USPTO financial status update

Jay Hoffman
Chief Financial Officer
November 18, 2021
Patent Public Advisory Committee quarterly meeting
Agenda

• FY 2021: financial recap of last year
• FY 2022: starting a new year
  – planning assumptions
  – status
• On the horizon: FY 2023 budget
FY 2021 recap: total fee collections

- USPTO total FY 2021 fee collections were $3.6 billion
  - $95M below FY 2021 spending authority of $3.7B (appropriated amount)
  - $102M below FY 2020 total collections of $3.7B
FY 2021 recap: timing of fee collections

- Actual FY 2020 fee collections exceeded the appropriated level due to the timing of the fee rule implemented on October 2, 2020
  - USPTO received $266M in FY 2020 that would have been collected in FY 2021
    - $232M of total fees ($215M in patent fees) were deposited into the Patent and Trademark Fee Reserve Fund (PTFRF) at the end of FY 2020
    - FY 2021 fee collections were artificially low
FY 2021 recap: Patent fee collections

FY 2021 Appropriated Level for Patents: $3,251M

As of September 30, 2021
Actual EOY Collections: $3,128M
Above/Below FY 2021 Plan: $30M, 1.0%

FY 2021 Annual Plan for Patents: $3,098M
FY 2021 recap: Patent financial results

<table>
<thead>
<tr>
<th></th>
<th>FY 2021 Plan (from the FY 2022 PB)</th>
<th>FY 2021 Actuals</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>+ Patent fee collections and other income</td>
<td>$3,144</td>
<td>$3,183</td>
<td>$39</td>
</tr>
<tr>
<td>- Patent obligations (spending)</td>
<td>$3,415</td>
<td>$3,319</td>
<td>($96)</td>
</tr>
<tr>
<td><strong>Net result</strong></td>
<td><strong>($271)</strong></td>
<td><strong>($136)</strong></td>
<td><strong>$135</strong></td>
</tr>
<tr>
<td>Transfer from PTFRF</td>
<td>$215</td>
<td>$215</td>
<td>--</td>
</tr>
<tr>
<td><strong>Total contribution to operating reserve</strong></td>
<td><strong>($56)</strong></td>
<td><strong>$79</strong></td>
<td><strong>$135</strong></td>
</tr>
</tbody>
</table>

- Fee collections for the fiscal year ended above the FY 2021 levels planned for in the FY 2022 President’s Budget due to higher than expected filing and maintenance fee collections
- Spending for the fiscal year ended slightly below the FY 2021 levels planned for in the FY 2022 President’s Budget
  - Spending was lower than planned primarily due to timing differences of spending between FY 2021 and FY 2022, under-execution of hiring plan, and under-execution of spending
The PTFRF deposit was made available and replenished the USPTO’s operating reserve in March of FY 2021.
FY 2021 recap: Patent operating reserve (cont.)

- Ended FY 2021 with $476M in patent operating reserve
  - The agency is making progress toward achieving the optimal operating reserve level
  - The higher reserve level will allow USPTO to mitigate risk of unpredictable demand changes and financial uncertainties
FY 2022 President’s Budget planning assumptions*

- Estimated fee collections: $3.608B
  - Serialized filings: 1.5% increase in FY 2022 from FY 2021; growth resuming to 2.0% in FY 2023
  - Renewal rates are projected to be slightly lower through FY 2022 and patents available to be renewed higher

- Projected spending: $3.550B
  - Assumes pay raise of 2.7% for an estimated USPTO staff of 13,723
  - Total IT spending planned at $759M with a focus on priority areas (e.g., AI and investing in a modern infrastructure). Includes reducing technical debt, improving failover/resiliency, and a cloud first posture
  - Examiner hires: 500 (net increase of 113)

- BOY operating reserve: $341M and EOY operating reserve: $386M
  - Expected growth; continue making progress toward the optimal operating reserve level

- PTFRF ending balance: $58.0M**

*FY 2022 outlook and assumptions will change during the year
**The PTFRF level estimated is dependent on congressional appropriations levels that have yet to be determined
FY 2022 President’s Budget – planned patent business line fees and spending
The Extending Government Funding and Delivering Emergency Assistance Act passed on September 30, 2021. It funds the federal government under a continuing resolution (CR) through December 3, 2021.

- The USPTO is held to an adjusted spending level calculated from the FY 2021 appropriated level of $3.695B
  - This level is $299M lower than USPTO’s requested appropriation level for FY 2022
- The USPTO is also authorized to spend carryover (operating reserve balance) and other income

<table>
<thead>
<tr>
<th>$ in millions</th>
<th>Patent</th>
<th>Trademark</th>
<th>Total USPTO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee collections (CR authorized level through Dec 3\textsuperscript{rd}*</td>
<td>$569.6</td>
<td>$77.9</td>
<td>$647.4</td>
</tr>
<tr>
<td>+ Operating reserve balance (apportioned carryover)</td>
<td>$457.7</td>
<td>$199.7</td>
<td>$657.4</td>
</tr>
<tr>
<td>+ Other income (expected through Dec 3\textsuperscript{rd})</td>
<td>$7.5</td>
<td>$1.8</td>
<td>$9.3</td>
</tr>
<tr>
<td><strong>Total funding sources available through Dec 3\textsuperscript{rd}</strong></td>
<td><strong>$1,034.8</strong></td>
<td><strong>$279.4</strong></td>
<td><strong>$1,314.2</strong></td>
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** amount premised on fees collected up to the CR level

FY 2022 status: funding available during CR
FY 2022 status: appropriation

• The House Commerce, Justice, and Science (CJS) subcommittee marked the USPTO budget at $3.994B
  – This level aligns to the USPTO’s estimated FY 2022 spending level

• The Senate CJS subcommittee marked the USPTO budget at $4.058B
  – This level aligns to the USPTO’s estimated fee collection level

• Congress will reconcile this difference in the final appropriations bill
On the horizon

• FY 2023 budget
  – USPTO’s FY 2023 budget request was submitted to the White House Office of Management and Budget (OMB) on September 13, 2021
  – The President’s FY 2023 Budget should be submitted to Congress in early February 2022
  – USPTO expects that appropriation hearings will be held for DOC’s FY 2023 Budget by the House and Senate CJS subcommittees next spring
Thank you!

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