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Trademarks financial performance
USPTO: Status of the Trademark financial business

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Trademark Public Advisory Committee
Agenda

• FY 2021:
  – Appropriation update
  – Financial position & status of the business

• On the horizon: fee setting

• Next steps for the budget
  – FY 2022 President’s Budget to Congress
  – FY 2023 budget formulation
FY 2021 status: appropriation

• The FY 2021 Omnibus and COVID Relief and Response Act passed on December 27, 2020

• The bill provides the USPTO with $3.695B in spending authority for FY 2021 and requires that:
  – Any amount received in excess of the FY 2021 authorized amount will be deposited in the Patent and Trademark Fee Reserve Fund (PTFRF)
  – $2M shall be transferred to the OIG account for associated with carrying out investigations and audits related to the USPTO not to exceed
  – No more than $13.5K shall be made available for official reception and representation expenses
FY 2021 status: big picture view of the Trademark revenues

Applications

• Trademark application filings increased by 62.5% in FY 2021 through Jan (compared to FY 2020)
• Year to Date fee collections are 28% ($22M) above planned levels
• Should collections continue to outpace plans for the remainder of the year, they could exceed current plans by $50M - $70M

Renewals

• Year to Date fee collections are 9% ($3M) above planned levels
• Should collections continue to outpace plans for the remainder of the year, they could exceed current plans by $7M - $10M

New Fee Rates

• New fee rates went into effect on Jan 2\textsuperscript{nd}
• USPTO continues to monitor potential impacts of these changes
FY 2021 status: annualized revenue and EOY projections
FY 2021 status: revenue and spending

FY 2021 Trademark Revenue and Spending

- Comm & Obs
- Revenue
- Proj. Obs
- Proj. Revenue
- FY21 Projected Spending Level
FY 2021 financial position: Trademark operating reserve

- With the implementation of the fee rate increases effective January 2, 2021, and current workload, revenue and spending assumptions, the operating reserve is projected to
  - stay above the minimum level of $75M
  - exceed the optimal level in FY 2024 and beyond
On the horizon: fee setting

• The agency is monitoring the impact of the recent fee rate increase, effective January 2, 2021, on revenue collections and applicant behavior
  – The annual impact of the fee increase is estimated at $70M

• An international applicant fee, related to the Madrid Protocol, was increased from $400 to $500 on February 18, 2021
On the horizon: fee setting

• The USPTO will soon begin evaluating proposals and conducting analysis on potential adjustments to current fees
  – Proposals will focus on advancing a fee structure for the future that balances public policy, operation efficiencies and financial needs
• In addition, the USPTO is implementing provisions of the Trademark Modernization Act of 2020 (TMA):
  – New ex parte reexamination and expungement proceedings and fees for these services
  – Amend the existing letter-of-protest rule to indicate that letter-of-protest determinations are final and non-reviewable
  – Flexible Office action response periods between 60 days and six months, with an option for applicants to extend the deadline up to a maximum of six months from the Office action issue date
  – The first two provisions are required to be implemented by December 2021
On the horizon: fee setting – major fee categories percentage of collections

- Application Filings, 51%
- Renewals, 20%
- Six-month extension for statement of use, 11%
- Statements of use/amendments to allege use, 4%
- Other, 14%
Next steps for the budget

- **FY 2022 President’s Budget**
  - The USPTO is finalizing its requirements for the FY 2022 President’s Budget submission.
    - The budget is typically due to Congress the first Monday in February. With the change in administration, the submission date is delayed.
    - The USPTO expects that the House and Senate CJS Subcommittees on Appropriation will hold hearings for the DOC’s FY 2022 budget.

- **FY 2023 Budget Formulation**
  - Kicking off process in the spring
    - Process includes re-baselining FY 2022 requirements and revenue estimates
  - Provide draft document to PACs, DOC, and OMB for review in August
  - Submit final budget to OMB in September
Thank you!

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