2006 and 2005 were $7,328 thousand and $801 thousand, respectively.

## NOTE 13. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT

The program costs for the years ended September 30, 2006 and 2005 by cost category and business line were as follows:

| (Dollars in Thousands) | 2006 | | | 2005 | | |
|---|---|---|---|---|---|---|
| | Patent | Trademark | Total | Patent | Trademark | Total |
| Direct Costs | | | | | | |
| Personnel Services and Benefits | $ 718,350 | $ 89,529 | $ 807,879 | $ 646,517 | $ 80,023 | $ 726,540 |
| Travel and Transportation | 1,269 | 130 | 1,399 | 597 | 66 | 663 |
| Rent, Communications, and Utilities | 72,452 | 8,611 | 81,063 | 82,578 | 8,415 | 90,993 |
| Printing and Reproduction | 71,894 | 293 | 72,187 | 68,888 | 807 | 69,695 |
| Contractual Services | 184,331 | 27,070 | 211,401 | 156,111 | 23,226 | 179,337 |
| Training | 3,315 | 115 | 3,430 | 2,518 | 209 | 2,727 |
| Maintenance and Repairs | 9,217 | 1,765 | 10,982 | 8,923 | 2,115 | 11,038 |
| Supplies and Materials | 7,349 | 578 | 7,927 | 6,826 | 408 | 7,234 |
| Equipment not Capitalized | 5,514 | 921 | 6,435 | 6,799 | 892 | 7,691 |
| Insurance Claims and Indemnities | — | 85 | 85 | — | — | — |
| Depreciation, Amortization, or Loss on Asset Dispositions | 24,928 | 6,037 | 30,965 | 26,131 | 6,077 | 32,208 |
| Subtotal Direct Costs | 1,098,619 | 135,134 | 1,233,753 | 1,005,888 | 122,238 | 1,128,126 |
| Allocated Costs | | | | | | |
| Automation | 99,777 | 14,808 | 114,585 | 106,530 | 19,593 | 126,123 |
| Resource Management | 137,236 | 28,595 | 165,831 | 140,709 | 29,070 | 169,779 |
| Subtotal Allocated Costs | 237,013 | 43,403 | 280,416 | 247,239 | 48,663 | 295,902 |
| Total Program Costs | $1,335,632 | $ 178,537 | $1,514,169 | $1,253,127 | $ 170,901 | $1,424,028 |

The unfunded portion of personnel services and benefits for the years ended September 30, 2006 and 2005 were $7,328 thousand and $801 thousand, respectively.

## NOTE 14. FUTURE FUNDING REQUIREMENTS

The Consolidated Statement of Financing provides information on the total resources used by an agency, both those received through budgetary resources and those received through other means during the reporting period. The statement reconciles these resources with the net cost of operations by (1) removing resources that do not fund net cost of operations and (2) including components of net cost of operations that did not generate or use resources during the year.

The relationship between the amounts reported as liabilities not covered by budgetary resources as shown in Note 5, *Liabilities*, and the amounts reported as components requiring or generating resources in future periods on the Statement of Financing were analyzed. The differences are primarily due to budgetary offsetting collections that do not affect net cost of operations, which consists of the change in unfilled customer orders with advance.

For the year ended September 30, 2006, future funding requirements were as follows:

| **(Dollars in Thousands)** | |
|---|---|
| Liabilities not Covered by Budgetary Resources as of 9/30/2005 | $ 764,509 |
| Unobligated Balance Used to Cover Unfunded Liabilities | 5,728 |
| Unfunded Liabilities as of 9/30/2005 | $ 770,237 |
| Liabilities not Covered by Budgetary Resources as of 9/30/2006 | $ 841,632 |
| Unobligated Balance Used to Cover Unfunded Liabilities | 5,716 |
| Unfunded Liabilities as of 9/30/2006 | $ 847,348 |
| Increase in Unfunded Liabilities | $ 77,111 |
| Costs that will be Funded by Resources in Future Periods | $ 7,580 |
| Budgetary Offsetting Collections that do not Affect Net Cost of Operations | 69,531 |
| Increase in Future Funding Requirements | $ 77,111 |

For the year ended September 30, 2005, future funding requirements were as follows:

| **(Dollars in Thousands)** | |
|---|---|
| Liabilities not Covered by Budgetary Resources as of 9/30/2004 | $ 634,129 |
| Unobligated Balance Used to Cover Unfunded Liabilities | 2,363 |
| Unfunded Liabilities as of 9/30/2004 | $ 636,492 |
| Liabilities not Covered by Budgetary Resources as of 9/30/2005 | $ 764,509 |
| Unobligated Balance Used to Cover Unfunded Liabilities | 5,728 |
| Unfunded Liabilities as of 9/30/2005 | $ 770,237 |
| Increase in Unfunded Liabilities | $ 133,745 |
| Costs that will be Funded by Resources in Future Periods | $ 3,647 |
| Resources that Fund Costs Recognized in Prior Periods | (360) |
| Budgetary Offsetting Collections that do not Affect Net Cost of Operations | 130,458 |
| Increase in Future Funding Requirements | $ 133,745 |

## NOTE 15. COMMITMENTS AND CONTINGENCIES

### Commitments

In addition to the future lease commitments discussed in Note 8, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total undelivered orders for all of the USPTO's activities were $423,310 thousand and $281,995 thousand as of September 30, 2006 and 2005, respectively. Of these amounts, $418,995 thousand and $273,635 thousand, respectively, were unpaid.

### Contingencies

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

One grievance has been decided by arbitration where the employee has been reinstated and is being awarded backpay. Although the final liability is unknown, a reserve of $250 thousand has been setup. As of September 30, 2006, management expects it is reasonably possible that approximately $67,821 thousand may be owed for awards or damages involving labor relations claims. In addition, a potential class action suit outcome is considered reasonably possible, but a range of outcomes cannot be determined.

Additionally, the USPTO may be required to make reimbursements to the Judgment Fund. For the years ended September 30, 2006 and 2005, there were no payments made on behalf of the USPTO from the Judgment Fund.

# Independent Auditors' Report

UNITED STATES PATENT AND TRADEM
DEPARTMENT OF CO

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

November 6, 2006

MEMORANDUM FOR: Jon W. Dudas
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office

FROM: Johnnie E. Frazier

SUBJECT: *USPTO's FY 2006 Financial Statements*
Audit Report No. FSD-18003-7-0002

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on the U.S. Patent and Trademark Office's FY2006 financial statements. The audit results indicate that USPTO's internal controls facilitate preparation of reliable financial and performance information. We commend USPTO for attaining an unqualified opinion for the 14th consecutive year and for meeting the fiscal year 2006 accelerated reporting deadline.

My office contracted with the independent public accounting firm of KPMG LLP (KPMG) to perform the audit of USPTO's financial statements for the fiscal year ended September 30, 2006. The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards and OMB Bulletin 06-03, *Audit Requirements for Federal Financial Statements.*

In its audit of USPTO, KPMG found that

- the financial statements were fairly presented, in all material respects and in conformity with U.S. generally accepted accounting principles;
- there were no material weaknesses in internal controls, as defined on page 2 of the audit report;
- there were no instances in which the USPTO's financial management systems did not substantially comply with the requirements of the Federal Financial Management Improvement Act of 1996 and no instances of noncompliance with other laws and regulations tested.

My office defined the audit's scope and oversaw its performance and delivery. We reviewed KPMG's report and related documentation, and made inquiries of its representatives. Our review disclosed no instances where KPMG did not comply, in all material respects, with U.S. generally accepted government auditing standards.

However, our review cannot be construed as an audit in accordance with U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on USPTO's financial statements, conclusions about the effectiveness of internal controls, or conclusions on compliance with laws and regulations. KPMG is solely responsible for the attached audit report dated November 6, 2006, and the conclusions expressed in the report.

If you wish to discuss the contents of this report, please call me on (202) 482-4661, or Elizabeth Barlow, Deputy Inspector General, on (202) 482-3516. We appreciate the cooperation and courtesies the USPTO extended to KPMG and my staff during the audit.

Attachment

cc: Barry K. Hudson
Chief Financial Officer
U.S. Patent and Trademark Office

Otto J. Wolff
Chief Financial Officer and Assistant Secretary for Administration
Department of Commerce

**KPMG LLP**
2001 M Street, NW
Washington, DC 20036

## Independent Auditors' Report

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

We have audited the accompanying consolidated balance sheets of the U.S. Patent and Trademark Office (USPTO), an agency within the U.S. Department of Commerce, as of September 30, 2006 and 2005, and the related consolidated statements of net cost, changes in net position, financing, and cash flows, and the combined statements of budgetary resources (hereinafter referred to as "financial statements") for the years then ended. The objective of our audits was to express an opinion on the fair presentation of these financial statements. In connection with our fiscal year 2006 audit, we also considered the USPTO's internal control over financial reporting and tested the USPTO's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on these financial statements.

### SUMMARY

As stated in our opinion on the financial statements, we concluded that the USPTO's financial statements as of and for the years ended September 30, 2006 and 2005, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

As discussed in our opinion, in fiscal year 2006, the USPTO adopted new reporting requirements for earmarked funds.

Our consideration of internal control over financial reporting and performance measures would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. However, we noted no matters involving the internal control and its operation that we considered to be material weaknesses.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards,* issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 06-03, *Audit Requirements for Federal Financial Statements*.

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

### OPINION ON THE FINANCIAL STATEMENTS

We have audited the accompanying consolidated balance sheets of the U.S. Patent and Trademark Office as of September 30, 2006 and 2005, and the related consolidated statements of net cost, changes in net position, financing, and cash flows, and the combined statements of budgetary resources for the years then ended.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Patent and Trademark Office as of September 30, 2006 and 2005, and its net costs, changes in net position, budgetary resources, reconciliation of net costs to budgetary obligations, and cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

As discussed in Note 1 to the financial statements, the USPTO changed its method of reporting earmarked funds in fiscal year 2006 to adopt the provisions of the Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards No. 27, *Identifying and Reporting Earmarked Funds*.

The information in the Management's Discussion and Analysis section is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles and OMB Circular A-136, *Financial Reporting Requirements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the financial statements taken as a whole. The information in the Other Accompanying Information on pages 107 through 152 is presented for purposes of additional analysis and is not required as part of the financial statements. This information has not been subjected to auditing procedures and, accordingly, we express no opinion on it.

**INTERNAL CONTROL OVER FINANCIAL REPORTING**

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered to be material weaknesses as defined above.

**INTERNAL CONTROLS OVER PERFORMANCE MEASURES**

Under OMB Bulletin 06-03, the definition of material weaknesses is extended to other controls as follows. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud, in amounts that would be material to a performance measure or aggregation of related performance measures, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected.

Our consideration of the design and operation of internal control over the existence and completeness assertions related to key performance measures would not necessarily disclose all matters involving the design and operation of the internal control over the existence and completeness assertions related to key performance measures that might be reportable conditions.

In our fiscal year 2006 audit, we noted no matters involving the design and operation of the internal control over the existence and completeness assertions related to key performance measures that we considered to be material weaknesses as defined above.

However, we noted other matters that we reported to the management of the USPTO in two separate letters addressing information technology and other matters, respectively.

**COMPLIANCE AND OTHER MATTERS**

The results of our tests of compliance described in the Responsibilities section of this report, exclusive of those referred to in the *Federal Financial Management Improvement Act of 1996* (FFMIA), disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* and OMB Bulletin No. 06-03.

The results of our tests of FFMIA disclosed no instances in which the USPTO's financial management systems did not substantially comply with the three requirements discussed in the Responsibilities section of this report.

* * * * *

**RESPONSIBILITIES**

**Management's Responsibilities**. The United States Code Title 31 Section 3515 and 9106 require agencies to report annually to Congress on their financial status and any other information needed to fairly present their financial position and results of operations. To meet these reporting requirements, the USPTO prepares and submits financial statements in accordance with OMB Circular A-136.

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with U.S. generally accepted accounting principles;
- Preparing the Management's Discussion and Analysis (including the performance measures);
- Establishing and maintaining effective internal controls over financial reporting; and
- Complying with laws, regulations, and contracts applicable to the USPTO.

In fulfilling this responsibility, management is required to make estimates and judgments to assess the expected benefits and related costs of internal control policies.

**Auditors' Responsibilities**. Our responsibility is to express an opinion on the fiscal year 2006 and 2005 financial statements of the USPTO based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*; and OMB Bulletin No. 06-03. Those standards and OMB Bulletin No. 06-03 require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control over financial reporting. Accordingly, we express no such opinion.

An audit also includes:

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

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

In planning and performing our fiscal year 2006 audit, we considered the USPTO's internal control over financial reporting by obtaining an understanding of the USPTO's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in *Government Auditing Standards* and OMB Bulletin No. 06-03. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to provide an opinion on the USPTO's internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As required by OMB Bulletin No. 06-03, in our fiscal year 2006 audit, with respect to internal control related to performance measures determined by management to be key and reported in the Management's Discussion and Analysis section, we obtained an understanding of the design of internal controls relating to the existence and completeness assertions and determined whether these internal controls had been placed in operation. We limited our testing to those controls necessary to test and report on the internal control over key performance measures in accordance with OMB Bulletin 06-03. However, our procedures were not designed to provide an opinion on internal control over reported performance measures and, accordingly, we do not provide an opinion thereon.

As part of obtaining reasonable assurance about whether the USPTO's fiscal year 2006 financial statements are free of material misstatement, we performed tests of the USPTO's compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 06-03, including certain provisions referred to in FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to the USPTO. However, providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

Under OMB Bulletin No. 06-03 and FFMIA, auditors are required to report whether the USPTO's financial management systems substantially comply with (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA Section 803(a) requirements.

**RESTRICTED USE**

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

KPMG LLP

November 6, 2006

# Other Accompanying Information

UNITED STATES PATENT AND TRADEM
DEPARTMENT OF CO

# Management *and* Performance Challenges Identified *by the* Inspector General

# INSPECTOR GENERAL'S STATEMENT SUMMARIZING THE MAJOR MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE UNITED STATES PATENT AND TRADEMARK OFFICE

Jon W. Dudas

Under Secretary of Commerce for Intellectual Property and

Director of the United States Patent and Trademark Office

We are providing the management challenges for the United States Patent and Trademark Office (USPTO) Department of Commerce in accordance with the provisions of the Reports Consolidation Act of 2000 (PL 106-531). Detailed information about our work is available on our website at: http://www.oig.doc.gov

**Ensure That USPTO Uses Its Authorities and Flexibilities As A Performance-Based Organization To Achieve Better Results**

Since March 2000 when the Patent and Trademark Office Efficiency Act transformed USPTO into a performance-based organization designed to operate more like a private corporation than a government agency, OIG has paid close attention to a number of aspects of the organization's internal management structures and practices.

At the same time, USPTO faces numerous challenges, such as a continuing increase in applications, training about 1,000 newly hired examiners in Patents and Trademarks, and transitioning to an electronic processing environment. In addition, USPTO's expanded authority over personnel decisions and processes, procurement, and information technology operations needs to be effectively and efficiently utilized.

OIG has issued nearly a dozen reports examining problems at USPTO since 2001. The bureau has generally taken decisive action to address some problems we identified in the past, and we have been pleased that USPTO has been receptive to our recommendations. But ultimately, we believe that many of the problems USPTO suffers are serious and require the sustained commitment of senior managers to resolve. OIG will continue to monitor the bureau's progress.

*Inspector General*

*Johnnie E. Frazier*

# *The* NATURE *of the* TRAINING PROVIDED *to* USPTO EXAMINERS

UNITED STATES PATENT AND TRADEM
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## THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS

Achieving organizational excellence demands a high performance workforce that delivers high quality work products and provides customer service excellence. Training is a critical component in achieving consistently high quality products and services.

Patent examiners and Trademark examining attorneys received extensive legal, technical and automation training in FY 2006. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, embedding a well-established curriculum including initial legal training, automation training and training in examination practice and procedure. Automation training is provided to all examiners on an as-needed basis; more than 260 automation classes were conducted on Patent examination tools. New technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focuses on practices particular to a technology or was developed to address training needs identified through Patent and Trademark examination reviews or staff requests.

The USPTO training staff works one-on-one with the Patent and Trademark business units to address specific training concerns and serve as consultants to design specific internal programs to fit the education needs of each business unit. Training is reviewed and evaluated on an ongoing basis to ensure it is up-to-date and that coursework reflects developments and changes that have taken place in the industry. In FY 2006, the USPTO continued to expand training opportunities by developing additional computer based training and instructional videos.

Reviewers continue to gather data regarding dozens of examination issues on each file they review. The Office developed a database for the management of review findings that will provide managers with ready access to review results to better identify training needs and assist individual examiners in gaining enhanced skills and improving quality.

| PATENT EXAMINER TRAINING | |
|---|---|
| **Procedural Training –** Mandatory for all first year examiners | **Patent Examiner Initial Training and Introduction to Practice and Procedures**<br>Standardized training is provided to new patent examiners to teach them the basic skills and knowledge of the patent process, practices, and procedures such that they will be able to successfully examine a patent application. Examiners will also be able to prepare an initial report on what is the claimed, as well as the disclosed invention contained in the application to facilitate a supervisor's prior art search. The number of courses offered each year is based on the projected number of new examiners entering the Patent organization. |
| **Legal Training –** Mandatory for all first year examiners | Practice and Procedures Lectures include the following topics:<br>■ "Novelty" Requirements<br>■ "Non-obviousness" Requirements<br>■ "Utility" Requirements<br>■ Restriction Practice<br>■ Unity of Invention<br>■ Double Patenting<br>■ Allowance and Issue<br>■ Appeals. |
| **New U.S. Patent Training Academy**<br>– Mandatory training for first year examiners | **Training in the Academy**<br>In 2006, the USPTO piloted an enhanced training and education program for new examiners. Participants attend eight consecutive months of training in a university style environment. Classes of up to 128 new examiners, starting at specific times during the year, begin with large group lectures. The class is then split into groups of 16 examiners for labs, small group discussions, and tailored training in their specific fields of study. Examiners have access to tutors, library and search assistance, and automation guidance. In addition to extensive lecture and lab training, attendees spend considerable time learning their jobs through the examination of real patent applications in a setting that provides immediate assistance when needed.<br><br>The training is structured to provide new examiners with advanced entry-level competencies, as well as providing instruction in a variety of skills that will produce well-rounded, motivated employees. |
| **Patent Training Academy**<br>***Legal and procedural training*** | Training in the Academy includes the legal and procedural training noted above, plus enhanced instruction in areas such as: Classification Systems, Searching (classification, text), Understanding legal documents and how attorneys write applications and claims, Advanced Claim Interpretation, Advanced Text Searching, Legal Research and Analysis, Quality Reviews, Legal Writing, Writing an Effective Examiner's Answer, Appellant Procedure and Practice (Appeal Conference & Pre-Conference; Prevent Administrative Remand) |
| **Patent Training Academy**<br>***Automation*** | Examiners attending the Academy receive extensive training in automation, including classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications. |
| **Patent Training Academy**<br>***Life Skills*** | The Academy provides new examiners training in life skills such as: time management, physical security, ethics, stress management, balancing quality, production, and professionalism, balancing work and personal life, diversity training, dealing with conflict and difficult situations, and financial planning basics. |

| PATENT EXAMINER TRAINING *Continued* | |
|---|---|
| **Patent Training Academy** ***Professional Development*** | The Academy training program includes instruction in: creating an Individual Development Plan, availability of on-going training opportunities, and career advancement. Training in communications skills, such as concise writing, developing listening skills, effective communications, customer service skills, remote communication, and team building is also provided. |
| **Patent Training Academy** ***Technology Basics*** | Technical training in the Academy encompasses: Introduction to examining applications in specific areas of technology, the current state of specific technologies, technical writing, ongoing technology topics, etc. |
| **Continuing Education** | Courses are for students from all Technology Centers (TC), some taught by personnel within the TC's, some modified to include TC specific examples. Courses include: Federal Circuit Decisions Affecting USPTO Practice - Key Cases of the Past Year and mastery of updated automation tools. |
| **Legal Training** | TC Level courses taught by TC personnel, some developed within the TC's. Examples include: 101 Training, 102/103 Training, Obviousness Type Double Patenting<br><br>Patent Law & Evidence<br><br>Non-Duty Legal Studies program |
| **Examiner Technical Training** (Technology Center Focused) | Includes attendance at technology fairs; seminars and lectures in the fields of biotechnology, computer software and hardware technology, semiconductors, communication technology, and knowledge management. |
| **Non-Duty Technical Training Program** | Examples: Mathematical Methods for Physics |
| **Automation Training** | All first year examiners are provided mandatory initial automation training. Instruction includes IFW tools: IFW for examiners "eDAN", IFW for technical support staff "MADRAS", IFW for coordinating committee, IFW messaging for supervisory patent examiners, IFW refresher. Other automation training: Classification Data System Desktop Training, ChemDraw, Examiner Automated Search System (EAST) 1.3: New Features, EAST and Bibliographic Retrieval System: The Fundamentals, Office Action Correspondence System (OACS) 1.3: New Features, OACS Basics, OACS for Non-Typists, OACS: Creating Personal Forms, Chemical Searching for Non-chemists, West: Refresher, Microsoft® PowerPoint, Microsoft® Outlook, Overview of PALMExpo.<br><br>TC-Focused Classes: EAST Databases, EAST: Automated Searching for Design Examiners, EAST and Optical Character Recognition, OACS Basics for Design Examiners, Non-Patent Literature Web Resources in Your Art Area, Classification and Security Review, Obviousness Type Double Patenting, Means Plus Function Claims (35 USC § 112). |
| **Management Training** | Review of Recent Court of Appeals for the Federal Circuit Decisions Management Skills workshop. |
| **Technical Support and Administrative Staff Training** | In 2006, the USPTO initiated the learning opportunities program, providing over 2,000 free computer based courses to all patents technical support and administrative staff. The program also provides a series of lectures to expand understanding of the role of IT in the patent examination process. |

## TRADEMARK EXAMINING ATTORNEY TRAINING

In FY 2006, the Trademark organization gathered data from the results of quality reviews, analyzed, and used them to prepare the content of online e-learning training materials for trademark examining attorneys. Ten e-learning modules were developed and released covering the following list of topics.

- Concurrent User Applications
- Section 2(d) - Likelihood of Confusion - Weak and Diluted Marks
- Section 2(a) - Scandalous and Disparaging Marks
- Amendments to Goods and Services - Are They Within The Scope?
- Section 2(d) - Likelihood of Confusion - Relatedness of Goods and Services: A General Framework
- Section 2(d) - Likelihood of Confusion - Relatedness of Goods and Services: Evidence
- Section 2(d) - Likelihood of Confusion - Relatedness of Goods and Services: Food and Beverages Goods and Services
- Varietal and Cultivar Names
- Office of Petitions

Seven examination tips have been developed and released.

- Consent to Register a Mark Identifying a Particular Living Individual
- TEAS Allegations of Use
- Marks Containing the Term "Your" in Combination with Descriptive or Generic Matter
- Claiming Prior Registrations
- When is the Term "Official" Considered Descriptive?
- Foreign Agents and Attorneys
- Standard Character Marks

Two issues of a multi-issue examination reminders newsletter have been developed and released.

# FISCAL YEAR 2006 USPTO WORKLOAD TABLES

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# FISCAL YEAR 2006 USPTO WORKLOAD TABLES

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**TABLE 1**

## SUMMARY OF PATENT EXAMINING ACTIVITIES (FY 2002 - FY 2006)

***(PRELIMINARY FOR FY 2006)[1]***

| PATENT EXAMINING ACTIVITY | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Applications filed, total[2]** | **353,394** | **355,418** | **378,984** | **409,532** | **443,652** |
| Utility [3] | 331,580 | 331,729 | 353,319 | 381,797 | 415,551 |
| Reissue | 974 | 938 | 996 | 1,143 | 1,173 |
| Plant | 1,134 | 785 | 1,212 | 1,288 | 1,095 |
| Design | 19,706 | 21,966 | 23,457 | 25,304 | 25,833 |
| **Provisional Applications Filed[4]** | **89,537** | **92,517** | **102,268** | **111,753** | **121,307** |
| **First actions** | | | | | |
| Design | 19,029 | 19,013 | 17,328 | 20,108 | 23,291 |
| Utility, Plant, and Reissue | 275,054 | 283,111 | 288,315 | 297,287 | 320,349 |
| PCT/Chapter | 19,460 | 23,277 | 17,935 | 22,795 | 25,034 |
| **Patent application disposals, total** | **279,297** | **303,635** | **304,921** | **298,838** | **332,535** |
| **Allowed patent applications, total** | **189,191** | **205,879** | **195,611** | **182,254** | **186,593** |
| Design | 17,377 | 17,596 | 16,262 | 18,161 | 20,721 |
| Utility, Plant, and Reissue | 171,814 | 188,283 | 179,349 | 164,093 | 165,872 |
| **Abandoned, total** | **90,092** | **97,745** | **109,295** | **116,564** | **145,912** |
| Design | 1,675 | 1,569 | 1,471 | 1,332 | 2,125 |
| Utility, Plant, and Reissue | 88,417 | 96,176 | 107,824 | 115,232 | 143,787 |
| **Statutory invention registration disposals, total** | **14** | **11** | **15** | **20** | **30** |
| **PCT/Chapter II examinations completed** | **16,456** | **21,005** | **19,439** | **12,594** | **7,295** |
| **Applications Published[5]** | **169,729** | **243,007** | **248,561** | **291,221** | **291,259** |
| **Patents issued[6]** | **177,312** | **189,590** | **187,170** | **165,483** | **183,187** |
| Utility | 160,839 | 171,493 | 169,296 | 151,077 | 162,509 |
| Reissue | 465 | 394 | 343 | 195 | 500 |
| Plant | 912 | 1,178 | 998 | 816 | 1,106 |
| Design | 15,096 | 16,525 | 16,533 | 13,395 | 19,072 |
| Pendency time of average patent application[7] | 24.0 | 26.7 | 27.6 | 29.1 | 31.1 |
| Reexamination certificates issued | 200 | 193 | 138 | 223 | 329 |
| PCT international applications received by USPTO as receiving office | 42,889 | 42,969 | 45,396 | 46,926 | 52,911 |
| National requirements received by USPTO as designated/elected office | 29,846 | 32,753 | 37,173 | 39,385 | 45,095 |
| Patents renewed under Public Law (P.L.) 102-204 [8] (Preliminary) | 194,143 | 253,475 | 269,815 | 268,935 | 324,913 |
| Patents expired under P.L. 102-204 [8] (Preliminary) | 53,724 | 57,770 | 63,552 | 67,534 | 72,654 |

1 *FY 2006 data are preliminary and will be finalized in the FY 2007 PAR.*

2 *FY 2005 application data has been updated with final end of year numbers.*

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

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

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

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

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

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

TABLE 2

## PATENT APPLICATIONS FILED (FY 1986 - FY 2006)

***(PRELIMINARY FOR FY 2006)[1]***

| Year | Utility | Design | Plant | Reissue | Total |
|---|---|---|---|---|---|
| 1986 | 120,988 | 9,792 | 291 | 332 | 131,403 |
| 1987 | 125,677 | 10,766 | 364 | 366 | 137,173 |
| 1988 | 136,253 | 11,114 | 377 | 439 | 148,183 |
| 1989 | 150,418 | 11,975 | 418 | 495 | 163,306 |
| 1990 | 162,708 | 11,140 | 395 | 468 | 174,711 |
| 1991 | 166,765 | 10,368 | 414 | 536 | 178,083 |
| 1992 | 171,623 | 12,907 | 335 | 581 | 185,446 |
| 1993 | 173,619 | 13,546 | 362 | 572 | 188,099 |
| 1994 | 185,087 | 15,431 | 430 | 606 | 201,554 |
| 1995 | 220,141 | 15,375 | 516 | 647 | 236,679 |
| 1996 | 189,922 | 15,160 | 557 | 637 | 206,276 |
| 1997 | 219,486 | 16,272 | 680 | 607 | 237,045 |
| 1998 | 238,850 | 16,576 | 658 | 582 | 256,666 |
| 1999 | 259,618 | 17,227 | 759 | 664 | 278,268 |
| 2000 | 291,653 | 18,563 | 786 | 805 | 311,807 |
| 2001 | 324,211 | 18,636 | 914 | 956 | 344,717 |
| 2002 | 331,580 | 19,706 | 1,134 | 974 | 353,394 |
| 2003 | 331,729 | 21,966 | 785 | 938 | 355,418 |
| 2004 | 353,319 | 23,457 | 1,212 | 996 | 378,984 |
| 2005 | 381,797 | 25,304 | 1,288 | 1,143 | 409,532 |
| **2006** | **415,551** | **25,833** | **1,095** | **1,173** | **443,652** |

[1] *FY 2006 data are preliminary and will be finalized in the FY 2007 PAR.*

**TABLE 3**

## PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCE[1] (FY 1986 - FY 2006)

| Year | Awaiting action by examiner | Total applications pending[2] |
|---|---|---|
| 1986 | 80,547 | 207,774 |
| 1987 | 65,010 | 209,911 |
| 1988 | 75,678 | 215,280 |
| 1989 | 92,377 | 222,755 |
| 1990 | 104,179 | 244,964 |
| 1991 | 104,086 | 254,507 |
| 1992 | 112,201 | 269,596 |
| 1993 | 99,904 | 244,646 |
| 1994 | 107,824 | 261,249 |
| 1995 | 124,275 | 298,522 |
| 1996 | 139,943 | 303,720 |
| 1997 | 112,430 | 275,295 |
| 1998 | 224,446 | 379,484 |
| 1999 | 243,207 | 414,837 |
| 2000 | 308,056 | 485,129 |
| 2001 | 355,779 | 542,007 |
| 2002 | 433,691 | 636,530 |
| 2003 | 471,382 | 674,691 |
| 2004 | 528,685 | 756,604 |
| 2005 | 611,114 | 885,002 |
| **2006** | **701,147** | **1,003,884** |

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

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

**TABLE 4**

**PATENT PENDENCY STATISTICS[1]**
**(FY 2006)**

| UPR Pendency Statistics by Technology Center (in months) | Average First Action Pendency | Total Average Pendency |
|---|---|---|
| Total UPR Pendency | 22.6 | 31.1 |
| Tech Center 1600 - Biotechnology & Organic Chemistry | 23.5 | 34.4 |
| Tech Center 1700 - Chemical & Materials Engineering | 22.7 | 32.1 |
| Tech Center 2100 - Computer Architecture, Software & Information Security | 30.8 | 44.0 |
| Tech Center 2600 - Communications | 30.4 | 42.9 |
| Tech Center 2800 - Semiconductor, Electrical, Optical Systems & Components | 16.4 | 25.4 |
| Tech Center 3600 - Transportation, Construction, Agriculture, & Electronic Commerce | 21.7 | 29.6 |
| Tech Center 3700 - Mechanical Engineering, Manufacturing & Products | 20.2 | 28.2 |

[1] *Pendency is calculated based on the most recent filing date.*

**TABLE 5**

## SUMMARY OF TOTAL PENDING PATENT APPLICATIONS (FY 2006)

| Stage of processing | Utility, plant and reissue applications | Design applications | Total patent applications |
|---|---|---|---|
| **Pending patent applications, total** | **1,036,588** | **40,454** | **1,077,042** |
| **In preexamination processing, total** | **94,270** | **3,453** | **97,723** |
| **Under examination, total** | **878,317** | **27,552** | **905,869** |
| Undocketed | 204,182 | 3,585 | 207,767 |
| Awaiting first action by examiner | 375,881 | 19,776 | 395,657 |
| Rejected, awaiting response by applicant | 205,084 | 3,387 | 208,471 |
| Amended, awaiting action by examiner | 72,744 | 726 | 73,470 |
| In interference | 364 | 0 | 364 |
| On appeal, and other [1] | 20,062 | 78 | 20,140 |
| **In postexamination processing, total** | **64,001** | **9,449** | **73,450** |
| Awaiting issue fee | 42,358 | 4,959 | 47,317 |
| Awaiting printing [2] | 18,564 | 4,489 | 23,053 |
| D-10s (secret cases in condition for allowance) | 3,079 | 1 | 3,080 |

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

[2] *Includes withdrawn cases.*

**TABLE 6**

**PATENTS ISSUED [1]**
**(FY 1986 - FY 2006)[2]**

| Year | Utility[3] | Design | Plant | Reissue | Total |
|---|---|---|---|---|---|
| 1986 | 71,301 | 5,202 | 227 | 263 | 76,993 |
| 1987 | 82,141 | 6,158 | 240 | 254 | 88,793 |
| 1988 | 77,317 | 5,740 | 283 | 244 | 83,584 |
| 1989 | 95,829 | 5,844 | 728 | 309 | 102,710 |
| 1990 | 88,972 | 7,176 | 295 | 282 | 96,725 |
| 1991 | 91,819 | 9,387 | 318 | 334 | 101,858 |
| 1992 | 99,406 | 9,612 | 336 | 375 | 109,729 |
| 1993 | 96,675 | 9,946 | 408 | 302 | 107,331 |
| 1994 | 101,270 | 11,138 | 513 | 346 | 113,267 |
| 1995 | 101,895 | 11,662 | 390 | 294 | 114,241 |
| 1996 | 104,900 | 11,346 | 338 | 291 | 116,875 |
| 1997 | 111,977 | 10,331 | 400 | 267 | 122,975 |
| 1998 | 139,298 | 14,419 | 577 | 284 | 154,578 |
| 1999 | 142,852 | 15,480 | 436 | 393 | 159,161 |
| 2000 | 164,486 | 16,718 | 453 | 561 | 182,218 |
| 2001 | 169,571 | 17,179 | 563 | 504 | 187,817 |
| 2002 | 160,839 | 15,096 | 912 | 465 | 177,312 |
| 2003 | 171,493 | 16,525 | 1,178 | 394 | 189,590 |
| 2004 | 169,296 | 16,533 | 998 | 343 | 187,170 |
| 2005 | 151,077 | 13,395 | 816 | 195 | 165,483 |
| **2006** | **162,509** | **19,072** | **1,106** | **500** | **183,187** |

1 *Exludes withdrawn numbers.*

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

3 *Includes chemical, electrical, and mechanical applications.*

**TABLE 7**

## PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES[1] (FY 2002 - FY 2006)[2]

| State/Territory | 2002 | 2003 | 2004 | 2005 | 2006[3] |
|---|---|---|---|---|---|
| **Total** | **193,358** | **197,256** | **218,220** | **218,472** | **N/A** |
| Alabama | 899 | 843 | 954 | 884 | N/A |
| Alaska | 89 | 94 | 90 | 93 | N/A |
| Arizona | 3,299 | 3,434 | 4,084 | 4,090 | N/A |
| Arkansas | 342 | 295 | 395 | 381 | N/A |
| California | 46,592 | 46,873 | 52,432 | 52,401 | N/A |
| Colorado | 4,559 | 4,713 | 4,910 | 4,794 | N/A |
| Connecticut | 3,871 | 3,739 | 4,167 | 3,872 | N/A |
| Delaware | 682 | 839 | 840 | 873 | N/A |
| District of Columbia | 186 | 213 | 229 | 192 | N/A |
| Florida | 6,040 | 6,691 | 7,103 | 7,309 | N/A |
| Georgia | 3,690 | 3,607 | 3,962 | 3,966 | N/A |
| Hawaii | 157 | 218 | 228 | 206 | N/A |
| Idaho | 3,346 | 3,240 | 3,377 | 2,783 | N/A |
| Illinois | 7,410 | 8,237 | 8,154 | 8,471 | N/A |
| Indiana | 3,040 | 2,916 | 2,878 | 3,209 | N/A |
| Iowa | 1,225 | 1,391 | 1,393 | 1,428 | N/A |
| Kansas | 1,038 | 1,110 | 1,403 | 1,270 | N/A |
| Kentucky | 797 | 918 | 1,100 | 1,198 | N/A |
| Louisiana | 771 | 852 | 799 | 777 | N/A |
| Maine | 307 | 332 | 383 | 348 | N/A |
| Maryland | 4,906 | 3,379 | 3,298 | 3,450 | N/A |
| Massachusetts | 8,983 | 8,728 | 9,981 | 9,990 | N/A |
| Michigan | 7,082 | 7,431 | 8,217 | 7,764 | N/A |
| Minnesota | 5,807 | 6,330 | 6,796 | 6,871 | N/A |
| Mississippi | 279 | 358 | 360 | 347 | N/A |
| Missouri | 1,754 | 1,859 | 2,150 | 2,010 | N/A |
| Montana | 256 | 268 | 326 | 346 | N/A |
| Nebraska | 442 | 477 | 537 | 555 | N/A |
| Nevada | 1,182 | 1,281 | 1,515 | 1,400 | N/A |
| New Hampshire | 1,281 | 1,316 | 1,442 | 1,384 | N/A |
| New Jersey | 7,618 | 7,501 | 7,746 | 7,994 | N/A |
| New Mexico | 708 | 699 | 721 | 949 | N/A |
| New York | 12,166 | 12,226 | 13,653 | 13,482 | N/A |
| North Carolina | 4,228 | 4,268 | 4,856 | 4,827 | N/A |
| North Dakota | 146 | 160 | 178 | 200 | N/A |
| Ohio | 6,253 | 6,610 | 7,156 | 6,836 | N/A |
| Oklahoma | 982 | 1,052 | 1,189 | 1,071 | N/A |
| Oregon | 3,714 | 4,008 | 4,968 | 4,912 | N/A |
| Pennsylvania | 6,672 | 6,696 | 7,044 | 6,812 | N/A |
| Rhode Island | 610 | 658 | 739 | 697 | N/A |
| South Carolina | 1,117 | 1,240 | 1,432 | 1,255 | N/A |
| South Dakota | 157 | 199 | 176 | 168 | N/A |
| Tennessee | 1,753 | 1,837 | 2,022 | 2,063 | N/A |
| Texas | 12,178 | 12,300 | 14,148 | 13,903 | N/A |
| Utah | 1,547 | 1,765 | 1,995 | 1,987 | N/A |
| Vermont | 680 | 628 | 882 | 866 | N/A |
| Virginia | 2,663 | 2,727 | 2,827 | 2,993 | N/A |
| Washington | 5,673 | 6,293 | 8,033 | 10,149 | N/A |
| West Virginia | 265 | 222 | 308 | 292 | N/A |
| Wisconsin | 3,712 | 3,943 | 4,410 | 4,127 | N/A |
| Wyoming | 119 | 146 | 144 | 128 | N/A |
| Puerto Rico | 80 | 78 | 80 | 84 | N/A |
| Virgin Islands | 4 | 14 | 5 | 9 | N/A |
| U.S. Pacific Islands[4] | - | 3 | 1 | 3 | N/A |
| United States[5] | - | 1 | 4 | 3 | N/A |
| Other[5] | 1 | - | - | - | N/A |

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

[2] *Finalized data for FY 2002 to 2005 provided.*

[3] *FY 2006 preliminary data will be available December 2006, and finalized in the FY 2007 PAR.*

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

[5] *State/Territory information not available.*

**TABLE 8**

## PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES[1] (FY 2006)

| State/Territory | 2006 | State/Territory | 2006 | State/Territory | 2006 |
|---|---|---|---|---|---|
| **Total** | **96,174** | Kentucky | 437 | Oklahoma | 557 |
| | | Louisiana | 367 | Oregon | 2,366 |
| Alabama | 392 | Maine | 158 | Pennsylvania | 2,992 |
| Alaska | 44 | Maryland | 1,467 | Rhode Island | 333 |
| Arizona | 1,793 | Massachusetts | 4,089 | South Carolina | 633 |
| Arkansas | 189 | Michigan | 3,913 | South Dakota | 74 |
| California | 23,579 | Minnesota | 3,034 | Tennessee | 754 |
| Colorado | 2,218 | Mississippi | 143 | Texas | 6,345 |
| Connecticut | 1,790 | Missouri | 775 | Utah | 745 |
| Delaware | 353 | Montana | 116 | Vermont | 459 |
| District of Columbia | 66 | Nebraska | 218 | Virginia | 1,154 |
| Florida | 3,129 | Nevada | 471 | Washington | 3,253 |
| Georgia | 1,596 | New Hampshire | 638 | West Virginia | 107 |
| Hawaii | 81 | New Jersey | 3,414 | Wisconsin | 1,987 |
| Idaho | 1,611 | New Mexico | 313 | Wyoming | 57 |
| Illinois | 3,808 | New York | 6,075 | Puerto Rico | 28 |
| Indiana | 1,437 | North Carolina | 2,172 | Virgin Islands | 4 |
| Iowa | 729 | North Dakota | 70 | U.S. Pacific Islands [2] | - |
| Kansas | 516 | Ohio | 3,123 | United States [3] | 2 |

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

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

[3] *No state indicated in database.*

**TABLE 9**

## UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES[1] (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006[2] |
|---|---|---|---|---|---|
| **Total** | **160,036** | **158,162** | **160,764** | **191,060** | **N/A** |
| Afghanistan | - | - | - | 1 | N/A |
| Albania | - | - | - | 1 | N/A |
| Algeria | - | 1 | - | 3 | N/A |
| Andorra | 3 | 2 | 1 | 2 | N/A |
| Angola | 1 | - | - | - | N/A |
| Anguilla | 1 | - | - | - | N/A |
| Antigua & Barbuda | - | - | 1 | 2 | N/A |
| Argentina | 109 | 123 | 118 | 92 | N/A |
| Armenia | 1 | 1 | - | 3 | N/A |
| Aruba | 1 | - | - | 1 | N/A |
| Australia | 2,246 | 2,498 | 2,495 | 3,339 | N/A |
| Austria | 1,134 | 1,009 | 858 | 1,119 | N/A |
| Azerbaijan | - | 1 | 1 | 3 | N/A |
| Bahamas | 26 | 22 | 30 | 16 | N/A |
| Bahrain | - | 1 | 1 | - | N/A |
| Bangladesh | 1 | 1 | - | 1 | N/A |
| Barbados | 4 | - | 8 | 9 | N/A |
| Belarus | 8 | 6 | 10 | 4 | N/A |
| Belgium | 1,435 | 1,420 | 1,160 | 1,539 | N/A |
| Belize | - | - | - | - | N/A |
| Benelux Convention | - | - | - | - | N/A |
| Benin | - | - | - | 1 | N/A |
| Bermuda | 12 | 11 | 5 | 7 | N/A |
| Bolivia | 1 | - | 2 | 2 | N/A |
| Bosnia & Herzegovina | - | - | - | 1 | N/A |
| Botswana | - | - | - | - | N/A |
| Brazil | 288 | 333 | 287 | 340 | N/A |
| British Virgin Islands | 13 | 15 | 17 | 5 | N/A |
| Brunei | 2 | - | - | - | N/A |
| Bulgaria | 10 | 8 | 98 | 67 | N/A |
| Cameroon | - | - | 1 | 2 | N/A |
| Canada | 7,967 | 8,138 | 9,035 | 9,114 | N/A |
| Cayman Islands | 10 | 1 | 4 | 14 | N/A |
| Chile | 44 | 27 | 55 | 56 | N/A |
| China (Hong Kong) | 1,109 | 1,159 | 1,379 | 1,319 | N/A |
| China (People's Republic) | 966 | 1,230 | 1,708 | 2,330 | N/A |
| Columbia | 26 | 22 | 26 | 15 | N/A |
| Cook Islands | - | - | - | - | N/A |
| Costa Rica | 18 | 17 | 36 | 47 | N/A |
| Cote D'Ivorie | 2 | - | - | - | N/A |
| Croatia | 20 | 23 | 23 | 42 | N/A |
| Cuba | 11 | 7 | 1 | 16 | N/A |
| Cyprus | 5 | 7 | 8 | 13 | N/A |
| Czech Republic | 55 | 52 | 64 | 87 | N/A |
| Czechoslovakia | - | - | - | - | N/A |
| Democratic Republic of the Congo | - | - | - | - | N/A |
| Denmark | 1,227 | 1,145 | 869 | 1,167 | N/A |
| Djibouti | - | - | - | - | N/A |
| Dominica | - | - | - | - | N/A |
| Dominican Republic | 3 | 5 | 11 | 5 | N/A |
| Ecuador | 11 | 9 | 7 | 5 | N/A |
| Egypt | 13 | 13 | 14 | 17 | N/A |
| El Salvador | 1 | 2 | 2 | - | N/A |
| EPO | - | - | - | - | N/A |
| Equatorial Guinea | - | - | - | - | N/A |
| Estonia | 8 | 6 | 7 | 20 | N/A |
| Ethiopia | - | - | 1 | - | N/A |
| Falkland Islands | - | - | - | - | N/A |
| Fiji | 1 | 1 | 1 | - | N/A |
| Finland | 2,045 | 1,866 | 1,771 | 2,096 | N/A |
| French Polynesia | - | - | - | 2 | N/A |
| France | 7,434 | 6,887 | 5,618 | 7,515 | N/A |
| French Guiana | - | - | - | - | N/A |
| Gabon | - | - | - | - | N/A |
| Georgia | 3 | 5 | 3 | 5 | N/A |
| Germany | 21,657 | 19,646 | 16,394 | 21,598 | N/A |
| Ghana | 1 | - | 1 | 3 | N/A |
| Gibraltar | 1 | - | - | 7 | N/A |
| Greece | 56 | 44 | 53 | 65 | N/A |
| Grenada | - | 1 | - | - | N/A |
| Guadeloupe | - | - | - | - | N/A |
| Guatemala | 3 | 1 | - | 1 | N/A |
| Guyana | - | - | - | - | N/A |
| Guinea | - | - | - | - | N/A |
| Haiti | 1 | - | - | - | N/A |
| Honduras | - | - | 3 | 3 | N/A |
| Hungary | 135 | 128 | 91 | 128 | N/A |
| Iceland | 40 | 49 | 60 | 52 | N/A |
| India | 813 | 1,105 | 1,274 | 1,444 | N/A |
| Indonesia | 25 | 26 | 40 | 24 | N/A |
| Iran | 4 | 5 | 4 | 4 | N/A |
| Iraq | 1 | - | - | - | N/A |
| Ireland | 448 | 382 | 407 | 507 | N/A |
| Israel | 2,737 | 2,611 | 2,547 | 3,191 | N/A |
| Italy | 3,336 | 3,325 | 2,792 | 3,685 | N/A |
| Jamaica | 2 | 3 | 3 | 5 | N/A |
| Japan | 61,259 | 61,177 | 63,543 | 73,250 | N/A |
| Jordan | 3 | 6 | 8 | 2 | N/A |
| Kazakhstan | 1 | 2 | 1 | 3 | N/A |
| Kenya | 12 | 28 | 8 | 7 | N/A |
| Korea, Dem. Republic of | - | - | - | - | N/A |
| Korea, Republic of | 7,757 | 9,614 | 13,388 | 16,643 | N/A |
| Kuwait | 11 | 7 | 13 | 23 | N/A |
| Kyrgyzstan | - | - | - | 1 | N/A |
| Laos | - | - | - | - | N/A |
| Latvia | 2 | 2 | 6 | 6 | N/A |
| Lebanon | 11 | 6 | 5 | 7 | N/A |
| Lesotho | - | - | - | - | N/A |
| Liechtenstein | 28 | 34 | 22 | 25 | N/A |
| Lithuania | 2 | 8 | 20 | 9 | N/A |
| Luxembourg | 81 | 72 | 74 | 78 | N/A |
| Macau | 7 | 7 | 4 | 3 | N/A |
| Madagascar | - | - | - | - | N/A |

**TABLE 9 CONT.**

## UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES[1] (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006[2] |
|---|---|---|---|---|---|
| Macedonia | - | - | 3 | 1 | N/A |
| Malaysia | 136 | 237 | 334 | 341 | N/A |
| Maldives | - | - | - | - | N/A |
| Mali | - | - | - | - | N/A |
| Malta | 5 | 3 | 3 | 6 | N/A |
| Marshall Islands | - | - | - | - | N/A |
| Mauritius | - | 2 | - | - | N/A |
| Mexico | 167 | 213 | 211 | 217 | N/A |
| Moldova | 3 | 2 | 1 | - | N/A |
| Monaco | 27 | 29 | 15 | 18 | N/A |
| Mongolia | - | - | - | - | N/A |
| Montenegro | - | - | - | - | N/A |
| Montserrat | - | - | - | - | N/A |
| Morocco | 1 | 5 | 1 | 4 | N/A |
| Mozambique | - | - | 1 | - | N/A |
| Myanmar | - | - | - | - | N/A |
| Namibia | - | - | - | - | N/A |
| Nauru | - | - | - | - | N/A |
| Nepal | - | - | - | - | N/A |
| Netherlands | 3,074 | 2,382 | 2,291 | 3,637 | N/A |
| Netherlands Antilles | 1 | 1 | 1 | 1 | N/A |
| New Caledonia | 3 | - | - | - | N/A |
| New Zealand | 402 | 473 | 270 | 416 | N/A |
| Nicaragua | - | - | - | - | N/A |
| Niger | - | - | - | - | N/A |
| Nigeria | 3 | 4 | 2 | 3 | N/A |
| Norfolk Island | 1 | - | - | - | N/A |
| Norway | 587 | 470 | 366 | 583 | N/A |
| Oman | 1 | 4 | - | 5 | N/A |
| Pakistan | 6 | 6 | 10 | 12 | N/A |
| Palau | 1 | - | - | - | N/A |
| Panama | 4 | 6 | 9 | 3 | N/A |
| Paraguay | - | - | 1 | - | N/A |
| Peru | 9 | 7 | 12 | 3 | N/A |
| Philippines | 72 | 37 | 82 | 60 | N/A |
| Poland | 46 | 48 | 75 | 122 | N/A |
| Portugal | 31 | 22 | 24 | 55 | N/A |
| Qatar | 1 | 1 | 5 | 1 | N/A |
| Romania | 9 | 10 | 13 | 16 | N/A |
| Russian Federation | 403 | 345 | 266 | 361 | N/A |
| Saint Kitts & Nevis | 1 | 6 | - | - | N/A |
| San Marino | - | - | - | - | N/A |
| Saudi Arabia | 35 | 33 | 37 | 41 | N/A |
| Senegal | - | - | - | - | N/A |
| Serbia | - | - | - | - | N/A |
| Serbia & Montenegro | - | - | 3 | 6 | N/A |
| Seychelles | - | 3 | - | 2 | N/A |
| Sierra Leone | - | - | - | - | N/A |
| Singapore | 792 | 817 | 902 | 949 | N/A |
| Slovakia | 15 | 6 | 7 | 18 | N/A |
| Slovenia | 21 | 55 | 46 | 50 | N/A |
| Solomon Islands | - | - | - | - | N/A |
| South Africa | 248 | 263 | 173 | 241 | N/A |
| Soviet Union | - | - | - | - | N/A |
| Spain | 690 | 633 | 637 | 855 | N/A |
| Sri Lanka | 20 | 3 | 3 | 6 | N/A |
| St. Lucia | 1 | - | - | - | N/A |
| Suriname | - | - | - | - | N/A |
| Swaziland | - | - | - | - | N/A |
| Sweden | 2,692 | 2,311 | 1,769 | 2,371 | N/A |
| Switzerland | 2,560 | 2,362 | 2,053 | 2,651 | N/A |
| Syria Arab Rep | 3 | 4 | - | 2 | N/A |
| Taiwan | 13,761 | 14,537 | 17,703 | 17,933 | N/A |
| Tanzania | 1 | 1 | - | - | N/A |
| Thailand | 85 | 88 | 109 | 79 | N/A |
| Trinidad & Tobago | 1 | 4 | - | 6 | N/A |
| Tunisia | 3 | 2 | 3 | 1 | N/A |
| Turkey | 39 | 41 | 49 | 62 | N/A |
| Turks and Caicos Islands | 7 | 6 | 2 | 2 | N/A |
| Uganda | - | - | - | - | N/A |
| Ukraine | 46 | 39 | 35 | 34 | N/A |
| United Arab Emirates | 11 | 10 | 19 | 15 | N/A |
| United Kingdom | 9,238 | 8,215 | 6,679 | 8,603 | N/A |
| Uruguay | 8 | 10 | 9 | 11 | N/A |
| Uzbekistan | 3 | 1 | 1 | - | N/A |
| Vatican City | 1 | - | - | - | N/A |
| Venezuela | 41 | 30 | 27 | 31 | N/A |
| Vietnam | 1 | 1 | 3 | 6 | N/A |
| Yemen | - | - | - | - | N/A |
| Yugoslavia | 8 | 10 | - | - | N/A |
| Zimbabwe | 2 | 1 | 2 | 1 | N/A |
| Other [3] | - | - | - | - | N/A |

*- Represents zero.*

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

*[2] FY 2006 preliminary data will be available December 2006, and finalized in the FY 2007 PAR.*

*[3] Country of origin information not available.*

**TABLE 10**

## PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES[1] (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Total** | **83,970** | **89,699** | **89,257** | **80,245** | **87,013** |
| Albania | - | - | - | - | - |
| Algeria | - | - | 1 | - | 1 |
| Andorra | 1 | 1 | 1 | 2 | - |
| Angola | - | - | 1 | - | - |
| Anguilla | - | - | - | - | - |
| Antigua & Barbuda | - | - | - | - | - |
| Arab Emirates | - | - | 3 | 4 | 7 |
| Argentina | 54 | 68 | 57 | 37 | 39 |
| Armenia | 1 | 2 | 1 | - | 3 |
| Aruba | 1 | - | 1 | - | - |
| Australia | 955 | 1,040 | 1,079 | 1,091 | 1,413 |
| Austria | 535 | 627 | 606 | 546 | 575 |
| Azerbaijan | - | - | 2 | - | 1 |
| Bahamas | 14 | 6 | 11 | 9 | 7 |
| Bahrain [2] | - | - | - | - | - |
| Bangladesh | - | 1 | - | - | - |
| Barbados | 6 | 2 | - | - | 2 |
| Belarus | 3 | 6 | 2 | 2 | 3 |
| Belgium | 772 | 762 | 698 | 629 | 665 |
| Bermuda | 4 | 7 | 4 | 2 | - |
| Bolivia | - | 1 | - | - | - |
| Bosnia and Herzogovinia | 1 | - | - | - | - |
| Brazil | 113 | 150 | 192 | 93 | 152 |
| British Virgin Islands | - | 8 | 10 | 7 | 5 |
| Brunei | 1 | - | - | - | - |
| Bulgaria | 1 | 9 | 8 | 6 | 4 |
| Canada | 3,809 | 3,869 | 3,980 | 3,368 | 3743 |
| Cayman Islands | 6 | 11 | 2 | 2 | - |
| Chile | 13 | 16 | 17 | 15 | 12 |
| China (Hong Kong) | 546 | 667 | 672 | 627 | 717 |
| China (Mainland) | 347 | 442 | 551 | 583 | 868 |
| Colombia | 14 | 11 | 11 | 9 | 7 |
| Congo, Dem. Republic of | - | - | - | - | - |
| Cook Islands | - | - | - | - | - |
| Costa Rica | 10 | 10 | 7 | 12 | 29 |
| Croatia | 10 | 14 | 9 | 10 | 17 |
| Cuba | 8 | 8 | 4 | 3 | 2 |
| Cyprus | - | 1 | 2 | 6 | 4 |
| Czech Republic | 24 | 38 | 40 | 28 | 28 |
| Czechoslovakia | 4 | - | 1 | - | - |
| Denmark | 569 | 609 | 580 | 463 | 547 |
| Dominica | - | - | - | - | - |
| Dominican Republic | - | 1 | - | 1 | 3 |
| Ecuador | 1 | 5 | 2 | 3 | 2 |
| Egypt | 4 | 6 | 4 | 7 | 3 |
| El Salvador | - | - | 2 | 2 | 2 |
| Estonia | 5 | 4 | 2 | 3 | 4 |
| Faroe Islands | - | - | - | - | - |
| Fiji | 1 | 2 | 1 | 1 | - |
| Finland | 805 | 904 | 1,002 | 778 | 946 |
| France | 4,289 | 4,228 | 3,846 | 3,355 | 3,542 |
| French Guiana | - | - | - | - | - |
| French Polynesia | 1 | - | - | - | - |
| Georgia | 1 | 3 | 4 | 2 | 2 |
| Germany | 11,529 | 12,361 | 11,623 | 10,502 | 10,083 |
| Ghana | - | - | - | - | - |
| Gibralter | - | - | - | - | - |
| Greece | 21 | 26 | 15 | 18 | 22 |
| Guadeloupe | - | - | - | - | - |
| Guatemala | 5 | 3 | - | 1 | 1 |
| Guinea | - | - | - | - | - |
| Haiti | - | - | - | - | - |
| Honduras | 2 | 1 | - | 1 | - |
| Hungary | 49 | 67 | 62 | 48 | 41 |
| Iceland | 17 | 17 | 18 | 23 | 22 |
| India | 254 | 338 | 366 | 405 | 470 |
| Indonesia | 14 | 13 | 12 | 36 | 11 |
| Iran | 1 | - | - | 1 | - |
| Ireland | 136 | 187 | 190 | 192 | 186 |
| Israel | 1,042 | 1,265 | 1,157 | 1,000 | 1,231 |
| Italy | 1,945 | 2,015 | 2,009 | 1,706 | 1,817 |
| Ivory Coast | - | - | 1 | - | - |
| Jamaica | 2 | 1 | 1 | 1 | - |
| Japan | 34,954 | 37,862 | 37,734 | 34,079 | 36,481 |
| Jordan | 1 | 1 | 2 | - | 1 |
| Kazakhstan | 2 | 1 | 2 | 2 | 1 |
| Kenya | 3 | 7 | 18 | 10 | 4 |
| Korea, Dem. Republic of | - | - | - | - | - |
| Korea, Republic of | 3,755 | 4,198 | 4,590 | 4,811 | 5,835 |
| Kuwait | 11 | 5 | 6 | 3 | 6 |
| Kyrgyzstan | - | - | - | - | - |
| Latvia | 1 | 2 | 4 | 2 | 2 |
| Lebanon | 2 | 6 | 3 | 1 | 2 |
| Liechtenstein | 15 | 20 | 17 | 16 | 13 |
| Lithuania | 2 | 4 | 3 | 5 | 6 |
| Luxembourg | 52 | 55 | 56 | 49 | 48 |
| Macau | - | 6 | 2 | 1 | 3 |
| Macedonia, Former | - | 1 | - | - | - |
| Madagascar | 1 | - | - | - | - |
| Malaysia | 57 | 65 | 86 | 95 | 124 |
| Malta | - | 3 | 2 | 1 | 1 |
| Marshall Islands | 1 | - | - | - | - |
| Mauritius | - | - | - | - | - |
| Mexico | 93 | 92 | 113 | 88 | 93 |
| Moldova, Republic | 1 | 1 | 4 | 1 | - |
| Monaco | 16 | 12 | 16 | 8 | 9 |
| Morocco | - | 1 | 1 | - | 4 |
| Myanmar | - | - | - | - | - |
| Namibia | - | - | - | - | - |
| Netherlands | 1,604 | 1,640 | 1,619 | 1,268 | 1,504 |
| Netherlands Antilles | 2 | 1 | - | - | - |
| New Caledonia | - | - | - | - | - |
| New Guinea | - | 1 | - | - | - |
| New Zealand | 162 | 171 | 187 | 163 | 159 |
| Nicaragua | - | - | 1 | - | - |
| Nigeria | 3 | 5 | 2 | - | - |

**TABLE 10 CONT.**

## PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES[1] (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| Norfolk Island | - | - | - | - | - |
| Norway | 262 | 277 | 271 | 245 | 250 |
| Oman | - | - | - | - | 1 |
| Pakistan | 2 | 1 | 3 | 4 | 3 |
| Panama | 1 | 2 | 2 | 1 | - |
| Paraguay | - | - | - | - | 1 |
| Peru | 1 | 5 | 5 | 4 | 2 |
| Philippines | 20 | 17 | 28 | 18 | 30 |
| Poland | 14 | 16 | 18 | 29 | 26 |
| Portugal | 12 | 12 | 16 | 14 | 18 |
| Palau | - | - | 1 | - | - |
| Qatar | - | - | - | 2 | 2 |
| Romania | 5 | 8 | 8 | 6 | 11 |
| Russian Federation | 198 | 208 | 187 | 160 | 169 |
| Saint Kitts & Nevis | 1 | 1 | - | - | - |
| Saint Vincent/The Grenadines | - | - | - | - | - |
| San Marino | - | - | - | - | - |
| Saudi Arabia | 8 | 20 | 13 | 16 | 21 |
| Serbia[2] | - | - | - | - | 2 |
| Serbia and Montenegro[2] | - | 1 | 1 | 5 | - |
| Singapore | 392 | 443 | 498 | 420 | 424 |
| Slovakia | 8 | 5 | 6 | 1 | 2 |
| Slovenia | 16 | 16 | 23 | 17 | 21 |
| South Africa | 107 | 145 | 107 | 115 | 123 |
| Soviet Union | 1 | - | - | - | - |
| Spain | 350 | 341 | 337 | 320 | 373 |
| Sri Lanka | 5 | 14 | 2 | 3 | 1 |
| Suriname | - | - | - | - | - |
| Sweden | 1,824 | 1,708 | 1,452 | 1,269 | 1,255 |
| Switzerland | 1,489 | 1,513 | 1,406 | 1,214 | 1,295 |
| Syrian Arab Rep | 1 | 1 | 1 | - | 3 |
| Taiwan | 6,346 | 6,719 | 7,376 | 6,311 | 7,356 |
| Tanzania | - | 2 | - | - | - |
| Thailand | 49 | 53 | 33 | 28 | 38 |
| Trinidad & Tobago | 2 | 2 | - | - | 3 |
| Tunisia | 1 | - | 1 | 1 | 1 |
| Turkey | 16 | 21 | 31 | 11 | 24 |
| Turks and Caicos Islands | 1 | 2 | 1 | 7 | 1 |
| Uganda | 1 | - | - | - | - |
| Ukraine | 28 | 14 | 21 | 18 | 27 |
| United Arab Emirates | 6 | 3 | - | - | - |
| United Kingdom | 4,076 | 4,110 | 4,044 | 3,744 | 3,978 |
| Uruguay | 3 | 1 | 1 | 1 | 1 |
| Uzbekistan | 1 | - | 1 | - | 1 |
| Venezuela | 27 | 23 | 24 | 14 | 14 |
| Vietnam | 5 | 1 | 1 | 2 | - |
| Yemen | 1 | - | - | - | - |
| Yugoslavia[2] | 5 | - | - | - | - |
| Zimbabwe | 1 | 1 | - | 2 | 1 |

- *Represents zero.*

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

[2] *Each patent grant is listed under only one country of residence; for example, patent grants having "Yugoslavia" as the country of residence of applicant are neither included in the count for "Serbia" nor in the count for "Serbia and Montenegro."*

**TABLE 11**

## STATUTORY INVENTION REGISTRATIONS PUBLISHED (FY 2002 - 2006)

| Assignee | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| Air Force | 8 | 2 | 5 | 6 | 8 |
| Army | 1 | - | 1 | - | - |
| Energy | 1 | - | - | - | - |
| Navy | 10 | 6 | 4 | 3 | 12 |
| Health & Human Services | - | 1 | - | - | - |
| USA [1] | 1 | - | - | - | 1 |
| Other Than U.S. Government | 32 | 25 | 17 | 5 | 20 |
| **Total** | **53** | **34** | **27** | **14** | **41** |

- *Represents zero.*

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

**TABLE 12**

## UNITED STATES GOVERNMENT AGENCY PATENTS[1] (FY 2002 - FY 2006)

| AGENCY | 2002 | 2003 | 2004 | 2005 | 2006 | TOTAL |
|---|---|---|---|---|---|---|
| Agriculture | 46 | 58 | 51 | 25 | 35 | 215 |
| Air Force | 66 | 75 | 54 | 38 | 58 | 291 |
| Army | 149 | 140 | 130 | 124 | 167 | 710 |
| Attorney General | - | 1 | - | - | 1 | 2 |
| Commerce | 21 | 13 | 9 | 8 | 5 | 56 |
| Energy | 52 | 43 | 46 | 22 | 23 | 186 |
| EPA | 8 | 5 | 11 | 7 | 10 | 41 |
| FCC | 1 | - | - | - | - | 1 |
| HEW/HHS | 93 | 84 | 125 | 77 | 108 | 487 |
| Interior | 7 | 13 | 7 | 12 | 2 | 41 |
| NASA | 82 | 82 | 98 | 74 | 68 | 404 |
| Navy | 362 | 359 | 353 | 257 | 267 | 1,598 |
| NSA | 11 | 15 | 10 | 10 | 16 | 62 |
| NSF | - | - | 1 | - | - | 1 |
| Postal Service | - | 4 | 3 | 7 | 14 | 28 |
| State Department | - | - | - | 1 | - | 1 |
| Transportation | 1 | 5 | 1 | 2 | - | 9 |
| TVA | - | 2 | 1 | 1 | 1 | 5 |
| USA [2] | - | 1 | 1 | - | 2 | 4 |
| VA | 2 | 4 | 1 | 6 | 2 | 15 |
| **Total** | **901** | **904** | **902** | **671** | **779** | **4,157** |

\- *Represents zero.*

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

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

**TABLE 13A**

## EX PARTE REEXAMINATION (FY 2002 - FY 2006)

| ACTIVITY | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Requests filed, total** | **272** | **392** | **441** | **524** | **511** |
| By patent owner | 121 | 136 | 166 | 166 | 129 |
| By third party | 140 | 239 | 268 | 358 | 382 |
| Commissioner ordered | 11 | 17 | 7 | - | - |
| **Determinations on requests, total[1]** | **272** | **381** | **419** | **535** | **453** |
| Requests granted: | | | | | |
| By examiner | 262 | 360 | 408 | 509 | 422 |
| By petition | 1 | 1 | - | 2 | 3 |
| Requests denied | 9 | 20 | 11 | 24 | 28 |
| **Requests known to have related litigation** | **52** | **109** | **138** | **176** | **229** |
| **Filings by discipline, total** | **272** | **392** | **441** | **524** | **511** |
| Chemical | 87 | 124 | 130 | 138 | 118 |
| Electrical | 78 | 118 | 156 | 188 | 228 |
| Mechanical | 107 | 150 | 155 | 198 | 165 |

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

**TABLE 13B**

## INTER PARTES REEXAMINATION (FY 2002 - FY 2006)

| ACTIVITY | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Requests filed, total** | **4** | **21** | **27** | **59** | **70** |
| **Determinations on requests, total** | **5** | **20** | **25** | **57** | **47** |
| Requests granted: | 5 | 18 | 25 | 54 | 43 |
| By examiner | - | 18 | 25 | 54 | 43 |
| By petition | - | - | - | - | - |
| Requests denied | - | 2 | - | 3 | 4 |
| **Requests known to have related litigation[1]** | **1** | **7** | **5** | **29** | **32** |
| **Filings by discipline, total** | **4** | **21** | **27** | **59** | **70** |
| Chemical | 2 | 3 | 6 | 17 | 17 |
| Electrical | - | 7 | 7 | 20 | 27 |
| Mechanical | 2 | 11 | 14 | 22 | 26 |

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

**TABLE 14**

**SUMMARY OF CONTESTED PATENT CASES**
**(Within the U.S. Patent and Trademark Office, as of September 30, 2006)**

| ITEM | TOTAL |
|---|---|
| **Ex parte cases** | |
| Appeals | |
| Cases pending as of 9/30/05 | 882 |
| Cases filed during FY 2006 | 3,349 |
| **Disposals during FY 2006, total** | |
| Decided, total | 2,874 |
| Affirmed | 1,256 |
| Affirmed-in-Part | 348 |
| Reversed | 1,001 |
| Dismissed/Withdrawn | 90 |
| Remanded | 179 |
| **Cases pending as of 9/30/06** | **1,357** |
| **Rehearings** | |
| Cases pending as of 9/30/06 | 7 |
| **Inter partes cases** | |
| Cases pending as of 9/30/05 | 74 |
| Cases declared or reinstituted during FY 2006 | 129 |
| **Inter partes cases, FY 2006 total** | **203** |
| Cases terminated during FY 2006 | 107 |
| **Cases pending as of 9/30/06** | **96** |

**TABLE 15**

## SUMMARY OF TRADEMARK EXAMINING ACTIVITIES (FY 2002 - FY 2006)

| ITEM | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Applications for Registration:** | | | | | |
| Applications including Additional Classes | 258,873 | 267,218 | 298,489 | 323,501 | 354,775 |
| Applications Filed | 207,287 | 218,596 | 244,848 | 258,527 | 275,790 |
| **Disposal of Trademark Applications:** | | | | | |
| Registrations including Additional Classes | 164,457 | 185,182 | 155,991 | 143,396 | 188,899 |
| Abandonments including Additional Classes | 120,102 | 119,858 | 109,931 | 108,879 | 126,884 |
| Trademark First Actions including Additional Classes | 253,187 | 276,568 | 268,865 | 317,757 | 405,998 |
| Applications Approved for Publication including Additional Classes | 217,487 | 168,235 | 186,271 | 211,624 | 288,042 |
| **Certificates of Registration Issued:[1]** | | | | | |
| 1946 Act Principal Register | 81,096 | 83,022 | 65,797 | 63,088 | 95,188 |
| Principal Register | | | | | |
| ITU-Statements of Use Registered | 45,064 | 54,046 | 49,479 | 43,930 | 45,720 |
| 1946 Act Supplemental Register | 7,065 | 6,356 | 4,780 | 5,477 | 6,210 |
| Total Certificates of Registration | 133,225 | 143,424 | 120,056 | 112,495 | 147,118 |
| **Renewal of Registration:*** | | | | | |
| Section 9 Applications Filed | 34,325 | 35,210 | 32,352 | 39,354 | 36,939 |
| Section 8 Applications Filed** | 34,271 | 34,189 | 32,389 | 39,659 | 36,952 |
| Registrations Renewed | 29,957 | 34,370 | 34,735 | 32,279 | 37,305 |
| Affidavits, Sec. 8/15: | | | | | |
| Affidavits Filed | 39,484 | 43,151 | 41,157 | 47,752 | 48,444 |
| Affidavits Disposed | 35,375 | 39,603 | 40,765 | 41,466 | 45,676 |
| Affidavits for Benefits: | | | | | |
| Under Sec. 12(c) | - | 1 | 9 | 1 | - |
| Published Under Sec. 12(c) | 26 | 5 | 4 | 3 | 1 |
| Amendments to Allege Use Filed | 8,261 | 8,458 | 9,414 | 9,497 | 10,007 |
| Statements of Use Filed | 53,974 | 67,222 | 57,731 | 54,182 | 67,543 |
| Notice of Allowance Issued | 158,868 | 139,332 | 108,684 | 108,268 | 164,752 |
| **Total Active Certificates of Registration** | **1,116,200** | **1,184,888** | **1,216,691** | **1,255,570** | **1,322,155** |
| Pendency - Average Months: | | | | | |
| Between Filing and Examiner's First Action | 4.3 | 5.4 | 6.6 | 6.3 | 4.8 |
| Between Filing, Registration (Use Applications) Abandonments, and NOA's - including suspended and inter partes proceedings | 19.9 | 19.8 | 19.5 | 19.6 | 18.0 |
| Between Filing, Registration (Use Applications) Abandonments. and NOA's - excluding suspended and inter partes proceedings | 18.3 | 16.2 | 16.2 | 17.2 | 15.5 |

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

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

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

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

**TABLE 16**

## TRADEMARK APPLICATIONS FILED FOR REGISTRATION AND RENEWAL AND TRADEMARK AFFIDAVITS FILED (FY 1986 - FY 2006)

| YEAR | FOR REGISTRATION | FOR RENEWAL[1] | SECTION 8 AFFIDAVIT | SEC. 12(C) AFFIDAVIT |
|---|---|---|---|---|
| 1986 | 69,253 | 5,660 | 8,519 | 19 |
| 1987 | 70,002 | 5,871 | 16,644 | 34 |
| 1988 | 76,813 | 6,763 | 18,316 | 23 |
| 1989 | 83,169 | 6,127 | 17,986 | 104 |
| 1990 | 127,294 | 6,602 | 20,636 | 5 |
| 1991 | 120,365 | 5,634 | 25,763 | 1 |
| 1992 | 125,237 | 6,355 | 20,982 | 25 |
| 1993 | 139,735 | 7,173 | 21,999 | 5 |
| 1994 | 155,376 | 7,004 | 20,850 | 4 |
| 1995 | 175,307 | 7,346 | 23,497 | - |
| 1996 | 200,640 | 7,543 | 22,169 | 6 |
| 1997 | 224,355 | 6,720 | 20,781 | 2 |
| 1998 | 232,384 | 7,413 | 33,231 | - |
| 1999 | 295,165 | 7,944 | 33,104 | - |
| 2000 | 375,428 | 24,435 | 28,920 | - |
| 2001 | 296,388 | 24,174 | 33,547 | 4 |
| 2002 | 258,873 | 34,325 | 39,484 | - |
| 2003 | 267,218 | 35,210 | 43,151 | 1 |
| 2004 | 298,489 | 32,352 | 41,157 | 9 |
| 2005 | 323,501 | 39,354 | 47,752 | 1 |
| **2006** | **354,775** | **36,939** | **48,444** | - |

*- Represents zero.*

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

TABLE 17

## SUMMARY OF PENDING TRADEMARK APPLICATIONS (FY 2006)

| STAGE OF PROCESSING | APPLICATION FILES | CLASSES |
|---|---|---|
| **Pending applications, total** | **474,241** | **634,087** |
| **In preexamination processing** | **97,406** | **121,758** |
| **Under examination, total** | **285,815** | **390,759** |
| **Applications under initial examination** | **114,664** | **157,553** |
| Amended, awaiting action by examiner | 112,180 | 154,253 |
| Awaiting first action by examiner | 2,484 | 3,300 |
| **Intent-To-Use applications pending Use** | **125,475** | **169,550** |
| **Applications under second examination** | **8,506** | **11,007** |
| Administrative processing of Statements of Use | 132 | 161 |
| Undergoing second examination | 2,362 | 2,957 |
| Amended, awaiting action by examiner | 6,012 | 7,889 |
| **Other pending applications** [1] | **37,170** | **52,649** |
| **In postexamination processing** (Includes all applications in all phases of publication and issue and registration) | **91,020** | **121,570** |

[1] *Includes applications pending before the TTAB and suspended cases.*

**TABLE 18**

## TRADEMARKS REGISTERED, RENEWED, AND PUBLISHED UNDER SECTION 12(C)[1] (FY 1986 - FY 2006)

| YEAR | CERTIFICATES OF REGIS. ISSUED | RENEWED[2] | PUBLISHED UNDER 12(C) | REGISTRATIONS *(Incl Classes)* |
|---|---|---|---|---|
| 1986 | 48,971 | 5,550 | 29 | - |
| 1987 | 47,522 | 4,415 | 24 | - |
| 1988 | 46,704 | 5,884 | 29 | - |
| 1989 | 51,802 | 9,209 | 84 | - |
| 1990 | 56,515 | 7,122 | 19 | - |
| 1991 | 43,152 | 6,416 | 19 | - |
| 1992 | 62,067 | 5,733 | 13 | - |
| 1993 | 74,349 | 6,182 | 21 | 86,122 |
| 1994 | 59,797 | 6,136 | 11 | 68,853 |
| 1995 | 65,662 | 6,785 | 4 | 75,372 |
| 1996 | 78,674 | 7,346 | 11 | 91,339 |
| 1997 | 97,294 | 7,389 | 11 | 112,509 |
| 1998 | 89,634 | 6,504 | 8 | 106,279 |
| 1999 | 87,774 | 6,280 | 3 | 104,324 |
| 2000 | 106,383 | 8,821 | 15 | 127,794 |
| 2001 | 102,314 | 31,477 | 11 | 124,502 |
| 2002 | 133,225 | 29,957 | 26 | 164,457 |
| 2003 | 143,424 | 34,370 | 5 | 185,182 |
| 2004 | 120,056 | 34,735 | 4 | 155,991 |
| 2005 | 112,495 | 32,279 | 3 | 143,396 |
| **2006** | **147,118** | **37,305** | **1** | **188,899** |

\- *Represents zero.*

1 *Includes withdrawn numbers.*

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

**TABLE 19** **TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES (FY 2006)**

| State/Territory | 2006 | State/Territory | 2006 | State/Territory | 2006 |
|---|---|---|---|---|---|
| **Total** | **283,224** | Kentucky | 1,471 | Oklahoma | 1,243 |
| | | Louisiana | 1,314 | Oregon | 3,203 |
| Alabama | 1,413 | Maine | 740 | Pennsylvania | 8,003 |
| Alaska | 198 | Maryland | 5,504 | Rhode Island | 901 |
| Arizona | 5,599 | Massachusetts | 7,575 | South Carolina | 1,670 |
| Arkansas | 966 | Michigan | 5,727 | South Dakota | 477 |
| California | 61,283 | Minnesota | 5,678 | Tennessee | 3,604 |
| Colorado | 6,066 | Mississippi | 579 | Texas | 14,996 |
| Connecticut | 4,730 | Missouri | 3,995 | Utah | 2,884 |
| Delaware | 3,438 | Montana | 589 | Vermont | 560 |
| District of Columbia | 2,207 | Nebraska | 1,192 | Virginia | 6,588 |
| Florida | 18,413 | Nevada | 5,644 | Washington | 6,438 |
| Georgia | 7,419 | New Hampshire | 1,108 | West Virginia | 252 |
| Hawaii | 970 | New Jersey | 10,836 | Wisconsin | 3,805 |
| Idaho | 878 | New Mexico | 758 | Wyoming | 296 |
| Illinois | 12,894 | New York | 29,013 | Puerto Rico | 345 |
| Indiana | 3,019 | North Carolina | 4,976 | Virgin Islands | 27 |
| Iowa | 1,389 | North Dakota | 245 | U.S. Pacific Islands [1] | 15 |
| Kansas | 1,607 | Ohio | 8,137 | United States [2] | 347 |

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

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

**TABLE 20**

## TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES[1] (FY 2006)

| State/Territory | 2006 | State/Territory | 2006 | State/Territory | 2006 |
|---|---|---|---|---|---|
| **Total** | **119,526** | Kentucky | 481 | Oklahoma | 568 |
| | | Louisiana | 391 | Oregon | 1,139 |
| Alabama | 460 | Maine | 320 | Pennsylvania | 2,587 |
| Alaska | 79 | Maryland | 1,483 | Rhode Island | 367 |
| Arizona | 1,512 | Massachusetts | 2,112 | South Carolina | 570 |
| Arkansas | 236 | Michigan | 2,325 | South Dakota | 184 |
| California | 13,217 | Minnesota | 2,288 | Tennessee | 1,013 |
| Colorado | 1,746 | Mississippi | 163 | Texas | 4,308 |
| Connecticut | 1,004 | Missouri | 1,510 | Utah | 946 |
| Delaware | 24,205 | Montana | 147 | Vermont | 192 |
| District of Columbia | 865 | Nebraska | 447 | Virginia | 1,697 |
| Florida | 5,247 | Nevada | 2,524 | Washington | 2,185 |
| Georgia | 2,102 | New Hampshire | 312 | West Virginia | 82 |
| Hawaii | 226 | New Jersey | 2,758 | Wisconsin | 1,566 |
| Idaho | 275 | New Mexico | 229 | Wyoming | 161 |
| Illinois | 3,850 | New York | 6,862 | Puerto Rico | 74 |
| Indiana | 1,219 | North Carolina | 1,510 | Virgin Islands | 14 |
| Iowa | 639 | North Dakota | 81 | U.S. Pacific Islands [2] | 3 |
| Kansas | 558 | Ohio | 2,922 | United States [3] | 15,565 |

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

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

[3] *No state indicated in data base, includes APO filings.*

**TABLE 21**

## TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Total** | **50,052** | **49,371** | **46,832** | **60,995** | **71,551** |
| Afghanistan | - | - | - | - | 3 |
| Albania | - | 1 | 1 | 1 | 19 |
| Algeria | - | - | - | - | - |
| Andorra | 5 | 3 | - | 3 | 7 |
| Angola | 1 | - | - | 2 | - |
| Anguilla | 11 | 7 | 6 | 4 | 8 |
| Antigua & Barbuda | 30 | - | 2 | 26 | 97 |
| Argentina | 189 | 266 | 202 | 225 | 228 |
| Armenia | 1 | - | 1 | 2 | 22 |
| Aruba | 9 | 6 | 3 | 24 | - |
| Australia | 1,478 | 1,794 | 1,845 | 2,204 | 2,593 |
| Austria | 743 | 444 | 401 | 696 | 1,125 |
| Azerbaijan | - | - | 5 | - | - |
| Bahamas | 220 | 158 | 139 | 207 | 192 |
| Bahrain | 3 | 4 | 10 | 3 | 7 |
| Bangladesh | - | - | - | - | - |
| Barbados | 120 | 165 | 207 | 213 | 177 |
| Belarus | 2 | 1 | - | 18 | 3 |
| Belgium | 454 | 425 | 266 | 581 | 606 |
| Belize | 23 | 9 | 9 | 12 | 52 |
| Benelux Convention | 2 | - | - | - | - |
| Benin | - | - | 3 | 2 | - |
| Bermuda | 322 | 340 | 282 | 251 | 234 |
| Bolivia | 4 | 1 | 2 | 4 | - |
| Botswana | - | - | - | - | - |
| Brazil | 472 | 400 | 453 | 495 | 445 |
| British Virgin Islands | 259 | 202 | 151 | 389 | 665 |
| Brunei | - | - | - | 1 | 2 |
| Bulgaria | 2 | 13 | 17 | 84 | 81 |
| Burundi | - | - | - | - | - |
| Cambodia | 1 | - | 1 | - | 1 |
| Cameroon | 3 | - | 2 | - | 8 |
| Canada | 6,765 | 6,838 | 7,365 | 7,730 | 8,337 |
| Cape Verde | - | 2 | - | - | 1 |
| Cayman Islands | 117 | 113 | 81 | 188 | 134 |
| Central African Republic | 1 | - | - | - | - |
| Channel Islands | 72 | 50 | 27 | 73 | 67 |
| Chile | 141 | 190 | 183 | 217 | 161 |
| China (mainland) | 472 | 474 | 594 | 1,246 | 1,784 |
| Christmas Island | 2 | - | - | - | - |
| Colombia | 135 | 151 | 181 | 156 | 185 |
| Comoros | - | - | - | - | - |
| Cook Islands | 9 | 4 | 3 | 2 | 6 |
| Costa Rica | 23 | 32 | 41 | 58 | 73 |
| Cote d'Ivoire | 1 | - | - | - | - |
| Croatia | 10 | 6 | 10 | 47 | 34 |
| Cuba | 2 | - | 2 | 26 | 11 |
| Cyprus | 21 | 66 | 60 | 73 | 115 |
| Czechoslovakia | 58 | 55 | 59 | 93 | 164 |
| Democratic Republic of the Congo | - | - | - | - | - |
| Denmark | 568 | 564 | 353 | 637 | 886 |
| Djibouti | - | - | - | - | - |
| Dominica | - | - | 1 | 3 | 6 |
| Dominican Republic | 40 | 57 | 13 | 47 | 64 |
| East Timor | - | 1 | - | - | - |
| Ecuador | 10 | 15 | 25 | 18 | 15 |
| Egypt | 3 | 8 | 19 | 17 | 8 |
| El Salvador | 33 | 35 | 55 | 50 | 31 |
| EPO | - | - | - | - | - |
| Estonia | 10 | 4 | 3 | 16 | 24 |
| Ethiopia | - | 1 | - | 4 | - |
| Faroe Islands | - | - | - | - | - |
| Fiji | 10 | 3 | 2 | 12 | 1 |
| Finland | 442 | 336 | 275 | 374 | 476 |
| France | 3,546 | 3,473 | 2,427 | 4,555 | 4,843 |
| French Guiana | 1 | - | - | - | - |
| French Polynesia | 1 | 6 | 49 | 16 | 9 |
| French South/Antarctic | - | - | - | - | - |
| Gabon | - | - | - | - | - |
| Georgia | 1 | 1 | 2 | 6 | 4 |
| Germany | 7,195 | 6,412 | 6,466 | 8,146 | 9,896 |
| Ghana | - | - | - | - | - |
| Gibraltar | 11 | 21 | 24 | 65 | 50 |
| Greece | 46 | 44 | 236 | 64 | 120 |
| Greenland | - | - | - | - | 5 |
| Grenada | 1 | - | - | 1 | 1 |
| Guadeloupe | 1 | 2 | 2 | 3 | - |
| Guatemala | 19 | 8 | 39 | 42 | 31 |
| Guinea | - | - | - | - | - |
| Guyana | 4 | 1 | 1 | 6 | 5 |
| Hague | - | - | - | - | - |
| Haiti | 6 | 5 | 8 | 4 | 3 |
| Honduras | 1 | 6 | 5 | 4 | 19 |
| Hong Kong | 860 | 794 | 862 | 1,130 | 1,113 |
| Hungary | 35 | 33 | 40 | 88 | 115 |
| Iceland | 15 | 35 | 86 | 42 | 74 |
| India | 267 | 291 | 260 | 275 | 346 |
| Indonesia | 37 | 45 | 24 | 55 | 32 |
| Iran | - | 1 | 20 | 12 | 13 |
| Ireland | 331 | 317 | 359 | 392 | 488 |
| Isle of Man | 55 | 27 | 27 | 56 | 59 |
| Israel | 448 | 480 | 476 | 534 | 614 |
| Italy | 1,919 | 2,115 | 1,577 | 2,894 | 4,057 |
| Jamaica | 33 | 31 | 50 | 55 | 55 |
| Japan | 4,450 | 4,342 | 4,239 | 4,824 | 4,705 |
| Jordan | 14 | 6 | 18 | 7 | 14 |
| Kazakhstan | - | - | 2 | - | - |
| Kenya | 13 | 21 | 9 | 9 | 13 |
| Korea, Dem. Republic of | 1 | 6 | - | 1 | 3 |
| Korea, Republic of | 887 | 758 | 446 | 614 | 1,207 |
| Kuwait | 3 | - | 3 | 2 | 12 |
| Kyrgyzstan | - | - | - | 2 | - |
| Latvia | - | 7 | 8 | 29 | 29 |
| Laos | - | - | - | - | - |
| Lebanon | 10 | 13 | 14 | 22 | 14 |
| Liberia | - | - | - | - | - |
| Liechtenstein | 61 | 58 | 56 | 165 | 180 |
| Lithuania | 3 | 1 | 1 | 9 | 21 |
| Luxembourg | 186 | 130 | 134 | 294 | 403 |

**TABLE 21 CONT.**

## TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| Macao | - | - | 1 | 1 | 4 |
| Macau | 3 | 5 | - | - | - |
| Macedonia | - | 1 | - | - | 2 |
| Madagascar | 1 | - | 2 | - | 1 |
| Malawi, Republic of | - | - | - | - | - |
| Malaysia | 60 | 28 | 98 | 97 | 81 |
| Mali | - | - | - | - | - |
| Malta | 3 | 29 | 10 | 8 | 50 |
| Marshall Islands | - | - | 4 | 2 | 4 |
| Martinique | 1 | - | - | - | - |
| Mauritania | - | - | - | 2 | - |
| Mauritius | 38 | 44 | 46 | 27 | 61 |
| Mayotte | - | - | - | - | - |
| Mexico | 1,026 | 994 | 1,103 | 1,403 | 1,487 |
| Micronesia | 1 | - | - | 2 | 2 |
| Moldova | - | - | - | - | - |
| Monaco | 72 | 68 | 69 | 81 | 147 |
| Mongolia | - | 3 | 1 | - | - |
| Montserrat | - | 1 | - | - | - |
| Morocco | 1 | 2 | 2 | 18 | 33 |
| Mozambique | - | - | - | 1 | - |
| Myanmar | - | 1 | - | - | - |
| N. Mariana Island | 3 | 1 | 4 | 2 | 7 |
| Namibia | 1 | - | - | - | - |
| Nauru | - | - | - | - | - |
| Navassa Island | - | - | - | - | - |
| Nepal | 9 | - | - | - | - |
| Netherlands | 1,596 | 1,331 | 1,088 | 1,725 | 2,133 |
| Netherlands Antilles | 55 | 30 | 22 | 41 | 56 |
| New Caledonia | - | - | - | - | - |
| New Hebrides | - | - | - | - | - |
| New Zealand | 292 | 362 | 535 | 510 | 513 |
| Newfoundland | 5 | - | - | - | - |
| Nicaragua | 5 | 7 | 10 | 9 | 2 |
| Nigeria | 15 | 6 | 1 | 1 | 5 |
| Niue | - | - | - | 2 | - |
| Norway | 206 | 178 | 159 | 331 | 354 |
| Oman | 2 | - | 5 | 5 | 2 |
| Pakistan | 4 | 8 | 18 | 12 | 20 |
| Panama | 47 | 46 | 108 | 125 | 131 |
| Papua New Guinea | - | 1 | - | 1 | - |
| Paraguay | 2 | 2 | 28 | 11 | 18 |
| Peru | 37 | 28 | 33 | 50 | 40 |
| Philippines | 31 | 12 | 26 | 56 | 86 |
| Pitcairn Islands | - | - | - | - | - |
| Poland | 59 | 99 | 97 | 148 | 189 |
| Portugal | 106 | 133 | 77 | 198 | 309 |
| Qatar | 6 | - | - | 6 | 10 |
| Republic Moldova | | 22 | 2 | 22 | 16 |
| Reunion | - | - | - | - | - |
| Romania | 14 | 1 | 6 | 48 | 24 |
| St. Kitts & Nevis | - | - | - | - | 3 |
| Saint Christ-Nevis | 6 | 2 | 2 | 12 | 10 |
| Saint Lucia | 2 | - | 2 | 8 | 4 |
| Saint Pierre/Mique | - | - | - | - | - |
| Saint Vincent/Grenadines | 1 | - | 1 | 3 | 2 |
| Samoa | 1 | - | 1 | 2 | 11 |
| San Marino | - | - | 3 | 2 | 4 |
| Saudi Arabia | 18 | 26 | 21 | 27 | 50 |
| Scotland | 82 | 94 | 35 | 66 | 105 |
| Senegal, Republic of | - | - | - | - | 2 |
| Serbia/Montenegro | | | 3 | 3 | - |
| Seychelles | 5 | 1 | 1 | 5 | 23 |
| Sierra Leone | - | - | - | 1 | - |
| Singapore | 283 | 285 | 205 | 311 | 355 |
| Slovakia | 3 | 7 | 2 | 24 | 31 |
| Slovenia | 36 | 38 | 13 | 53 | 67 |
| Solomon Islands | - | - | - | - | - |
| Somalia | - | - | - | - | - |
| South Africa | 170 | 175 | 194 | 208 | 285 |
| Russian Federation | 145 | 144 | 118 | 276 | 380 |
| Spain | 852 | 984 | 1,097 | 1,136 | 1,735 |
| Sri Lanka | 6 | 10 | 20 | 12 | 21 |
| Sudan | 1 | - | - | - | - |
| Suriname | - | - | 1 | - | - |
| Swaziland | - | 1 | 1 | 2 | - |
| Sweden | 836 | 919 | 658 | 1,123 | 1,127 |
| Switzerland | 2,754 | 2,867 | 2,093 | 3,346 | 3,687 |
| Syria | - | - | 1 | 3 | 3 |
| Taiwan | 1,143 | 1,259 | 1,424 | 1,196 | 1,427 |
| Tajikistan | - | - | - | - | - |
| Tanzania | - | - | - | - | - |
| Thailand | 103 | 153 | 127 | 114 | 80 |
| Togo | - | - | - | - | 1 |
| Tokelau | - | - | - | - | - |
| Tonga | - | - | - | - | - |
| Trinidad & Tobago | 9 | 11 | 3 | 7 | 11 |
| Tunisia | - | 3 | - | 5 | 3 |
| Turkey | 85 | 166 | 174 | 349 | 461 |
| Turks and Caicos Islands | 5 | - | - | - | 24 |
| Uganda | 1 | 7 | - | - | - |
| Ukraine | 2 | 29 | 19 | 59 | 61 |
| United Arab Emirates | 31 | 24 | 21 | 48 | 150 |
| United Kingdom | 5,597 | 5,586 | 5,432 | 6,273 | 7,557 |
| Uruguay | 19 | 36 | 41 | 47 | 37 |
| Uzbekistan | - | - | 1 | - | - |
| Vanuatu | 2 | 31 | 6 | 7 | 9 |
| Venezuela | 75 | 112 | 73 | 53 | 61 |
| Vietnam | 55 | 79 | 60 | 39 | 41 |
| Yemen | - | - | 1 | 3 | 6 |
| Yugoslavia | 4 | - | 10 | 9 | 36 |
| Yukon Territory | - | - | - | - | - |
| Zambia | - | - | - | - | - |
| Zimbabwe | 2 | 2 | 1 | - | - |
| Other[1] | 257 | 143 | 82 | 261 | 183 |

- *Represents zero.*

[1] *Country of origin information not available or not indicated in database, includes African Regional Industrial Property Organization filings.*

**TABLE 22**

## TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Total** | **19,052** | **25,217** | **22,485** | **19,968** | **27,592** |
| Afghanistan | - | - | 2 | 2 | 3 |
| Albania | - | - | - | 1 | 2 |
| Algeria | - | - | - | - | 1 |
| Andorra | - | 1 | 2 | - | 6 |
| Angola, Republic of | 2 | - | - | - | 1 |
| Anguilla | 1 | 8 | 3 | 5 | 5 |
| Antarctica | | | | | 1 |
| Antigua & Barbuda | 15 | 11 | 5 | 4 | 16 |
| Argentina | 68 | 108 | 142 | 92 | 123 |
| Armenia | 5 | 6 | 3 | 1 | 7 |
| Aruba | 1 | 2 | 2 | - | 1 |
| Australia | 663 | 845 | 775 | 709 | 1,030 |
| Austria | 171 | 268 | 199 | 178 | 267 |
| Azerbaijan | - | - | - | - | - |
| Bahamas | 41 | 79 | 57 | 39 | 32 |
| Bahrain | 1 | 1 | 2 | 4 | 2 |
| Bangladesh | - | 2 | 2 | 1 | 3 |
| Barbados | 26 | 38 | 56 | 78 | 94 |
| Belarus | 1 | 2 | - | 2 | 2 |
| Belgium | 205 | 272 | 194 | 152 | 243 |
| Belize | 3 | 5 | 16 | 3 | 7 |
| Benelux Convention | 1 | 2 | - | 6 | 7 |
| Bermuda | 94 | 108 | 93 | 148 | 130 |
| Bolivia | - | 3 | - | 1 | 4 |
| Bosnia & Herzegovina | - | 2 | - | - | - |
| Brazil | 110 | 160 | 181 | 152 | 195 |
| British Virgin Islands | 133 | 177 | 167 | 182 | 211 |
| Brunei Darussalam | 1 | - | - | - | - |
| Bulgaria | 5 | 4 | 4 | 7 | 30 |
| Burundi | - | - | 1 | 1 | - |
| Cambodia | 1 | - | 1 | - | - |
| Cameroon | - | 1 | - | 1 | 1 |
| Canada | 2,911 | 3,398 | 3,187 | 2,917 | 3,562 |
| Cayman Islands | 43 | 85 | 81 | 53 | 86 |
| Central African Rep. | - | - | - | - | - |
| Channel Islands | 50 | 40 | - | 14 | 22 |
| Chile | 45 | 110 | 90 | 92 | 109 |
| China (mainland) | 174 | 326 | 358 | 364 | 697 |
| Colombia | 58 | 69 | 59 | 85 | 91 |
| Comoros | - | - | - | - | - |
| Congo | - | - | - | 2 | - |
| Cook Islands | 7 | 5 | 6 | 1 | - |
| Costa Rica | 4 | 14 | 7 | 17 | 18 |
| Cote D'Ivoire | - | - | 1 | 1 | 1 |
| Croatia | 5 | 1 | 3 | 4 | 9 |
| Cuba | 4 | 8 | 4 | - | 10 |
| Cyprus | 6 | 15 | 10 | 11 | 21 |
| Czechoslovakia | 22 | 30 | 24 | 13 | 26 |
| Denmark | 177 | 281 | 219 | 193 | 326 |
| Dominica | - | - | - | 1 | - |
| Dominican Republic | 24 | 19 | 26 | 27 | 18 |
| Ecuador | 9 | 18 | 8 | 10 | 18 |
| Egypt | 3 | 4 | 1 | 3 | 10 |
| El Salvador | 9 | 18 | 11 | 20 | 26 |
| Estonia | 2 | 3 | 5 | 4 | 5 |
| Ethiopia | 1 | 1 | - | - | 1 |
| Faroe Islands | - | - | - | - | - |
| Fiji | 1 | 5 | 5 | 2 | 2 |
| Finland | 159 | 200 | 163 | 130 | 173 |
| France | 1,560 | 2,105 | 1,642 | 1,360 | 2,055 |
| French Polynesia | 1 | - | 9 | - | 20 |
| Gabon | 1 | - | - | - | - |
| Georgia | 8 | 10 | 5 | - | 1 |
| Germany | 2,561 | 3,654 | 2,996 | 2,583 | 3,866 |
| Ghana | 2 | 2 | - | - | 1 |
| Gibraltar | 11 | 4 | 7 | 2 | 15 |
| Greece | 16 | 15 | 16 | 18 | 27 |
| Greenland | - | - | - | - | - |
| Grenada | - | 2 | - | - | - |
| Guatemala | 9 | 17 | 11 | 5 | 15 |
| Guyana | 1 | 3 | 5 | 1 | 4 |
| Hague | - | - | - | - | - |
| Haiti | - | 2 | - | - | 8 |
| Honduras | 2 | 3 | 2 | 1 | 2 |
| Hong Kong | 288 | 387 | 391 | 290 | 373 |
| Hungary | 10 | 13 | 16 | 27 | 38 |
| Iceland | 10 | 14 | 17 | 11 | 15 |
| India | 73 | 111 | 115 | 104 | 126 |
| Indonesia | 16 | 26 | 24 | 17 | 22 |
| Iraq | 1 | - | - | - | - |
| Iran | 8 | 7 | 2 | 5 | 5 |
| Ireland | 107 | 151 | 133 | 117 | 175 |
| Isle of Man | 7 | 8 | 11 | 5 | 11 |
| Israel | 262 | 380 | 248 | 218 | 233 |
| Italy | 979 | 1,253 | 967 | 899 | 1,542 |
| Jamaica | 19 | 16 | 9 | 23 | 28 |
| Japan | 1,510 | 1,896 | 2,010 | 1,821 | 2,197 |
| Jordan | 9 | 3 | 3 | 11 | 1 |
| Kazakhstan | - | - | - | - | 2 |
| Kenya | 1 | 6 | 7 | 4 | 3 |
| Kiribati | - | - | - | - | - |
| Korea, Dem. Republic of | 2 | 1 | 8 | 2 | 2 |
| Korea, Republic of | 283 | 431 | 470 | 395 | 409 |
| Kuwait | 2 | 2 | 3 | 1 | - |
| Latvia | 1 | 3 | 2 | 2 | 6 |
| Lebanon | 2 | 7 | 9 | 6 | 6 |
| Liberia | 13 | 13 | 13 | 5 | 2 |
| Libya | - | - | - | - | - |
| Liechtenstein | 30 | 43 | 48 | 44 | 62 |
| Lithuania | 1 | 3 | 2 | 3 | - |
| Luxembourg | 59 | 56 | 57 | 71 | 103 |
| Macao | - | - | - | - | 3 |
| Macau | 2 | - | - | 3 | - |
| Macedonia | 2 | - | 1 | - | - |
| Malaysia | 24 | 21 | 27 | 27 | 37 |
| Malta | 1 | 4 | 9 | 5 | 6 |
| Marshall Islands | - | - | 3 | 1 | 1 |
| Mauritania | - | - | 1 | - | - |

**TABLE 22 *CONT.***

## TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2002 - FY 2006)

| Residence | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| Mauritius | 3 | 12 | 16 | 16 | 10 |
| Mexico | 342 | 435 | 396 | 433 | 544 |
| Micronesia | 1 | 1 | 1 | - | - |
| Moldova | 1 | - | - | - | - |
| Monaco | 10 | 18 | 14 | 19 | 22 |
| Mongolia | - | - | - | 1 | - |
| Morocco | 1 | 1 | 1 | 2 | 2 |
| Myanmar | - | - | - | - | - |
| Namibia | 1 | 1 | 1 | - | - |
| Nauru | - | - | - | - | 1 |
| N. Mariana Island | - | 1 | 1 | 4 | 4 |
| Netherlands | 628 | 782 | 615 | 610 | 879 |
| Netherlands Antilles | 27 | 33 | 29 | 17 | 30 |
| Nepal | - | 3 | - | 1 | - |
| New Zealand | 97 | 196 | 165 | 136 | 228 |
| Nicaragua | 6 | 1 | 4 | 2 | 4 |
| Nigeria | 7 | 5 | 4 | 2 | 5 |
| Niue | - | - | - | - | 1 |
| Norway | 100 | 145 | 84 | 71 | 90 |
| Oman | - | - | - | 2 | - |
| Pakistan | 10 | 7 | 5 | 7 | 5 |
| Panama | 41 | 34 | 43 | 42 | 45 |
| Papua New Guinea | - | - | - | - | - |
| Paraguay | 2 | 1 | - | 3 | 5 |
| Peru | 9 | 22 | 22 | 16 | 13 |
| Philippines | 12 | 25 | 23 | 16 | 34 |
| Poland | 20 | 25 | 31 | 36 | 62 |
| Portugal | 40 | 64 | 60 | 48 | 70 |
| Qatar | - | - | 1 | - | 1 |
| Republic Moldova | - | 1 | - | 3 | 11 |
| Romania | 3 | 11 | 3 | 8 | 18 |
| Saint Christ & Nevis | - | 6 | 15 | 18 | 10 |
| St. Kitts & Nevis | - | - | - | - | 3 |
| Saint Lucia | - | 3 | - | 1 | 2 |
| Saint Vincent/Grenadines | - | 2 | - | 4 | 4 |
| San Marino | - | 1 | - | 4 | 1 |
| Saudi Arabia | 2 | 12 | 3 | 12 | 11 |
| Scotland | 10 | 18 | 18 | 12 | 10 |
| Senegal | - | 1 | - | - | - |
| Serbia/Montenegro | - | - | - | - | 3 |
| Seychelles | 1 | 6 | 21 | 9 | 1 |
| Sierra Leone | - | - | - | - | 1 |
| Singapore | 82 | 95 | 102 | 100 | 110 |
| Slovakia | - | 4 | 10 | 2 | 11 |
| Slovenia | 5 | 9 | 5 | 3 | 10 |
| South Africa | 62 | 117 | 92 | - | - |
| Russian Federation | 23 | 53 | 46 | 37 | 132 |
| Spain | 474 | 560 | 482 | 432 | 687 |
| Spratly Islands | - | - | - | - | - |
| Sri Lanka | 9 | 3 | 5 | 5 | 10 |
| Sudan | - | 1 | - | - | - |
| Swaziland | - | 1 | 1 | 1 | 1 |
| Sweden | 406 | 532 | 460 | 381 | 486 |
| Switzerland | 820 | 1,261 | 1,078 | 932 | 1,427 |
| Syria | 1 | 3 | 6 | 3 | 1 |
| Taiwan | 656 | 698 | 662 | 683 | 768 |
| Thailand | 43 | 55 | 62 | 52 | 65 |
| Tonga | - | - | 1 | - | - |
| Trinidad & Tobago | 4 | 8 | 24 | 8 | 10 |
| Tunisia | - | - | 1 | - | - |
| Turkey | 35 | 43 | 48 | 57 | 127 |
| Turks and Caicos Islands | 9 | 14 | - | - | 1 |
| Uganda | - | - | - | 1 | - |
| Ukraine | 4 | 6 | 4 | 3 | 22 |
| United Arab Emirates | 9 | 6 | 10 | 12 | 14 |
| United Kingdom | 1,803 | 2,357 | 2,234 | 1,777 | 2,384 |
| Upper Volta | - | - | 1 | - | - |
| Uruguay | 12 | 9 | 12 | 23 | 20 |
| Uzbekistan | - | - | - | 1 | - |
| Vanuatu | 3 | - | 1 | 1 | 3 |
| Vatican City | - | - | - | - | - |
| Venezuela | 29 | 43 | 39 | 28 | 34 |
| Vietnam | 5 | 21 | 35 | 35 | 50 |
| Western Samoa/Samoa | 1 | 1 | 1 | 1 | 1 |
| Yemen | - | - | - | - | - |
| Yugoslavia | - | - | 1 | - | - |
| Zimbabwe | - | 2 | - | - | - |
| Other[1] | 27 | 15 | 12 | 15 | 11 |

- *Represents zero.*

[1] *Country of origin information not available.*

TABLE 23

**SUMMARY OF CONTESTED TRADEMARK CASES**
**(Within the U.S. Patent and Trademark Office, as of September 30, 2006)**

| ACTIVITY | EX PARTE | CANCELLATIONS | USE | INTERFERENCE | OPPOSITION | TOTAL |
|---|---|---|---|---|---|---|
| **Cases pending as of 9/30/05, total** | **2,900** | **1,732** | **101** | **-** | **6,122** | **10,855** |
| **Cases filed during FY 2006** | **2,824** | **1,426** | **43** | **-** | **6,581** | **10,874** |
| **Disposals during FY 2006, total** | **2,766** | **1,359** | **29** | **-** | **5,224** | **9,378** |
| Before hearing | 2,301 | 1,345 | 27 | - | 5,144 | 8,817 |
| After hearing | 465 | 14 | 2 | - | 80 | 561 |
| **Cases pending as of 9/30/06, total** | **2,958** | **1,799** | **115** | **-** | **7,479** | **12,351** |
| Awaiting decision | 50 | 16 | - | - | 51 | 117 |
| In process before hearing[1] | 2,908 | 1,783 | 115 | - | 7,428 | 12,234 |
| **Requests for extension of time to oppose** | **-** | **-** | **-** | **-** | **-** | **22,508** |

*- Represents zero.*

*[1] Includes suspended cases.*

**TABLE 24**

## ACTIONS ON PETITIONS TO THE COMMISSIONER OF PATENTS AND TRADEMARKS (FY 2002 - FY 2006)

| NATURE OF PETITION | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Patent matters** | | | | | |
| **Actions on patent petitions, total** | **16,461** | **49,049** | **46,568** | **44,361** | **41,271** |
| Acceptance of: | | | | | |
| Late assignments | 30 | 42 | 33 | 432 | 477 |
| Late issue fees | 1,676 | 2,362 | 1,441 | 938 | 1,195 |
| Late priority papers | 330 | 1,184 | 1,112 | 27 | 16 |
| Access | 6 | 3 | - | 10 | 5 |
| Certificates of correction | - | 32,455 | 30,406 | 27,763 | 23,129 |
| Deferment of issue | 21 | 40 | 40 | 21 | 13 |
| Entity Status Change | 836 | - | 1,621 | 1,289 | 963 |
| Filing date | 2,158 | 1,776 | 1,267 | 1,815 | 1,129 |
| Maintenance fees | 1,614 | 2,002 | 1,913 | 2,208 | 2,038 |
| Revivals | 3,395 | 4,154 | 4,400 | 5,190 | 6,075 |
| Rule 47 (37 CFR 1.47) | 1,698 | 2,045 | 1,519 | 2,055 | 1,492 |
| Supervisory authority | 112 | 196 | 69 | 131 | 163 |
| Suspend rules | 1,052 | 1,441 | 1,006 | 290 | 272 |
| Withdrawal from issue | 1,178 | 881 | 1,451 | 1,950 | 1,996 |
| Withdrawals of holding of aband./pat. lapse | 2,355 | 468 | 290 | 242 | 2,308 |
| Late Claim for Priority* | - | - | 531 | 843 | 788 |
| Withdraw as Attorney* | - | - | - | - | 3,030 |
| Matters Not Provided For (37 CFR 1.182)* | - | - | 788 | 1,270 | 961 |
| To Make Special* | - | - | - | - | 2,018 |
| Patent Term Adjustment/Extension* | - | - | 369 | 684 | 687 |
| **Trademark matters** | | | | | |
| **Actions on trademark petitions, total** | **24,699** | **18,493** | **17,791** | **22,377** | **17,590** |
| Affidavits of Use and extensions | 1 | 3 | - | - | - |
| Decision by examiner | 14 | 20 | 23 | 10 | 19 |
| Filing date restorations[1] | 846 | 495 | 270 | 211 | 65 |
| Grant application filing date | 29 | 21 | 8 | 17 | 11 |
| Inadvertently issued registrations | 654 | 516 | 220 | 181 | 217 |
| Interferences | 2 | - | - | 1 | 2 |
| Letters of Protest | - | - | 765 | 811 | 722 |
| Madrid Petitions* | - | - | - | - | 13 |
| Make special | 133 | 138 | 167 | 208 | 185 |
| Miscellaneous | 40 | 46 | 74 | 68 | 81 |
| Oppositions and extensions | 3 | 4 | 1 | 2 | 10 |
| Record documents affecting title | 1 | 4 | - | - | 15 |
| Reinstatements[2] | 6,304 | 3,845 | 2,972 | 1,964 | 552 |
| Restore jurisdiction to examiner | 2 | 8 | 19 | 3 | 12 |
| Review board decisions | 10 | 14 | 5 | 8 | 6 |
| Revive (reviewed on paper) | 16,222 | 12,771 | 12,476 | 18,134 | 4,379 |
| Revive (granted electronically) [3] | - | - | - | - | 10,689 |
| Section 7 correction/amendment | 17 | 10 | 16 | 20 | 30 |
| Section 9 renewal | 14 | 28 | 21 | 10 | 23 |
| Section 8 or 15 | 75 | 61 | 86 | 73 | 112 |
| Section 44(e) Amendment | 317 | 493 | 622 | 629 | 436 |
| Review Letter of Protest Decision | 4 | 2 | 4 | 3 | 4 |
| Waive fees/refunds | 11 | 14 | 42 | 24 | 7 |
| **Petitions awaiting action as of 9/30** | | | | | |
| Trademark petitions awaiting response | 2,197 | 354 | 253 | 222 | 275 |
| Trademark petitions awaiting action | 582 | 1,791 | 2,179 | 379 | 177 |
| Trademark pending filing date issues | 12 | 8 | 1 | 7 | 22 |

*- Represents zero.*

*1 Trademark applications entitled to a particular filing date; based on clear evidence of Trademark organization error.*

*2 Trademark applications restored to pendency; inadvertently abandoned by the Trademark organization.*

*3 The petition to revive numbers were not separated into two categories (paper versus electronic) in previous years.*

** Not reported in previous years.*

TABLE 25

## CASES IN LITIGATION
## (Selected Courts of the United States, FY 2006)

| | PATENTS | TRADEMARKS | OED | TOTAL |
|---|---|---|---|---|
| **United States District Courts** | | | | |
| **Civil actions pending as of 9/30/05, total** | 13 | 1 | 2 | 16 |
| **Filed during FY 2006** | 22 | 4 | - | 26 |
| **Disposals, total** | **19** | **5** | **2** | **26** |
| Affirmed | 2 | - | 1 | 3 |
| Reversed | - | 1 | - | 1 |
| Remanded | 11 | 1 | - | 12 |
| Dismissed | 4 | 1 | 1 | 6 |
| Amicus/intervene | - | - | - | - |
| Transfer | 2 | 2 | - | 4 |
| **Civil actions pending as of 9/30/06, total** | **16** | **-** | **-** | **16** |
| **United States Courts of Appeals[1]** | | | | |
| **Ex parte cases** | | | | |
| **Cases pending as of 9/30/05** | 26 | 4 | 1 | 31 |
| **Cases filed during FY 2006** | 42 | 12 | 5 | 59 |
| **Disposals, total** | **40** | **5** | **3** | **48** |
| Affirmed | 17 | 2 | 3 | 22 |
| Reversed | - | - | - | - |
| Remanded | 1 | - | - | 1 |
| Dismissed | 19 | 3 | - | 22 |
| Vacated | - | - | - | - |
| Transfer | 3 | - | - | 3 |
| Writs of mandamus: | - | - | - | - |
| Granted | - | - | - | - |
| Granted-in-part | - | - | - | - |
| Denied | - | - | - | - |
| Dismissed | - | - | - | - |
| **Total ex parte cases pending as of 9/30/06** | **28** | **11** | **3** | **42** |
| **Inter partes cases** | | | | |
| **Cases pending as of 9/30/05** | 5 | 13 | - | 18 |
| **Cases filed during FY 2006** | 7 | 17 | - | 24 |
| **Disposals, total** | **9** | **16** | **-** | **25** |
| Affirmed | 4 | 8 | - | 12 |
| Reversed | - | - | - | - |
| Remanded | 1 | 1 | - | 2 |
| Dismissed | 4 | 7 | - | 11 |
| Amicus/intervene | - | - | - | - |
| Transferred | - | - | - | - |
| **Total inter partes cases pending as of 9/30/06** | **3** | **14** | **-** | **17** |
| **Total United States Courts of Appeals cases pending as of 9/30/06** | **31** | **25** | **3** | **59** |
| **Supreme Court** | | | | |
| **Ex parte cases** | | | | |
| **Cases pending as of 9/30/05** | 3 | - | - | 3 |
| **Cases filed during FY 2006** | 4 | - | 1 | 5 |
| **Disposals, total** | 5 | - | - | 5 |
| **Cases pending as of 9/30/06, total** | **2** | **-** | **1** | **3** |
| **Notices of Suit filed in FY 2006** | **2,205** | **2,086** | **-** | **4,291** |

*- Represents zero.*

*[1] Includes Federal Circuit and others.*

**TABLE 26**

## PATENT CLASSIFICATION ACTIVITY (FY 2002 - FY 2006)

| ACTIVITY | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| Original patents professionally reclassified - completed projects | 19,621 | 10,802 | 20,370 | 12,170 | 6,264 |
| Subclasses established | 780 | 2,023 | 552 | 496 | 498 |
| **Reclassified patents clerically processed, total** | **52,023** | **205,476** | **58,738** | **50,932** | **33,376** |
| Original U.S. patents | 13,155 | 16,202 | 20,555 | 16,572 | 9,740 |
| Cross-reference U.S. patents | 38,868 | 189,274[1] | 38,183 | 34,360 | 23,636 |

[1] *FY 2003 cross-reference U.S. patents includes 1,800 European Classification System based subclasses that were added to the semiconductor classes in United States Patent Classification System.*

**TABLE 27**

## SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY (FY 2006)

| ACTIVITY | QUANTITY |
|---|---|
| **Prior Art Search Services Provided:** | |
| Automated Prior Art Searches Completed | 34,467 |
| On-line and Manual Foreign Patent Searches Completed | 4,293 |
| Genetic Sequence Searches Completed | 12,688 |
| Number of Genetic Sequences Searched | 36,823 |
| CRF Submissions Processed | 15,924 |
| PLUS Searches Completed | 36,624 |
| **Document Delivery Services Provided:** | |
| Document Delivery/Interlibrary Loan Requests Processed | 46,246 |
| Copies of Foreign Patents Provided: | 10,847 |
| Copies Purchased by the Public | 266 |
| Copies Provided to USPTO Staff | 10,581 |
| Foreign Patents Provided Using Electronic Tools | 8,872 |
| **Information Assistance and Automation Services:** | |
| One-on-One Examiner Information Assistance | 20,839 |
| One-on-One Examiner Automation Assistance | 10,514 |
| Patents Employee Attendance at Automation Classes | 17,140 |
| Foreign Patents Assistance for Examiners and Public | 1,547 |
| Examiner Briefings on STIC Information Sources and Services | 5,819 |
| **Translation Services Provided for Examiners:** | |
| Written Translations of Documents | 7,211 |
| Number of Words Translated (Written) | 21,305,642 |
| Documents Orally Translated | 3,014 |
| **Total Number of Examiner Service Contacts** | 274,688 |
| **Collection Usage and Growth:** | |
| Print/Electronic (NPL) Collection Usage | 1,156,860 |
| Print Books/Subscriptions Purchased | 71,929 |
| Full Text Electronic Journal Titles Available | 14,100 |
| Full Text Electronic Book Titles Available | 23,350 |
| NPL Databases Available for Searching (est.) | 1,537 |

**TABLE 28**

**END OF YEAR PERSONNEL (FY 2002 - FY 2006)**

| ACTIVITY | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|---|
| **Business** | | | | | |
| Patent Business Line | 6,045 | 5,990 | 6,060 | 6,494 | 7,283 |
| Trademark Business Line | 894 | 733 | 756 | 869 | 906 |
| Total USPTO | 6,939 | 6,723 | 6,816 | 7,363 | 8,189 |
| **Examination Staff** | | | | | |
| Patent Examiners | | | | | |
| UPR Examiners | 3,538 | 3,579 | 3,681 | 4,177 | 4,779 |
| Design Examiners | 58 | 58 | 72 | 81 | 104 |
| Total UPR and Design Examiners | 3,596 | 3,637 | 3,753 | 4,258 | 4,883 |
| Trademark Examining Attorneys | 258 | 256 | 286 | 357 | 413 |

**TABLE 29A**

## TOP 50 TRADEMARK APPLICANTS (FY 2006)

| NAME OF APPLICANT | CLASSES[1] |
|---|---|
| MATTEL, INC. | 894 |
| Victoria's Secret Stores Brand Management | 711 |
| Disney Enterprises, Inc. | 398 |
| Mars, Incorporated | 304 |
| Sovereign Deed, LLC | 300 |
| The Procter & Gamble Company | 284 |
| Bristol-Myers Squibb Company | 267 |
| LF, LLC | 264 |
| Microsoft Corporation | 260 |
| VIACOM INTERNATIONAL INC. | 247 |
| Novartis AG | 238 |
| Pfizer Inc. | 216 |
| Deutsche Telekom AG | 207 |
| The Coca-Cola Company | 189 |
| Unilever Supply Chain, Inc. | 168 |
| Alexandria Real Estate Equities, Inc. | 167 |
| The Dannon Company, Inc. | 161 |
| International Business Machines Corporat | 154 |
| Eli Lilly and Company | 151 |
| Anadarko Petroleum Corporation | 150 |
| Homer TLC, Inc. | 145 |
| IGT | 144 |
| True Value Company | 142 |
| DNA (HOUSEMARKS) LIMITED | 137 |
| The Hartz Mountain Corporation | 135 |
| Conair Corporation | 132 |
| L'Oreal | 132 |
| JAKKS Pacific, Inc. | 131 |
| Glaxo Group Limited | 129 |
| Johnson & Johnson | 129 |
| THE CARTOON NETWORK LP, LLLP | 125 |
| JOHNSON & JOHNSON | 124 |
| SmithKline Beecham Corporation | 124 |
| Bath & Body Works Brand Management, Inc. | 119 |
| Abercrombie & Fitch Trading Co. | 118 |
| MeadWestvaco Corporation | 117 |
| General Electric Company | 115 |
| Wal-Mart Stores, Inc. | 114 |
| Columbia Insurance Company | 113 |
| Abbott Laboratories | 112 |
| L'Oreal USA Creative, Inc. | 112 |
| Diageo North America, Inc. | 110 |
| Provent Holdings Ltd. | 110 |
| Televisa, S.A. de C.V. | 110 |
| Imperial Palace of Mississippi, LLC | 109 |
| Discovery Communications, Inc. | 108 |
| PEPSICO, INC. | 108 |
| The New York Racing Association Inc. | 105 |
| Hershey Chocolate & Confectionery Corpor | 104 |
| Wm. Wrigley Jr. Company | 103 |

[1] *Applications with Additional Classes*

**TABLE 29B**

## TOP 50 TRADEMARK REGISTRANTS (FY 2006)

| NAME OF APPLICANT | REGISTRATIONS |
|---|---|
| MATTEL, INC. | 637 |
| Deutsche Telekom AG | 427 |
| Novartis AG | 123 |
| American International Group, Inc. | 119 |
| The Procter & Gamble Company | 117 |
| Disney Enterprises, Inc. | 115 |
| IGT | 96 |
| Mars, Incorporated | 96 |
| BeautyBank Inc. | 91 |
| HASBRO, INC. | 88 |
| Nedboy,a Robin L | 88 |
| DaimlerChrysler AG | 87 |
| Siemens Aktiengesellschaft | 85 |
| Fédération Internationale de Football As | 80 |
| General Electric Company | 72 |
| L'Oreal | 72 |
| VOTIVO, LTD. | 72 |
| Delaware Capital Formation, Inc. | 68 |
| MeadWestvaco Corporation | 66 |
| Twentieth Century Fox Film Corporation | 65 |
| VIACOM INTERNATIONAL INC. | 63 |
| L'Oreal USA Creative, Inc. | 61 |
| Rodale Inc. | 61 |
| WMS GAMING INC. | 60 |
| Glaxo Group Limited | 58 |
| philosophy, inc. | 57 |
| Alliant Techsystems Inc. | 56 |
| Microsoft Corporation | 56 |
| AstraZeneca AB | 55 |
| Koninklijke Philips Electronics N.V. | 55 |
| Aristocrat Technologies Australia PTY Lt | 54 |
| Diageo North America, Inc. | 53 |
| JOHNSON & JOHNSON | 52 |
| Avon Products, Inc. | 49 |
| The Haworth Press, Inc. | 49 |
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# Glossary *of* Acronyms *and* Abbreviation list

UNITED STATES PATENT AND TRADEM
DEPARTMENT OF CO

# GLOSSARY OF ACRONYMS AND ABBREVIATION LIST

| | |
|---|---|
| **ABC** | Activity Based Cost |
| **ABM** | Activity Based Management |
| **AIPA** | American Inventors Protection Act |
| **APEC** | Asia-Pacific Economic Cooperation |
| **ASEAN** | Association of South East Asian Nations |
| **BPAI** | Board of Patent Appeals and Interferences |
| **CAFTA-DR** | Central American Free Trade Agreement – Dominican Republic |
| **CS** | Commercial Service |
| **CSRS** | Civil Service Retirement System |
| **DOC** | Department of Commerce |
| **DOL** | Department of Labor |
| **EAST** | Examiner Automated Search System |
| **EC** | European Communities |
| **EFS** | Electronic Filing System |
| **EFT** | Electronic Funds Transfer |
| **EPO** | European Patent Office |
| **FASAB** | Federal Accounting Standards Advisory Board |
| **FAST** | First Action System for Trademarks |
| **FECA** | Federal Employees' Compensation Act |
| **FEGLI** | Federal Employees Group Life Insurance |
| **FEHB** | Federal Employees Health Benefit Program |
| **FERS** | Federal Employees Retirement System |
| **FFMIA** | Federal Financial Management Improvement Act |
| **FICA** | Federal Insurance Contributions Act |
| **FMFIA** | Federal Managers' Financial Integrity Act |
| **FMS** | Financial Management Services |
| **FTA** | Free Trade Agreement |
| **FY** | Fiscal Year |
| **GAAP** | Generally Accepted Accounting Principles |
| **GAO** | Government Accountability Office |
| **GI** | Geographical Indication |
| **GIPA** | Global Intellectual Property Academy |
| **GPRA** | Government Performance and Results Act |
| **GSA** | Government Services Administration |
| **HCC** | Human Capital Council |
| **IACC** | International Anti Counterfeiting Coalition |
| **IDS** | Information Disclosure Statement |
| **IFW** | Image File Wrapper |
| **IG** | Inspector General |
| **IIPI** | International Intellectual Property Institute |
| **INL** | Bureau for International Narcotics and Law Enforcement Affairs |
| **IP** | Intellectual Property |
| **IPC** | International Patent Classification |
| **IPR** | Intellectual Property Rights |
| **IT** | Information Technology |
| **JCCT** | Joint Commission on Commerce and Trade |
| **JPO** | Japanese Patent Office |
| **MEPI** | Middle East Partnership Initiative |

| | |
|---|---|
| **MPAA** | Motion Picture Association of America |
| **MTS** | Metric Tracking System |
| **OACS** | Office Action Correspondence System |
| **OBRA** | Omnibus Budget Reconciliation Act |
| **OED** | Office of Enrollment and Discipline |
| **OHIM** | Office for Harmonization in the Internal Market |
| **OHR** | Office of Human Resources |
| **OIG** | Office of the Inspector General |
| **OIPE** | Office of Initial Patent Examination |
| **OMB** | Office of Management and Budget |
| **OPM** | Office of Personnel Management |
| **PAIR** | Patent Application Information Retrieval |
| **PALM** | Patent Application Location and Monitoring |
| **PART** | Program Assessment Rating Tool |
| **PCT** | Patent Cooperation Treaty |
| **PDF** | Portable Document Format |
| **PFW** | Patent File Wrapper |
| **PHP** | Patent Hoteling Program |
| **PMA** | President's Management Agenda |
| **S&T** | Science and Technology |
| **SFFAC** | Statements of Federal Financial Accounting Concepts |
| **SFFAS** | Statements of Federal Financial Accounting Standards |
| **SCCRR** | Standing Committee on Copyright and Related Rights |
| **SCP** | Standing Committee on the Law of Patents |
| **SCT** | Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications |
| **SIECA** | Secretariat for Central American Integration |
| **SIPO** | State Intellectual Property Office |
| **SIRA** | Search and Information Resources Administration |
| **STOP!** | Strategy Targeting Organized Piracy! |
| **TC** | Technology Centers |
| **TCE** | Traditional Cultural Expression |
| **TDA** | Trilateral Document Access |
| **TEAS** | Trademark Electronic Application System |
| **TK** | Traditional Knowledge |
| **TLT** | Trademark Law Treaty |
| **TRAM** | Trademark Reporting and Monitoring |
| **TRIP** | Trade-Related Aspects of Intellectual Property Right |
| **TTAB** | Trademark Trial and Appeal Board |
| **UNECE** | United Nations Economic Commission for Europe |
| **UPR** | Utility, Plant, and Reissue |
| **U.S.& FCS** | U.S. & Foreign and Commercial Service |
| **USC** | U.S. Code |
| **USEAC** | U.S. Export Assistance Center |
| **USPTO** | U.S. Patent and Trademark Office |
| **USTR** | U.S. Trade Representative |
| **WCT** | WIPO Copyright Treaty |
| **WIPO** | World Intellectual Property Organization |
| **WPPT** | WIPO Performances and Phonograms Treaty |
| **WTO** | World Trade Organization |
| **XML** | eXtensible Markup Language |

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*To send comments or get additional information about this report, please contact Joan Bolton:*
*600 Dulany Street, Alexandria, VA 22314*
*Joan.Bolton@uspto.gov.*
*Phone: 571-272-6290*
*Fax: 571-273-6290*

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