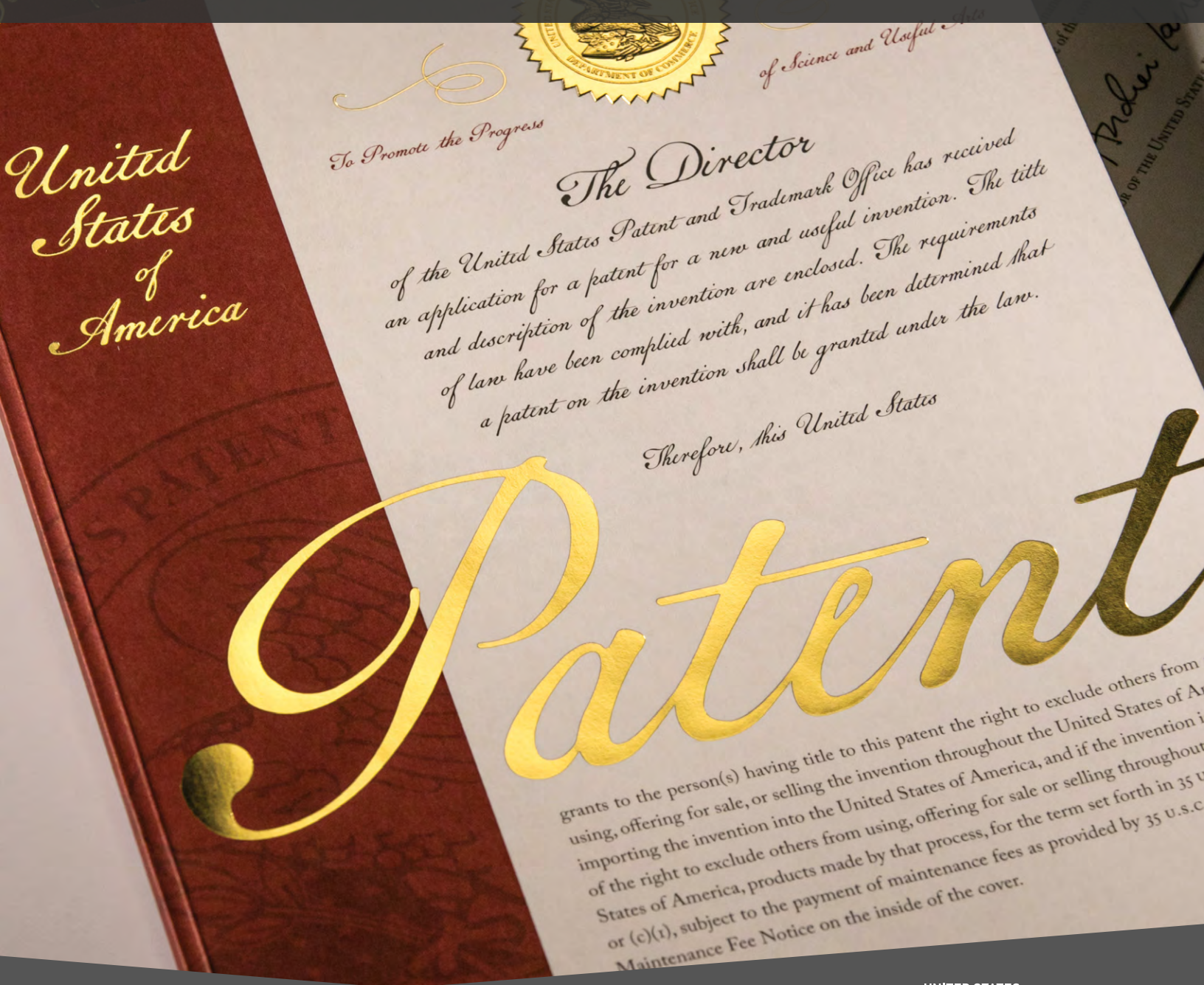


United States Patent and Trademark Office

FY 2018

PERFORMANCE AND ACCOUNTABILITY REPORT



UNITED STATES
PATENT AND TRADEMARK OFFICE

uspto

FINANCIAL AND RELATED HIGHLIGHTS

(Dollars In Thousands)	% Change 2018 over 2017	For the year ended September 30, 2018	For the year ended September 30, 2017
Fund Balance with Treasury	5.0%	\$ 2,372,752	\$ 2,259,911
Property, Plant, and Equipment, Net	0.6%	527,081	523,842
Other Assets	(21.5%)	26,227	33,421
Total Assets	3.9%	<u>\$ 2,926,060</u>	<u>\$ 2,817,174</u>
Deferred Revenue	3.6%	\$ 970,889	\$ 936,854
Accounts Payable	10.8%	112,662	101,703
Accrued Payroll, Benefits, and Leave	4.4%	262,588	251,427
Other Liabilities	(2.2%)	146,344	149,638
Total Liabilities	3.7%	\$ 1,492,483	\$ 1,439,622
Net Position	4.1%	1,433,577	1,377,552
Total Liabilities and Net Position	3.9%	<u>\$ 2,926,060</u>	<u>\$ 2,817,174</u>
Total Earned Revenue	6.6%	\$ 3,309,388	\$ 3,105,346
Total Program Cost	4.0%	(3,321,475)	(3,193,411)
Net Cost of Operations	(86.3%)	\$ (12,087)	\$ (88,065)
Budgetary Resources Available for Spending	4.9%	\$ 3,751,315	\$ 3,577,570
Net (Collections)/Outlays	(224.7%)	\$ (117,951)	\$ 94,625
Federal Personnel	(0.1%)	12,579	12,588
On-Time Payments to Vendors	-%	99%	99%

PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2018 Target	FY 2018 Actual	Performance Results*
Patent Average First Action Pendency (months)	15.4	15.8	Slightly Below
Patent Average Total Pendency (months)	25	23.8	Met
Trademark Average First Action Pendency (months)	2.5-3.5	3.4	Met
Trademark Average Total Pendency (months)	12	9.6	Met
Trademark First Action Compliance Rate	95.5%	96.9%	Met
Trademark Final Compliance Rate	97.0%	97.9%	Met
Exceptional Office Action	45.0%	48.0%	Met
Trademark Applications Processed Electronically	86.0%	87.9%	Met
<i>Percentage of prioritized countries for which intellectual property country teams have made progress on at least three of the four performance criteria:</i> <ul style="list-style-type: none"> ▪ Institutional improvements of intellectual property (IP) office administration for advancing IP rights, ▪ Institutional improvements of IP enforcement entities, ▪ Improvements in IP laws and regulations, and ▪ Establishment of government-to-government cooperative mechanisms. 	66%	100%	Met
Number of People, Including Foreign Government Officials and U.S. Stakeholders, Trained on Best Practices to Protect and Enforce Intellectual Property	5,000	7,242	Met

* The performance result of a given measure is either met (100% or greater of target), slightly below (95%-99% of the target), or not met (below 95% of target).

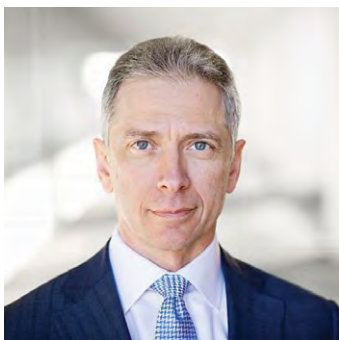
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MESSAGE





Andrei Iancu

MISSION-FOCUSED STRATEGIC GOALS

GOAL I:

Optimize Patent Quality and Timeliness

GOAL II:

Optimize Trademark Quality and Timeliness

GOAL III:

Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide

MANAGEMENT GOAL:

Achieve Organizational Excellence

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

It has been a privilege and honor to lead this agency since taking the oath of office back in February as Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office (USPTO). It is a role that I embrace with tremendous respect and appreciation for the historic work of this agency and for the genius, imagination, creativity, and determination of our nation's scientists, inventors, and entrepreneurs. As I noted in one of my early speeches, I am focused on creating a new pro-innovation, pro-intellectual property (IP) dialogue, and increasing the reliability of the patent grant. We work hard on your behalf every day to grant certain, reliable, predictable, and high-quality IP rights to create jobs in America and to ensure that an inventor's rights are protected.

PATENTS

Fiscal year (FY) 2018 was enormously eventful for the USPTO. On March 11, 2018, we unveiled a newly designed U.S. patent cover, a document steeped in America's economic and cultural history. Re-designed for only the second time in 100 years, the new cover—through design, typography, and printing—is a more contemporary take on the significance of what the document represents, with a particular emphasis on the value of a patent and its role in the future of our economic and cultural growth. To further reinforce the historical significance of the document and its roots in the founding of the republic, some key words from the Constitution were incorporated into the design: *"To promote the progress of science and useful arts."* The new patent cover was created and used for the first time on June 19, 2018, to commemorate the issuance of U.S. patent number 10 million. It was a truly historic occasion and an important milestone, not only in our nation's history, but also on the larger continuum of human achievement. Indeed, all of the early presidents—George Washington, Thomas Jefferson, and up to John Quincy Adams—signed patent documents, so it was particularly meaningful that President Donald J. Trump signed patent 10 million in the Oval Office. George Washington was, of course, the first president to sign not only a U.S. patent, but also the Patent Act of 1790 that created the U.S. patent system. Thus, it was fitting that we held another signing ceremony and reception afterward at George Washington's Gristmill at Mount Vernon.

Throughout FY 2018, Patents—in support of its goal to provide more guidance on subject matter eligibility—published new and updated materials, including memoranda on *Vanda Pharmaceuticals Inc. v. West-Ward Pharmaceuticals*.

In addition, as part of the first phase of its Access to Relevant Prior Art Initiative, Patents worked to create an automated tool to import prior art references from previously filed parent applications into later-filed child applications. Developed in response to public input in 2016 on leveraging electronic resources, roundtable event on leveraging electronic resources to retrieve information from an applicant's other applications, this initiative will ensure that prior art references in a parent application will be considered by the examiner in the child application without the applicant having to resubmit them.

In FY 2018, Patents also made several improvements for users of Global Dossier, which consolidates in a single website information in patent applications filed with the world's largest patent offices. One critical improvement included the addition of an indicator on how relevant specific parts of the application were to the examiner in evaluating the patentability of the innovation. This improvement reduces the amount of information users need to review and understand the processing of the application.

TRADEMARKS

In Trademarks, filings increased by 7.5 percent in FY 2018, but its examining attorneys exceeded pendency and quality targets for the 13th consecutive fiscal year. Complete electronic processing of trademark applications rose from 86.5 percent to 87.9 percent of applications in FY 2018. In May 2018, the USPTO issued a notice of proposed rulemaking to mandate electronic filing of trademark applications and submissions associated with trademark applications and registrations, which will further advance the USPTO's strategy to achieve complete end-to-end electronic processing of trademark-related submissions. Electronic filing benefits our users and operations; thus, the USPTO will continue engaging with the public to identify ways to streamline processes, lessen the financial burden on applicants, and efficiently process trademark applications.

POLICY AND INTERNATIONAL AFFAIRS

The USPTO's Office of Policy and International Affairs (OPIA) continued in FY 2018 to advise the administration and Congress on IP policy issues, including providing IP expertise in international trade matters. OPIA also continued developing and providing programs to improve IP systems in key countries and regions for the benefit of U.S. stakeholders. Participants included U.S. and foreign officials with IP-related responsibilities, such as judges, prosecutors, patent and trademark examiners, and IP office administrators, as well as U.S. stakeholders. In FY 2018, OPIA trained over 7,240 participants through in-person and distance-learning programs. These included more than 3,950 foreign government officials representing 83 countries. OPIA also worked throughout FY 2018 to improve IP protection and enforcement for U.S. stakeholders around the world through its network of overseas IP attachés and U.S.-based IP specialists, including outreach programs such as the 14 China IP Road Shows held throughout the United States.

INFORMATION TECHNOLOGY

In late FY 2018, we experienced a significant IT challenge. On August 15, the Office of the Chief Information Officer (OCIO) discovered data corruption in the database servers supporting Patent Application Location Monitoring (PALM), a critical cog of many systems we use in processing patent applications. The team began work immediately in an attempt to resolve the issue. Upon deeper analysis, teams discovered that the data corruption was more severe and required systems to be brought offline and rebuilt; there were approximately 200 corrupt tables in the database. In the days that followed, USPTO teams worked around the clock to rebuild the supporting systems, restore the database from backup, and re-establish critical replication points without any loss of data.

THE USPTO MISSION

Fostering innovation, competitiveness, and economic growth, domestically and abroad, by delivering (1) high-quality and timely examination of patent and trademark applications, (2) guiding domestic and international intellectual property policy, and (3) delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.

Most of the legacy systems that we operate at the USPTO have not had a major upgrade in years. We are performing a fundamental review of our IT needs and options to not only prevent such incidents in the future, but to also provide consistent, reliable service to our stakeholders.

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent. The USPTO, for the 26th consecutive year, earned an unmodified audit opinion on our annual financial statements. The independent auditors did not identify any material weaknesses or instances of non-compliance with laws and regulations for the FY 2018 financial reporting period.

I began this letter highlighting the USPTO's issuance of U.S. patent number 10 million, but as remarkable as the preceding 9,999,999 inventions were that brought us to 10 million patents—including light, flight, DNA synthesis, the modern internet, and countless others—I firmly believe that the *next* 10 million patents and beyond will be even more remarkable. The USPTO will be at the center of those efforts, working with all of our nation's inventors to ensure that our IP system meets its full Constitutional mandate "*to promote the progress of science and useful arts.*" As we move forward into 2019 and beyond, I am very proud of what the USPTO accomplished in FY 2018 and am excited about the future.



Andrei Iancu

*Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office*

November 9, 2018

INTRODUCTION



**THIS REPORT
IS ORGANIZED
INTO FOUR
SECTIONS, PLUS
A GLOSSARY
AND URL INDEX.**

ABOUT THIS REPORT

The United States Patent and Trademark Office (USPTO) Performance and Accountability Report (PAR) provides information on the USPTO's programs and the results of the agency's programmatic and financial performance for fiscal year (FY) 2018. This report demonstrates to Congress, the administration, and to the public the USPTO's efforts to promote transparency and accountability over the resources entrusted to the agency. This report is available on the USPTO's website at www.uspto.gov/AnnualReport and satisfies the reporting requirements contained in the following legislation:

- Title 35 U.S.C. § 13;
- Leahy-Smith America Invents Act (AIA) of 2011;
- Federal Managers' Financial Integrity Act of 1982;
- Government Performance and Results Modernization Act of 2010;
- Government Management Reform Act of 1994;
- Accountability of Tax Dollars Act of 2002;
- Improper Payments Information Act of 2002, as amended;
- Reports Consolidation Act of 2000;
- Federal Financial Management Improvement Act of 1996; and
- Chief Financial Officers Act of 1990.

The USPTO's program and financial performance is summarized in the USPTO Citizen Centric Report, available on the USPTO website at www.uspto.gov/AnnualReport.

CONTRIBUTORS

The financial and program performance information presented in this report is the joint effort of the Office of the Under Secretary and Director, the Patent organization, the Trademark organization, the Office of Policy and International Affairs (OPIA), the Patent Trial and Appeal Board (PTAB), the Trademark Trial and Appeal Board (TTAB), the Office of the Chief Information Officer (OCIO), the Office of the Chief Administrative Officer (OCAO), the Office of Equal Employment Opportunity and Diversity (OEEOD), the Office of the Chief Communications Officer (OCCO), the Office of the General Counsel (OGC), Office of the Ombudsman, and the Office of the Chief Financial Officer (OCFO).

Last year's PAR cover and AGA's Certificates of Excellence in Accountability Reporting, including the Best-in-Class Award.



YOUR GUIDE TO USING THIS REPORT

MANAGEMENT'S DISCUSSION AND ANALYSIS SECTION

This section provides an overview of the USPTO's historical facts, mission, organization, and its strategic framework. A summary of significant case law developments and the agency's FY 2018 program and financial performance are provided, in addition to management's assessment of the challenges facing the USPTO and its assurances on the USPTO's internal controls. The program performance information is provided in more detail in the Performance Information Section, and the financial information is provided in more detail in the Financial Section.

PERFORMANCE INFORMATION SECTION

The Performance Information Section details the USPTO's performance accomplishments relative to the [agency's strategic plan](#) as required by Office of Management and Budget (OMB) Circular A-11, "Preparation, Submission, and Execution of the Budget." This section identifies the USPTO's key and supporting performance metrics and presents results achieved under the strategic goals and objectives. An overview is also provided of how the performance data are verified and validated.

FINANCIAL SECTION

A message from the USPTO's Chief Financial Officer opens this section, followed by the agency's audited financial statements, accompanying notes, required supplementary information, and the independent auditor's report.

OTHER INFORMATION SECTION

This section provides the top management challenges facing the USPTO, as identified by the Inspector General (IG); a summary table of financial statement audit and management assurances; information on the agency's efforts to eliminate improper payments; information on the government-wide effort to reduce the federal footprint; matters related to the Federal Civil Penalties Inflation Adjustment Act of 1990; other administrative updates; and reporting requirements required under USPTO legislation (the Nature of Training Provided to the USPTO Examiners and FY 2018 Workload Tables).

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

The glossary lists and defines the acronyms used throughout this report.

URL INDEX

For those using the paper version of the USPTO PAR, the items underlined in text can be found in the URL Index on page 211. It provides full Web addresses for all hyperlinks included in the PAR narrative.

MANAGEMENT'S DISCUSSION AND ANALYSIS



MISSION AND ORGANIZATION OF THE USPTO

The USPTO's mission is derived from Article I, Section 8, Clause 8, of the U.S. Constitution, "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries," and from the Commerce Clause of the Constitution (Article I, Section 8, Clause 3) supporting the federal registration of trademarks.

In addition, the USPTO has a statutory mandate (35 U.S.C. § 2(a)) to advise the President and all federal agencies, through the Secretary of Commerce, on national and international intellectual property (IP) policy issues. The USPTO is also authorized by statute to provide IP education worldwide, to conduct programs and studies on IP, and to interact with intergovernmental organizations and with other IP offices throughout the world.

For most of the last century, the United States has been the clear leader in developing new technologies, products, and entire industries that provide high-value jobs for Americans. As an agency of the U.S. Department of Commerce, the USPTO is uniquely situated to support the Department's mission to create conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship. The USPTO supports the Department of Commerce's goal of accelerating American leadership through strengthening IP protection. The USPTO also supports the Department of Commerce's goal of strengthening U.S. economic and national security through enforcing the nation's trade laws and security laws.

OUR ORGANIZATION

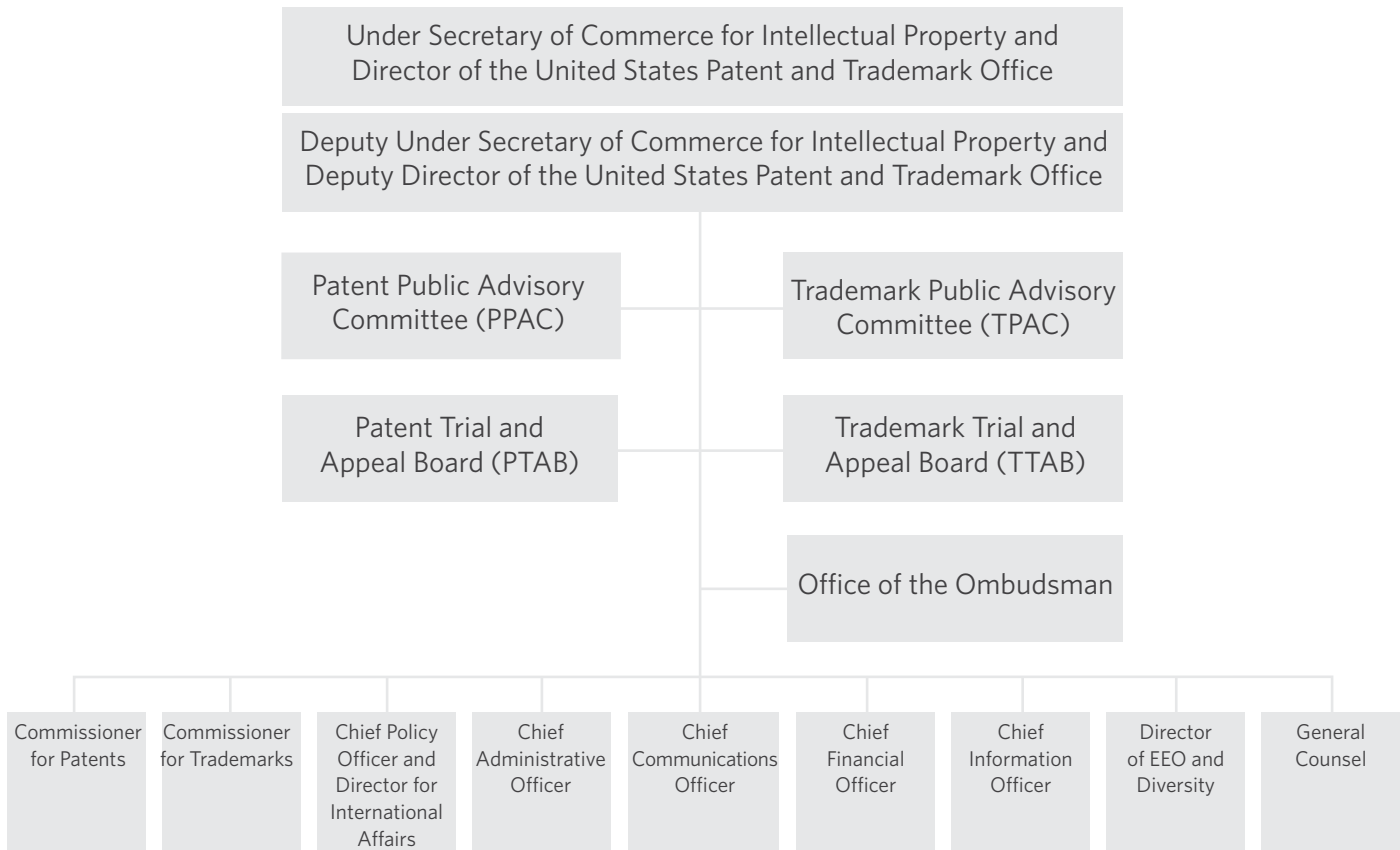
As shown in Figure 1, the USPTO is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC). The USPTO is composed of two major business lines, the Patent Business Line and the Trademark Business Line. Its policy and international work is spearheaded by OPIA, and the USPTO also has several other supporting units. The USPTO also formally established the Office of the Ombudsman, which is an independent, informal, confidential, and impartial resource available to all USPTO employees.

Headquartered in Alexandria, Va., the USPTO also has four regional offices: the Elijah J. McCoy Midwest Regional Office in Detroit, Mich.; the Rocky Mountain Regional Office in Denver, Colo.; the Silicon Valley Regional Office in San Jose, Calif.; and the Texas Regional Office in Dallas, Texas, as is seen in Figure 2. The USPTO has one storage facility located in Pennsylvania.

The USPTO has evolved into a unique government agency. In 1991, under the Omnibus Budget Reconciliation Act (OBRA) of 1990, the USPTO became fully supported by user fees to fund its operations. In 1999, the American Inventors Protection Act (AIPA) established the USPTO as an agency with performance-based attributes. For example, the USPTO has a clear mission statement, measurable services, a performance measurement system providing performance expectations to customers, and known sources of funding from those customers. In 2011, the AIA was enacted, and the reforms under this law continue to help the USPTO to improve and clarify patent rights, reduce the application backlog, and offer effective alternatives to costly patent litigation. It also provided temporary fee-setting authority, which is essential to the USPTO's sustainable funding model.

FIGURE 1.

U.S. PATENT AND TRADEMARK OFFICE ORGANIZATIONAL CHART



See <http://www.uspto.gov/about-us> for more details about the USPTO organization.

PATENT ORGANIZATION

The Patent organization examines patent applications to determine whether the claimed invention is eligible for patent protection, useful, adequately disclosed, and clearly defined, and evaluates the claimed invention in comparison to a large body of technological information to determine whether it is novel and non-obvious. Patent examiners also respond to appeal briefs on applications appealed to the PTAB and prepare preliminary examination reports for international applications filed under the Patent Cooperation Treaty (PCT). The patent process includes performing an administrative review of newly filed applications, publishing pending applications, issuing patents to successful applicants, and disseminating issued patents to the public.

TRADEMARK ORGANIZATION

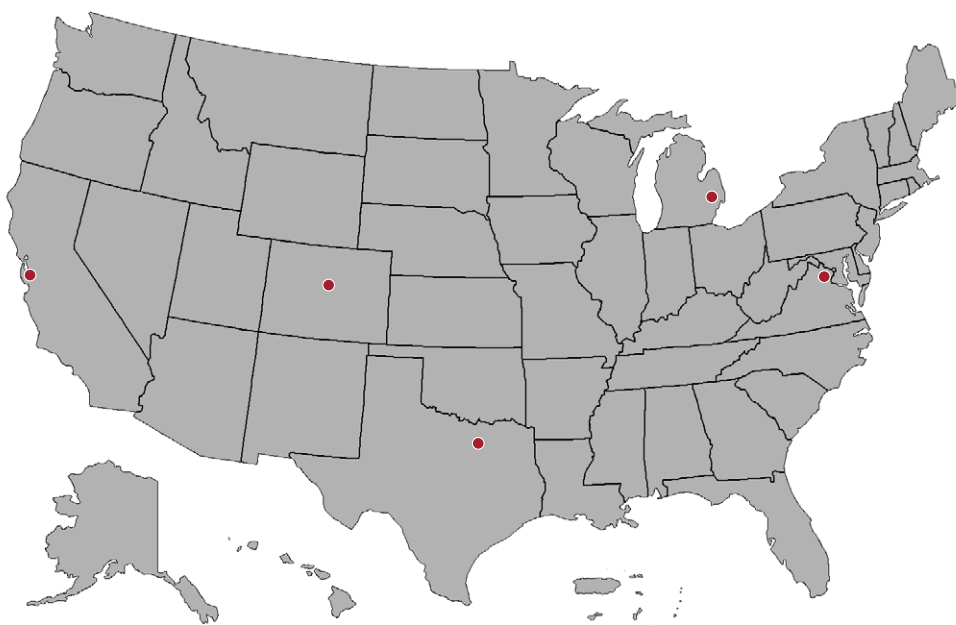
The Trademark organization registers marks (i.e., trademarks, service marks, certification marks, and collective membership marks)¹ that meet the requirements of the Trademark Act of 1946, as amended, and provides notice to the public and businesses of the trademark rights claimed in the pending applications and existing registrations of others. The core practice of the Trademark organization is the examination of applications for trademark registration. As part of that process, examining attorneys make determinations of registrability under the provisions of the Trademark Act, which includes searching electronic databases for any pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters informing applicants of the attorney's findings, approving applications to be published for opposition, and examining statements of use in applications filed under the Intent-to-Use provisions of the Trademark Act.

POLICY AND INTERNATIONAL AFFAIRS

OPIA supports the Under Secretary and Director's Office in fulfilling the USPTO's statutory mandate to advise the President (through the Secretary of Commerce) and all federal agencies on all IP policy issues, to conduct programs and studies on IP, and to work with IP offices and intergovernmental organizations worldwide. OPIA's work includes advising the Secretary of Commerce and the administration on the full range of IP policy matters; providing educational programs on IP; leading negotiations on behalf of the United States at the World Intellectual Property Organization (WIPO); providing expert assistance in negotiating the IP provisions of international trade agreements and advising on their implementation; managing the IP Attaché Program, through which IP experts are placed in cities throughout the world to promote appropriate IP protection; engaging with Congress and other federal agencies on IP legislation; and performing and supporting empirical studies of the economic impacts of IP and innovation.

FIGURE 2.

MAP OF THE USPTO HEADQUARTERS AND REGIONAL OFFICES



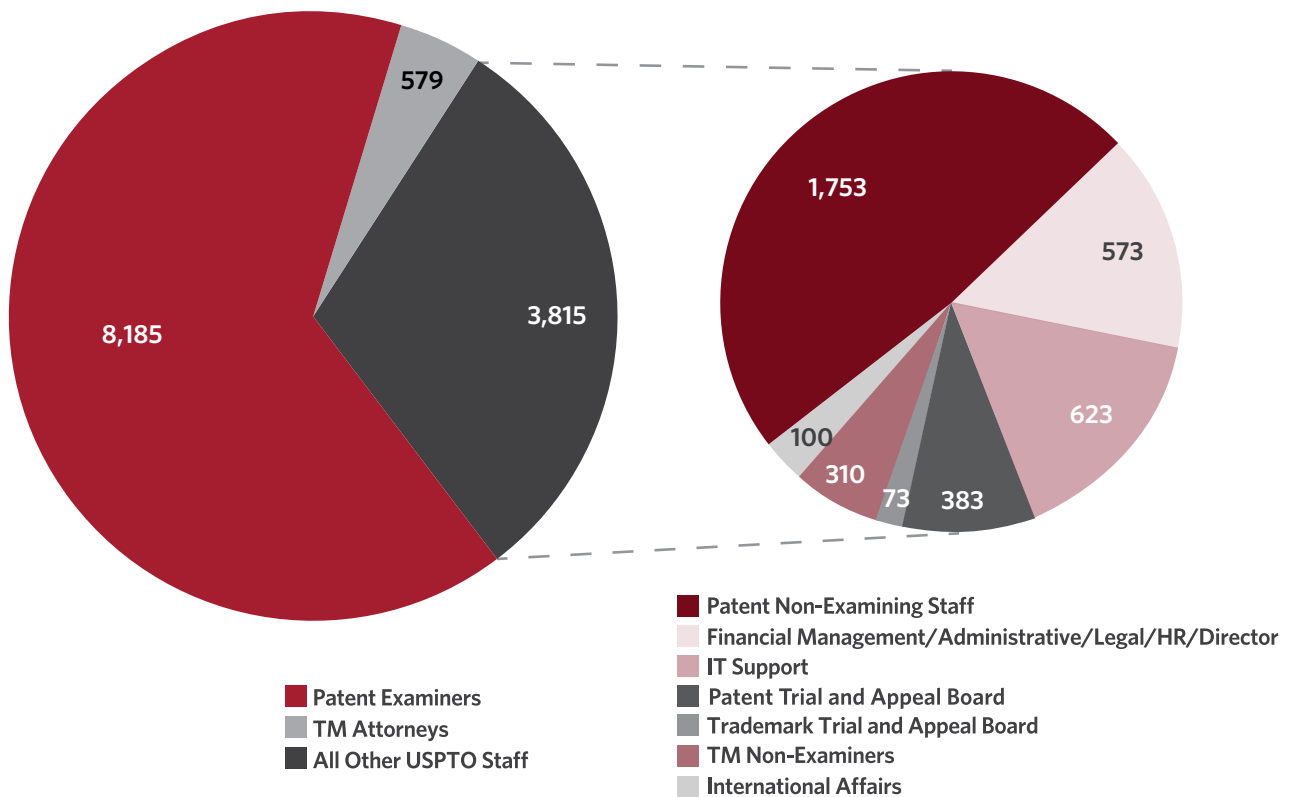
¹ **Certification mark:** A type of trademark that is used to show consumers that particular goods or services, or their providers, have met certain standards. It differs from a trademark, which shows the commercial source or brand of particular goods or services.

Collective membership mark: A trademark used by the members of a cooperative, an association, or other collective group or organization, or which such cooperative, association, or other collective group or organization has a bona fide intention to use in commerce.

OUR PEOPLE

At the end of FY 2018, the USPTO workforce (Figure 3) was composed of 12,579 federal employees, including 8,185 patent examiners, 579 trademark examining attorneys, and 3,815 other staff performing functions in areas including, but not limited to, patent and trademark trial and appeal boards, international affairs, congressional relations, information technology (IT) support, financial management, administrative duties, legal affairs, human resources, and supporting the Under Secretary and Director's Office.

FIGURE 3.
USPTO STAFFING



10 MILLION PATENTS

On June 19, 2018, the USPTO issued U.S. patent number 10 million. More than just a number, patent 10 million celebrates the rich history and strength of the American IP system dating back to the first U.S. patent, signed 228 years ago by George Washington on July 31, 1790, and issued to Samuel Hopkins for a process of making potash, an ingredient used in fertilizer.

Patent 10 million, for “Coherent Ladar Using Intra-Pixel Quadrature Detection,” symbolizes the breadth of American invention, with applications in such varied fields as autonomous vehicles, medical imaging devices, military defense systems, and space and undersea exploration. It was invented by Joseph Marron and is owned by Raytheon Company. This milestone of human ingenuity perhaps exceeds even the Founding Fathers’ expectations when they called for a patent system in the Constitution to “promote the Progress of Science and useful Arts.”

Patent 10 million also marked the introduction of the first new patent cover design in over 30 years and only the second new one in the last century. Created by an in-house team of USPTO designers and unveiled at South by Southwest in March 2018, the new cover includes visual nods to its historic predecessors and was designed to reflect the importance of innovation and IP to the American economy.

Patent 10 million was signed by the president, which is only the second time a president has signed a patent since the 19th century. For a detailed, interactive timeline highlighting important moments, notable inventors, changing patent designs, and other interesting facts that span over more than two centuries of innovation in America, please visit: <https://10millionpatents.uspto.gov/>.



The new patent cover design was unveiled in March 2018 at the South by Southwest Interactive Festival in Austin, Texas. Pictured from left to right: Robert Metcalfe, inventor of the Ethernet and a National Inventors Hall of Fame inductee; Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the USPTO; Drew Hirshfeld, USPTO Commissioner for Patents; and Susann Keohane, IBM Master Inventor and Global Research Leader for the Aging Initiative. (Photo: Jay Premack/USPTO)

SIGNIFICANT CASE LAW DEVELOPMENTS

RECENT DECISIONS

The USPTO continues to play a critical role in shaping IP law through litigation, as both a party and as an amicus (i.e., “friend of the court”). The agency’s IP litigation responsibilities fall primarily on the Office of the Solicitor within the USPTO’s OGC. The Solicitor’s Office defends the agency’s IP policy and procedures in federal court, including the decisions of the agency’s two administrative boards (i.e., the PTAB and TTAB), the decisions of the Director, and the agency’s rulemaking and policies. This litigation encompasses a broad spectrum of legal issues that affect both agency practice and substantive patent and trademark law.

In FY 2018, the USPTO worked with the United States Solicitor General’s Office on several important IP cases at the U.S. Supreme Court. Most notably, the USPTO worked with the Solicitor General to formulate the government’s amicus position in *Oil States Energy Services v. Greene’s Energy Group*, in which the Supreme Court considered whether inter partes review before the USPTO’s PTAB violates the Seventh Amendment of the U.S. Constitution by extinguishing a private property right through a non-Article III forum without a jury. In April 2018, a 7-2 majority of the Supreme Court issued a decision holding that Congress has significant latitude to assign adjudication of public rights to entities other than Article III courts, and that inter partes review falls squarely within the public-rights doctrine. The Court reasoned that the decision to grant a patent is a matter involving public rights, inter partes review is simply a reconsideration of that grant, and Congress has permissibly reserved the USPTO’s authority to conduct that reconsideration. The Court also noted that, when Congress properly assigns a matter to adjudication in a non-Article III tribunal, “the Seventh Amendment poses no independent bar to the adjudication of that action by a nonjury factfinder.” Thus, the rejection of *Oil States*’ Article III challenge also resolves its Seventh Amendment challenge.

The USPTO also worked with the Solicitor General’s Office in *SAS Institute, Inc. v. Iancu* to defend the USPTO’s position that the AIA does not require the PTAB to address all of the patent claims raised in a petition seeking inter partes review in its final written decision on the merits. In April 2018, the Court disagreed and issued a decision holding that the PTAB must issue a final written decision addressing every patent claim challenged in an inter partes review petition.

On other fronts, the Federal Circuit issued an en banc decision overruling the panel decision in *NantKwest v. Matal* that the USPTO would be entitled to full compensation for resources spent in the defense of Section 145 appeals. Under the Patent Act, patent applicants dissatisfied with the final outcome of patent prosecution proceedings may seek judicial review in an appeal to the Federal Circuit under 35 U.S.C. § 141, or in a civil action in the U.S. District Court for the Eastern District of Virginia under 35 U.S.C. § 145. Section 145 provides that applicants seeking relief in the latter forum must pay “[a]ll of the expenses of the proceeding,” “regardless of the outcome.” Although the USPTO had not previously interpreted “all of the expenses of the proceeding” to include attorney and paralegal fees,

that changed when the Fourth Circuit issued its 2015 decision in *Shammas v. Focarino*, confirming the USPTO's entitlement to attorney and paralegal fees under the analogous trademark statute, that is, 15 U.S.C. § 1071(b). After prevailing on the merits in the district court in *NantKwest v. Matal*, the USPTO sought to recover over \$110,000 in expenses from NantKwest under Section 145, including attorney and paralegal fees (calculated using an adjusted hourly rate based on employee annual salaries).

Although the district court granted the USPTO's expert fees request, it denied the USPTO's request for attorney and paralegal fees, citing the "American Rule," under which litigants pay their own attorneys' fee—win or lose—unless a statute or contract provides otherwise. A three-judge panel of the Federal Circuit reversed the District Court, holding that Section 145 entitles the USPTO to compensation for the diversion of its resources to defend the PTAB's decisions in Section 145 appeals. At the end of August 2017, the Court decided *sua sponte* (i.e., on the Court's own initiative) to rehear the case en banc. In July 2018, the en banc Court issued a 7-4 split decision, reversing its earlier panel decision and holding that the American Rule prohibits courts from shifting attorneys' fees from one party to another absent a "specific and explicit" directive from Congress and that the language in Section 145 regarding "[a]ll the expenses of the proceedings" falls short of this stringent standard. The USPTO is currently working with the Solicitor General and the Department of Justice to determine the agency's next steps with respect to this litigation.

PERFORMANCE HIGHLIGHTS

INTRODUCTION TO PERFORMANCE

This section of the Management's Discussion and Analysis describes the USPTO's strategic and performance-planning framework and provides highlights of the agency's FY 2018 performance results. The USPTO issued its *2014–2018 Strategic Plan* in 2014 (see Table 1). The Plan demonstrates the progress made to date by building on the tangible successes of recent years with a focus on achieving the USPTO's vision as a global IP leader by:

- Establishing progress toward optimal pendency and quality levels for both patents and trademarks that will enable the USPTO to operate efficiently and effectively within the expectations of the IP community;
- Administering effectively the provisions of the AIA;
- Continuing to transform the USPTO with next-generation technology and services;
- Maintaining a strong and diverse leadership team, agile management structure, and a diverse and engaged cadre of employees in achieving the agency's mission and vision;
- Continuing to work with other government agencies, Congress, and the USPTO's global partners to establish IP systems that benefit innovation, create jobs, and lead to strong economies around the world; and
- Recruiting and retaining the highest quality employees to accomplish the agency's important work.

The USPTO's *2014–2018 Strategic Plan* recognizes that innovation has become a principal driver of the modern economy by stimulating economic growth and creating high-paying jobs. America's innovators rely on the U.S. patent and trademark systems to secure investment capital and to bring their products and services to the marketplace as soon as possible. It is critical that the USPTO thrives in order for American innovation to succeed. The USPTO is currently working on a new *2018–2022 Strategic Plan*, which has been posted online for public comment and is expected to be finalized before the end of the calendar year.

TABLE 1.
2014-2018 STRATEGIC PLAN

MISSION	
Fostering innovation, competitiveness, and economic growth domestically and abroad by delivering high-quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.	
VISION	
Leading the Nation and the World in Intellectual Property (IP) Protection and Policy	
Strategic Goals with Resources Invested	Objectives
Goal I: Optimize Patent Quality and Timeliness Obligations: \$2,956.7 million Total Program Cost: \$2,962.2 million	Refine Optimal Patent Pendency
	Increase Efficiencies and Patent Examination Capacity to Align with the Optimal Patent Pendency
	Increase International Cooperation and Work Sharing
	Continue to Enhance Patent Quality
	Ensure Optimal Information Technology (IT) Service Delivery to All Users
	Continue and Enhance Stakeholder and Public Outreach
	Maintain the Patent Trial and Appeal Board's (PTAB's) Ability to Provide Timely and High-Quality Decisions
Goal II: Optimize Trademark Quality and Timeliness Obligations: \$302.5 million Total Program Cost: \$307.3 million	Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months with 12 Months Pendency
	Maintain High Trademark Quality
	Ensure Optimal IT Service Delivery to All Users
	Continue and Enhance Stakeholder and Public Outreach
	Enhance Operations of the Trademark Trial and Appeal Board (TTAB)
Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide Obligations: \$45.3 million Total Program Cost: \$52.0 million	Provide Leadership and Education on IP Policy and Awareness
	Provide Leadership and Education on International Agreements and Policies for Improving the Protection and Enforcement of IP Rights
MANAGEMENT GOAL: Achieve Organizational Excellence*	Leverage IT Investments to Achieve Business Results
	Continue to Build and Maintain a Flexible, Diverse, and Engaged Workforce
	Enhance Internal and External Relations
	Secure Sustainable Funding to Deliver Value to Fee-Paying Customers and the Public
	Establish Regional (formerly Satellite) Offices and a Regional Presence**

*The cost associated with Management Goal activities is distributed among the agency's primary Strategic Goals I, II, and III.

**The USPTO completed the establishment of all four regional offices with the openings of the Detroit office in 2012, the Denver office in 2014, the San Jose office in October 2015, and the Dallas office in November 2015.

STRATEGIC PERFORMANCE FRAMEWORK

To fulfill the mission and goals included in the *2014–2018 Strategic Plan*, the USPTO developed a comprehensive Strategic Performance Framework that guides and monitors implementation of its objectives, initiatives, and performance measures and indicators. The comprehensive framework also includes the balanced scorecard that is included in the Accompanying Information section of the *2014–2018 Strategic Plan* (pp. 28–38). Each business unit responsible for implementing each of the initiatives prepared action plans, and results are documented quarterly and reported to the Director and executive staff.

The USPTO’s strategic goals are aligned to the U.S. Department of Commerce’s strategic goals and objectives. These priorities support the U.S. Department of Commerce’s strategic objectives of increasing opportunities for U.S. companies by opening markets globally, increasing the capacity of U.S. regional economies to accelerate the production of value-added goods and services, strengthening the nation’s digital economy by championing policies that maximize the potential of the internet, expanding broadband capacity, enhancing cybersecurity, and accelerating growth of innovation-intensive economic sectors by building public and private capacity to invent, improve, and commercialize new products and services.

For 2018, there were 10 Strategic Plan key performance outcome measures, all designed to monitor progress as the USPTO implements initiatives to achieve its strategic goals. Annual performance targets were developed for each measurable outcome. Supporting measures are metrics that support or facilitate progress on the key performance measures, and many can be seen online in the USPTO’s Data Visualization Center. In FY 2018, the USPTO met or exceeded its targets for 9 out of 10 key performance metrics. A summary of the key performance measurement results is provided in Tables 2 and 3.

TABLE 2.

SUMMARY OF FY 2018 KEY PERFORMANCE MEASURE RESULTS

Strategic Goal	Total Number of Objectives	Total Number of Key Performance Measures	Key Performance Measures that Met Target	Key Performance Measures that Were Slightly Below Target	Key Performance Measures Where the Target was Not Met
Goal I: Optimize Patent Quality and Timeliness	7	2	1	1	-
Goal II: Optimize Trademark Quality and Timeliness	5	6	6	-	-
Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement World-wide	2	2	2	-	-
Management Goal:* Achieve Organizational Excellence	5	-	-	-	-
TOTAL	19	10	9	1	-

*At the USPTO, the Management Goal enables the three primary strategic goals for patent, trademark, and policy and international affairs. Management Goal performance measures are subsets of the performance indicators contained within the first three strategic goals. The fifth objective of the Management Goal—establish regional offices—has been completed.

The FY 2018 USPTO performance results are illustrated in Table 2 and Figure 4. The goals and objectives for these performance commitments are outlined in the strategic framework presented in Table 1. A summary of strategic goal results by strategic goal is presented in Figure 4.

TABLE 3.

SUMMARY OF KEY STRATEGIC GOAL RESULTS FOR FY 2014-2018

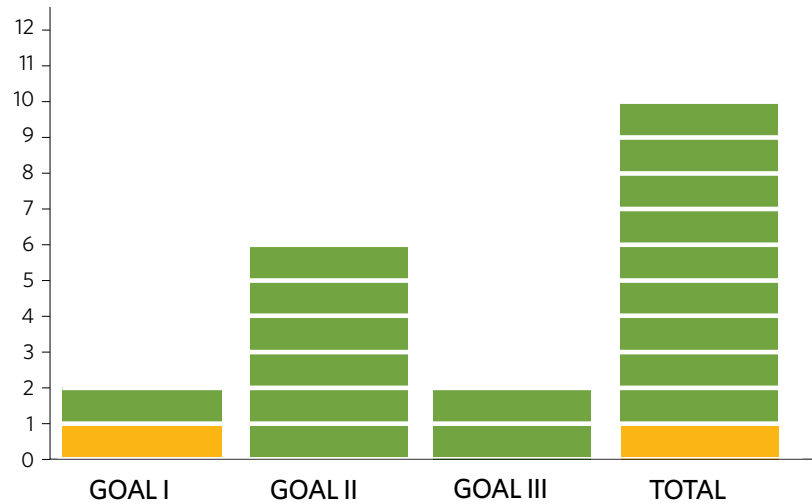
Strategic Goals Key Performance Measures	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Target	FY 2018 Actual*
GOAL I: Optimize Patent Quality and Timeliness						
Average First Action Pendency (months)	18.4	17.3	16.2	16.3	15.4	15.8
Average Total Pendency (months)	27.4	26.6	25.3	24.2	25.0	23.8
GOAL II: Optimize Trademark Quality and Timeliness						
Average First Action Pendency (months)	3.0	2.9	3.1	2.7	2.5-3.5	3.4
Average Total Pendency (months)	9.8	10.1	9.8	9.5	12.0	9.6
First Action Compliance Rate	95.8%	96.7%	97.1%	97.3%	95.5%	96.9%
Final Compliance Rate	97.2%	97.6%	97.8%	98.3%	97.0%	97.9%
Exceptional Office Action	43.0%	48.3%	45.4%	45.0%	45.0%	48.0%
Applications Processed Electronically	80.7%	82.2%	84.8%	86.5%	86.0%	87.9%
GOAL III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide						
Making progress in at least two of the three prioritized countries on at least three of the four performance criteria: <ul style="list-style-type: none"> ▪ Institutional improvements of intellectual property (IP) office administration for advancing IP rights, ▪ Institutional improvements of IP enforcement entities, ▪ Improvements in IP laws and regulations, and ▪ Establishment of government-to-government cooperative mechanisms. 	100.0%	100.0%	100.0%	100.0%	66.0%	100.0%
Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce Intellectual Property	4,960	5,283	4,975	4,134	5,000	7,242

*Current year actuals are preliminary and may change after the publication of this report. Subsequent changes, if any, will be reported in the FY 2019 Performance and Accountability Report.

■ Met (100% of target)
■ Slightly below (95%-99% of target)
■ Not met (below 95% of target)

FIGURE 4.

2018 PERFORMANCE RESULTS BY STRATEGIC GOAL



*At the USPTO, the Management Goal enables the three primary strategic goals for patent, trademark, and policy and international affairs. Management Goal performance measures are subsets of the performance indicators contained within the first three strategic goals.

- Met (100% of target)
- Slightly below (95%-99% of target)
- Not met (below 95% of target)

SUMMARY OF STRATEGIC GOAL RESULTS

Table 3 highlights the FY 2018 actual performance results for the USPTO's key performance measures against established goal objectives and performance targets. For those measures that have been retained from prior fiscal years, the table also includes actual performance results for the past four fiscal years. For the latest updated status of these and other performance measures, please visit the [USPTO's Data Visualization Center](#). More complete performance data are included in the Performance Information Section.

MANAGEMENT CHALLENGES AND WHAT'S AHEAD

Achieving success is not without its challenges. The USPTO is committed to overcoming its challenges in its implementation of strategic goals, objectives, and initiatives as enumerated in the 2014–2018 Strategic Plan. These challenges are detailed in the following section.

SUSTAINABLE FUNDING

Attaining and maintaining full, sustainable funding is critical for USPTO's mission success. The USPTO will continue to pursue annual authority to spend all fees collected, optimize the fee structure under existing authorities, and work to enhance the management and strategic use of USPTO's financial resources. Failure in these areas could result in the agency's inability to fulfill its performance commitments, as well as loss of customer and stakeholder confidence.

The USPTO's fees are set at rates intended to cover the cost of services provided, including maintaining prudent operating reserves, which are crucial for managing within the agency's complex and uncertain operating environment. In years past, the USPTO has not consistently received authority to spend all of the fees it collects. The AIA (Pub. Law 112-29) attempted to provide the USPTO full and timely access to its fees by establishing the Patent and Trademark Fee Reserve Fund (PTFRF)—a separate Treasury account into which all fees collected in excess of the USPTO's annual appropriation are deposited and reserved for the USPTO's exclusive use. Challenges like government-wide sequestration, however, continue to jeopardize the USPTO's ability to access its fees.

As the USPTO's business needs and the economic and legal environment in which it operates constantly evolve, the Office must regularly assess and update its fee structure to ensure that the fees it charges support sound public policy while also generating sufficient income to fund agency operations. To continue to do so effectively, the Office will use its renewed authority to set its fee rates. The AIA gave the USPTO authority to set fees through regulation, with a seven-year sunset provision that expired in September 2018. The AIA was amended to extend fee-setting authority to September 2026.

Finally, as the agency evolves, the USPTO is looking to not only secure sustainable funding, but also to continue to optimize the management of its financial resources. The USPTO will need to continue assessing how and when it expends resources throughout the year. In addition to budget management, this includes efforts to continue improving the office's acquisition process and strategies to ensure the USPTO is getting the best value from its contracts, as well as managing performance to ensure that it receives maximum returns from its investments in IT and other critical assets.

ADMINISTERING AIA PATENT DISPUTE RESOLUTION PROVISIONS

The AIA has continued to significantly affect the operations of the PTAB. PTAB's current case workload levels make meeting the AIA's 12-month pendency requirements challenging. Since the implementation of the AIA in September 2012, the inter partes review and post-grant review workload has grown and now represents over a third of the total PTAB workload.

On April 24, 2018, the Supreme Court rendered its decision in *SAS Institute v. Iancu*. The decision held that 35 U.S.C. § 318(a) requires that, if the PTAB decides to institute a trial, the PTAB must decide the patentability of all claims challenged in the petition. The USPTO has indicated that, as a result, when a trial is instituted, the PTAB will institute as to all claims and all grounds addressed in a particular petition for inter partes, post-grant, or covered business method review. This has resulted in a significant amount of re-work in approximately 45 percent of on-going proceedings in which the PTAB had partially instituted challenges rather than fully instituting on all challenges. PTAB will also take on significant additional work for any proceedings in which it institutes review in the future. The average effort to institute and complete each trial is projected to increase by 20 percent as a result of the Supreme Court decision in *SAS*.

The PTAB, however, has continued to meet all AIA statutory deadlines, while simultaneously reducing the ex parte appeal inventory. For a more in-depth discussion on how PTAB is currently addressing these issues, please see Goal I, Objective 7, "Maintain PTAB's Ability to Provide Timely and High-Quality Decisions" on page 65.

RELIANCE ON INFORMATION TECHNOLOGY

The USPTO relies on IT as a mission-critical enabler for every aspect of its operation. Less than 15 years ago, most patent and trademark applications arrived on paper, and the USPTO expended vast resources to process that paper, including over four acres of public search rooms that housed paper copies of granted patents and trademarks. Since then, the USPTO has become "paperless," and the quality, efficiency, and productivity of today's patent and trademark operations depend on the performance of their IT systems.

The USPTO continuously conducts multi-year efforts to modernize its business systems and the supporting IT infrastructure to keep pace with emerging business needs and technology standards. This includes providing a nationwide workforce "24/7/365" operational capability, improving IT support for examination and revenue-collection capabilities, providing IT recovery capabilities to sustain the business, making more successful and more reliable IT deployments, and enhancing the understanding of the interactions between IT and business functions. Although the USPTO strives for continuous improvement and optimization of all IT systems, there are rare instances in which the agency is faced with challenges. The most recent PALM outage is one example. Although these interruptions present challenges, they also present opportunities for the USPTO to strengthen the various components of legacy IT systems until such time that they can be replaced.

The USPTO will continue to enhance the IT capabilities offered for both Patent and Trademark business areas and maintain effective legacy systems during the transition to their retirement. These include implementing core electronic examination tools for document management and searching; improving interactions for filing, searching, payment, and communication; and making it easier and more secure to conduct business with the USPTO.

LEGAL CHALLENGES

The USPTO continued to face legal challenges to its interpretation of the AIA and its regulations implementing the statute in FY 2018. Of note, the USPTO intervened in *Wi-Fi One, LLC v. Broadcom Corp.* to advocate that the courts lack jurisdiction to review agency findings regarding the timeliness of petitions to institute inter partes patent review, in reliance on the Court's earlier panel decision in *Achates Reference Publishing, Inc. v. Apple Inc.* that such determinations are non-reviewable. In January 2018, the Federal Circuit issued an en banc decision (i.e., a decision by all active judges of the court) in *Wi-Fi One*, holding that time-bar determinations are not exempt from judicial review, and thereby, overruling the *Achates* decision. The *Wi-Fi One* decision is expected to increase the number of appeals related to the timeliness of decisions in inter partes reviews.

The USPTO similarly intervened in *SAS Institute, Inc. v. Iancu* to defend the USPTO's position that the AIA does not require the PTAB to address all of the patent claims raised in a petition seeking inter partes review in its final written decision on the merits. In April 2018, the U.S. Supreme Court issued a decision holding that the PTAB must issue a final written decision addressing every patent claim challenged in an inter partes review petition. The *SAS* decision has created a temporary influx of voluntary and court-ordered remands of appeals from the final written decisions in inter partes reviews instituted on less than all of the patent claims challenged in the corresponding petitions for review. Delays are also expected in inter partes review proceedings pending before the PTAB, wherein review was instituted on less than all of the patent claims challenged in a petition for review.

Finally, in *Aqua Prods. Inc. v. Matal*, a case that the Federal Circuit heard en banc, the USPTO defended the agency's practice of placing on patentees the burden of demonstrating the patentability of proposed new claims during inter partes review proceedings. In contravention to its earlier decisions and USPTO practice, the Federal Circuit held that the USPTO has not issued a regulation requiring the patent owner to bear the burden of persuasion in an inter partes review, and in the absence of such a regulation, the USPTO may not so assign the burden of persuasion.

SYSTEMS AND CONTROLS

MANAGEMENT ASSURANCES

On the basis of the USPTO's comprehensive internal control program during FY 2018, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations, reporting, and compliance with applicable laws and regulations as of September 30, 2018, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that our agency's systems of internal control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over reporting as of June 30, 2018 was operating effectively and no material weaknesses were found in the design or operation of the internal control over reporting. In addition, no material weaknesses related to internal control over reporting were identified between July 1, 2018 and September 30, 2018.



Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

October 9, 2018

Federal Managers' Financial Integrity Act (FMFIA)

The FMFIA requires federal agencies to provide an annual statement of assurance regarding management controls and financial systems. 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 are to ensure:

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

The statement of assurance is based on the 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, the USPTO is not identified on the GAO's High Risk List related to controls governing various areas.

Federal Financial Management Improvement Act (FFMIA)

The FFMIA requires federal agencies to report on an agency's substantial compliance with federal financial management system requirements, federal accounting standards, and the U.S. Standard General Ledger at the transaction level. In accordance with OMB Circular A-123, Appendix D, substantial compliance is achieved when an agency's financial management systems routinely provide reliable and timely financial information for managing day-to-day operations as well as to produce reliable financial statements, maintain effective internal control, and comply with legal and regulatory requirements. The USPTO complied substantially with the FFMIA for FY 2018.

OTHER COMPLIANCE WITH LAWS AND REGULATIONS

Federal Information Security Management Act (FISMA)

The USPTO remains vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2018, the USPTO continued its dedicated efforts in support of compliance with FISMA standards and improvement of our security program. The USPTO IT Security Program includes a strategy for continuous monitoring, which conducts credentialed compliance and vulnerability scans on servers, network devices, databases, and Web-applications on a quarterly basis. The quarterly analysis is being performed to ensure that operating systems have been configured in accordance with their security baseline and appropriate software patch levels. New secure baseline configuration guides are being developed with current configuration settings based on the addition of the newer operating systems devices. Additionally, the IT Security program has integrated artifacts to support Security Impact Analysis within the systems development lifecycle that allow assessment of testing requirements for systems undergoing new developments, enhancements, or maintenance. This proactive approach to security within the development process has successfully assessed changes and enabled security compliance for systems as they are being developed or updated.

The Chief Information Security Officer and the OCIO staff worked together to successfully meet the compliance requirements of FISMA, while also meeting OMB reporting requirements. All USPTO systems achieved a 100 percent FISMA compliance reporting level for FY 2018, with no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result, the USPTO was able to continue with continuous monitoring and provide an accurate summary of information consistent with OMB reporting requirements for year-end reporting.

The Inspector General's Statement of Management Challenges for the DOC (referred to in the Other Information section of this report) identifies IT security as a cause for concern department-wide, to include the USPTO. While the OIG continues to report IT security as a Commerce-wide concern, USPTO management does not agree that any of the USPTO-specific FISMA findings, either individually or collectively, rise to the level that would require treating the matter as a material weakness. As indicated, the USPTO's continuous monitoring and proactive approach to security compliance for systems provides the support for removing the material weakness at the USPTO.

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

Improper Payments Elimination and Recovery Act

We continue to maintain internal control procedures that help monitor disbursement of federal funds for valid obligations. The USPTO continues to assess improper payment risks covering all programs and activities, as required by OMB Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*. These improper payment risk assessments include assessments of the control and procurement environments, and are now in the continuous process stage of being updated annually. Additional details can be found in the Other Information section of this report (see page 158).

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 2018, the USPTO did not pay interest penalties on 99.8 percent of the 9,257 vendor invoices processed, representing payments of approximately \$853.2 million. Of the 22 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 21 invoices. The USPTO paid \$5 in interest penalties for every million dollars disbursed in FY 2018. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

The USPTO continues to identify opportunities for new or improved business processes for improving its prompt payment percentage. Per OMB Memorandum M-15-19, *Improving Government Efficiency and Saving Taxpayer Dollars Through Electronic Invoicing* (July 17, 2015), federal agencies are required to transition to electronic invoicing for appropriate federal procurements by the end of FY 2018. In 2017, the USPTO reviewed various electronic invoicing options and made a selection. The solution was in place by the end of FY 2018, and vendor adoption will occur in FY 2019.

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 120 days old has been transferred to the U.S. Department of the Treasury for cross-servicing.

Digital Accountability and Transparency Act of 2014

The Digital Accountability and Transparency Act of 2014 (DATA Act) aims to increase the accessibility, accuracy, and usefulness of Federal spending information. The DATA Act establishes government-wide data standards for financial data, seeks to simplify financial reporting, and provides consistent, reliable, accurate, and searchable spending data that is accurately displayed for taxpayers and policy makers on USASpending.gov.

The budget, financial spending, and award data that is required to comply with the DATA Act is currently housed in a single source system at the USPTO. Most activities required to report the DATA Act information at the USPTO entail extracting, validating, and reconciling the data prior to submission to Treasury. With minimal operational business process changes, the USPTO continues to use existing system resources to comply with the reporting requirements. For all periods required during FY 2018, the USPTO reported financial and payment data in accordance with DATA Act requirements and data standards established by the Department of Treasury and OMB.

OTHER SYSTEMS AND CONTROL CONSIDERATIONS

Financial Management Systems Strategy

The Consolidated Financial System (CFS) provides support for core financial management, fee management, and planning and budgeting. The CFS leverages several Commercial-off-the-shelf (COTS)/Government-off-the-shelf (GOTS) products, including a core financial and acquisition tool (Momentum Financials), supplemental acquisition tools (Aeon), a travel tool (Concur), budgeting tools (Cognos Planning and Hyperion), an analytical tool (Alteryx), a cost accounting tool (Cost Perform), business intelligence tools (Business Objects and Tableau), and an extract, transform, and load tool (SAP Data Services). In addition to the source databases supporting each of these tools, CFS includes a data repository (APEX), a content repository (Cassandra and DataStax), and a data warehouse (Oracle).

The core financial management system supports acquisition management, payroll management, travel management, accounting management, and funds management. These functions are automated in the Momentum Financials, eAcquisitions, Vendor Portal, and Concur systems. While most of the activities have been automated for well over 20 years, the acquisition capabilities are being further automated in the FY 2018 through FY 2020 timeframe with a focus on the interaction between USPTO and its vendor community.

The services of the fee management system include: maintenance fee management, stored payment account management, pricing management, order management, and funds management. These capabilities are largely automated in the Fee Processing Next Generation (FPNG) product. During FY 2018, FPNG replaced the legacy refund approval/denial system, and will replace the legacy fee collection system in FY 2019. Following the updates, enhancement of FPNG will be focused on additional external customer functionality (e.g., online refund requests and general deposit account authorizations), as well as further integration with internal USPTO examiner systems to streamline currently manual processes.

The planning and budgeting value streams encapsulate planning, forecasting, budgeting, and performance management. Central budget execution and compensation projection are currently automated in the Corporate Planning Tool system. This tool is being replaced by the Enterprise Budget Tool (EBT) system, which will be geared towards both centralized (OCFO) and decentralized (business unit) budget capabilities. The EBT will automate budget formulation and compensation projection and may be expanded to automate planning and performance management capabilities. The Analytics and Financial Forecasting (AFF) system is currently used for fee forecasting, but will be expanded to serve workload forecasting as well.

These capabilities are all supported by various information delivery systems including the Enterprise Data Warehouse (EDW), Electronic Library for Financial Management Systems, and Enterprise Information Portal (EIP). In the coming years, the EDW will continue to be expanded to offer the USPTO blended financial, human resources, and programmatic data. Further, the EIP will continue to be expanded to provide a single location for internal users to obtain the information they need to perform their various duties.

FINANCIAL DISCUSSION AND ANALYSIS

FINANCIAL HIGHLIGHTS

The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2018 financial statements, provided in the Financial Section of this report. This is the 26th consecutive year that the USPTO has received a clean opinion. Our unmodified audit opinion provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses in the USPTO's internal control, and no instances of non-compliance with laws and regulations affecting the financial statements. KPMG LLP continues to report a significant deficiency related to IT security. Refer to the Other Information section for the Summary of Financial Statement Audit and Management Assurances.

The summary financial highlights presented in this section provide an analysis of the information that appears in the USPTO's FY 2018 financial statements (amounts may vary slightly due to rounding). The USPTO financial management process ensures that management financial decision-making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The issuance of these financial statements is a component of the USPTO's objective to continually improve the accuracy and usefulness of its financial management information.

Balance Sheet and Statement of Changes in Net Position

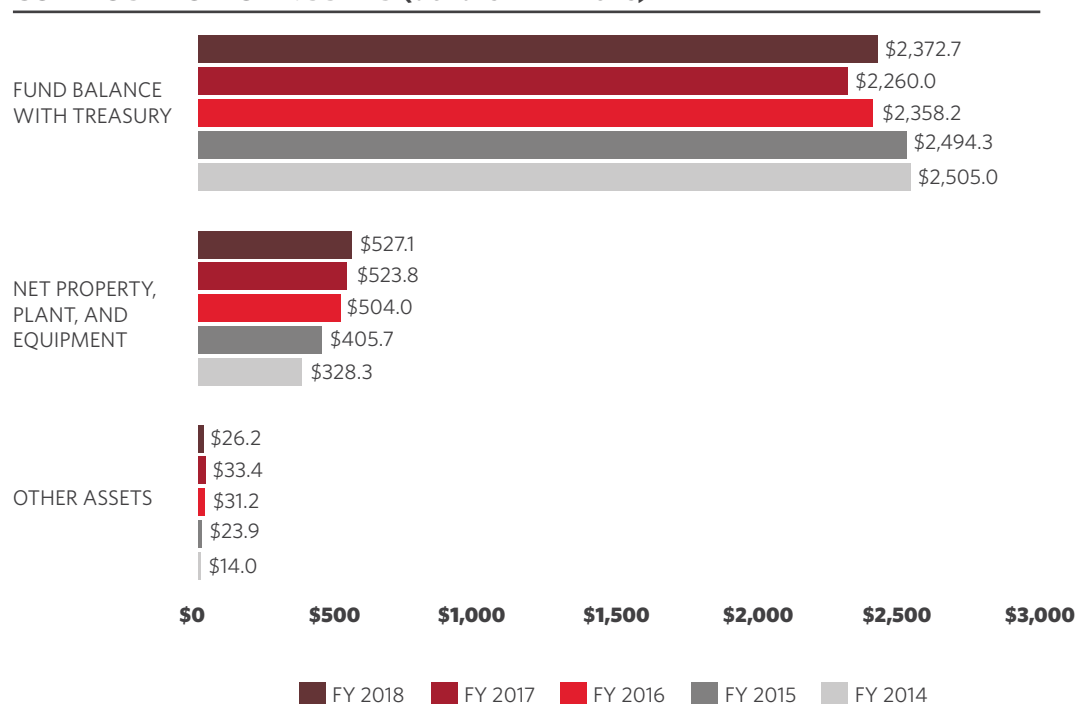
At the end of FY 2018, the USPTO's consolidated Balance Sheet (see page 119) presents total assets of \$2,926.0 million, total liabilities of \$1,492.5 million, and a net position of \$1,433.5 million.

Total assets increased during FY 2018. Overall, there has been an increase of 2.8 percent over the last four years, resulting largely from the increase in fee collections from customers (explained in more detail on page 34). The following graph shows the changes in assets during this period.

Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 81.1 percent of total assets at the end of FY 2018. Approximately half of the Fund Balance with Treasury represents fees the USPTO has collected, but has not been authorized to spend through the annual appropriation process—this includes temporarily unavailable fees of \$937.8 million and unavailable special fund receipts under OBRA of \$233.5 million, which total \$1,171.3 million in unavailable fees. This asset is also comprised of unpaid obligated funds of \$624.8 million, other funds held on deposit for customers of \$129.8 million, and unobligated funds carried over from one year to the next (operating reserve) of \$446.8 million. The temporarily unavailable funds and the unavailable special fund receipts require Congressional appropriation before they will be available for USPTO's use. These funds, together with amounts obligated and held on deposit, represent 81.2 percent of the Fund Balance with Treasury.

The operating reserve is available for use without further Congressional appropriation and is maintained to permit the USPTO to plan for long-term financial stability, as well as temporary changes in our cash flow. As such, the operating reserve is not tied to a specific event and enables the USPTO to address fluctuations in revenues, unexpected demands

COMPOSITION OF ASSETS (dollars in millions)



on resources, or planned investments. In addition, the operating reserve is used to manage cash flow at the beginning of the fiscal year to ensure the agency has adequate resources to sustain current operations. Total fee collections are lower than operating requirements early in the year, and do not fully cover the necessary expenses such as payroll and contractual obligations that occur close to the fiscal year start. The operating reserve is intended to provide sufficient resources to continue current operations until the collection of fees builds over the subsequent months.

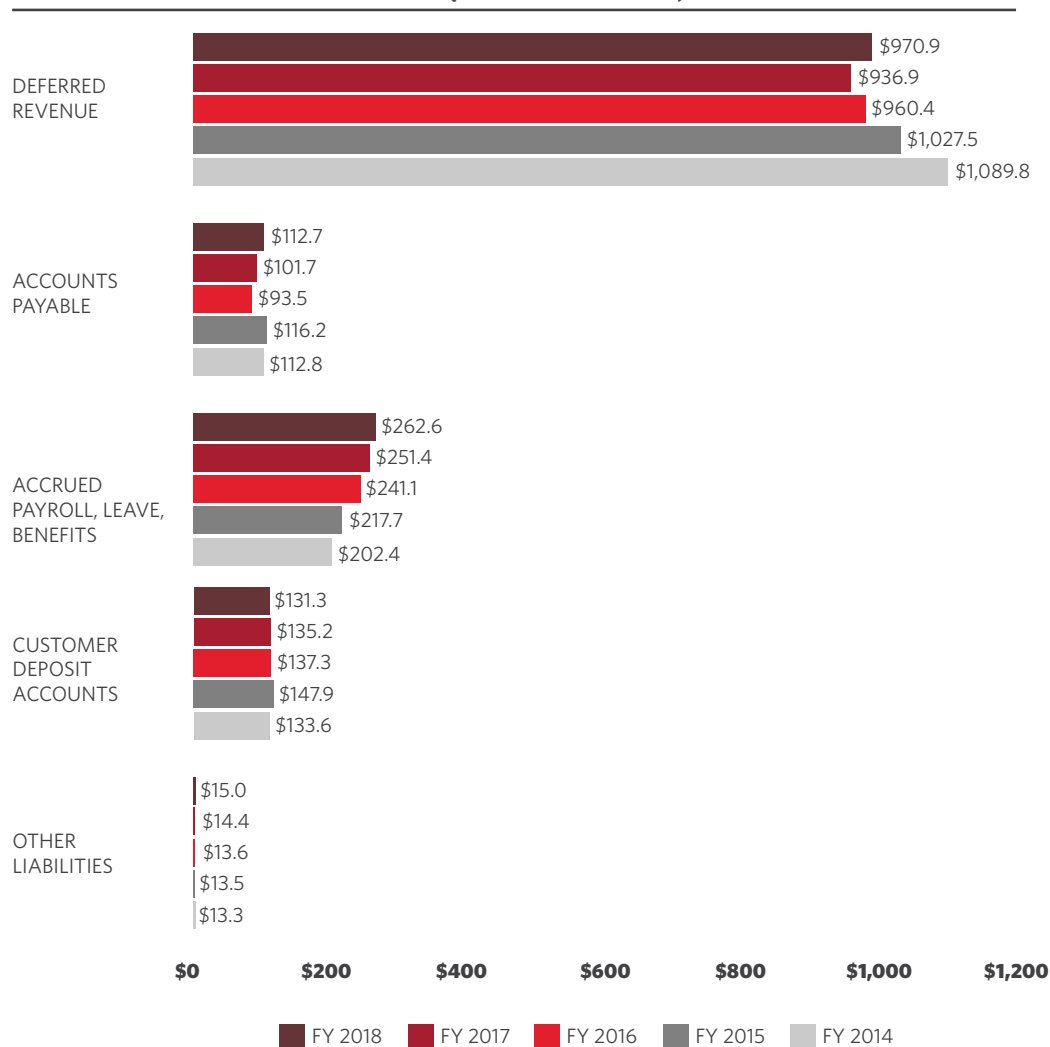
As required by 35 U.S.C. §42(c)(3), the USPTO maintains and tracks two distinct operating reserve balances—one for Patent operations and one for Trademark operations. The Patent operating reserve increased from \$252.9 million (1.0 months of operating expenses) at the end of FY 2017 to \$311.5 million (1.3 months of operating expenses) at the end of FY 2018, representing an increase of \$58.6 million, or 23.2 percent. At the end of FY 2018, the Trademark operating reserve increased from \$120.7 million (4.9 months of operating expenses) at the end of FY 2017 to \$135.3 million (5.1 months of operating expenses) at the end of FY 2018, representing an increase of \$14.6 million, or 12.1 percent. The increases in the operating reserve balances restored the Patent balance to the minimum planning level, and the Trademark balance to the optimal level, while continuing to focus on Agency priorities such as continuing to make progress on multi-year IT investments and achieving performance targets.

During FY 2018, the USPTO operated consistent with its strategic plan and continued investments in IT improvements, as is evident by the increase in the other major asset—property, plant, and equipment. The net balance of this asset has increased by \$198.8 million during the past four years, with the acquisition values of property, plant, and equipment increasing by \$468.3 million. The USPTO is continuing to modernize our IT systems from end-to-end, which will lead to future increases in IT hardware, software, and software in development balances. This was evidenced by an increase of \$415.7 million from FY 2014

through FY 2018 for IT hardware, software, and software in development. During the past four years, the next-generation IT system (software) development projects that were improved upon included the Patents End-to-End, Patent Trial and Appeal Board (PTAB) End-to-End, Trademark Next Generation, and Fee Processing Next Generation systems.

Total liabilities increased from \$1,439.6 million at the end of FY 2017 to \$1,492.5 million at the end of FY 2018, representing an increase of \$52.9 million, or 3.7 percent. The following graph shows the composition of liabilities during the past five years.

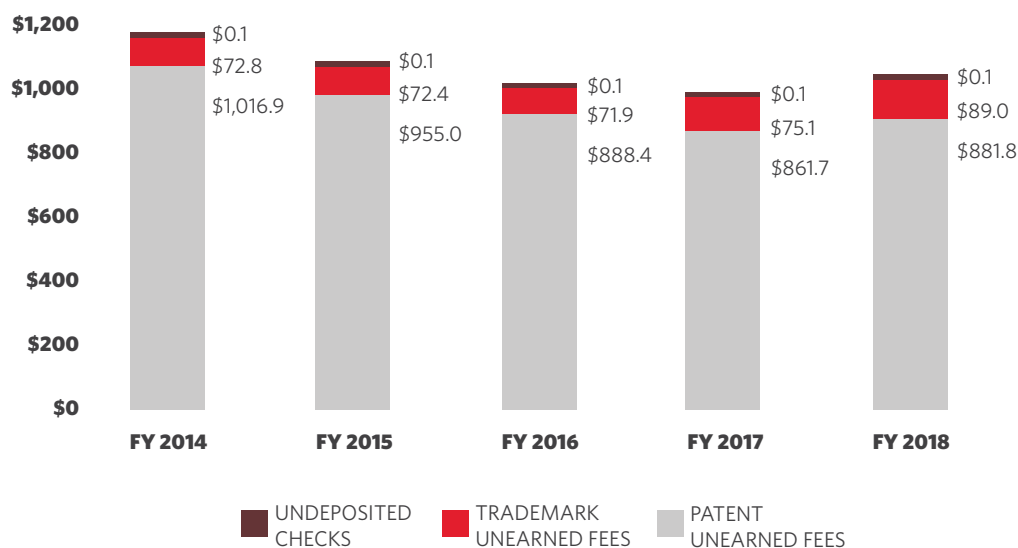
COMPOSITION OF LIABILITIES (dollars in millions)



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

FY 2018 resulted in an increase in the deferred revenue liability of \$34.0 million, or 3.6 percent from FY 2017. The deferred revenue liability includes unearned patent and trademark fees, as well as an immaterial amount of undeposited checks. The unearned patent fees represented 90.8 percent of this liability at the end of FY 2018. The following graph depicts the composition of the deferred revenue liability at the end of FY 2014 through FY 2018, in addition to the change in this liability during each of the past five years.

DEFERRED REVENUE (dollars in millions)



Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency, and changes in fee rates, increases to which result in increases in deferred revenue.

The following table depicts the changes in the filings and pendency months during the past five years.

Filings and Pendencies	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Patent Filings ¹	618,457	618,062	650,411	650,350	643,349 ²
<i>Percentage Change in Patent Filings¹</i>	2.8%	(0.1)%	5.2%	0.0%	(1.1)%
Average Patent First Action Pendency (months)	18.4	17.3	16.2	16.3	15.8
<i>Percentage Change in Average Patent First Action Pendency</i>	1.1%	(6.0)%	(6.4)%	0.6%	(3.1)%
Average Total Patent Pendency (months)	27.4	26.6	25.3	24.2	23.8
<i>Percentage Change in Total Patent Pendency</i>	(5.8)%	(2.9)%	(4.9)%	(4.3)%	(1.7)%
Trademark Filings	455,017	503,889	530,270	594,107	638,847
<i>Percentage Change in Trademark Filings</i>	4.9%	10.7%	5.2%	12.0%	7.5%
Average Trademark First Action Pendency (months)	3.0	2.9	3.1	2.7	3.4
<i>Percentage Change in Average Trademark First Action Pendency</i>	(3.2)%	(3.3)%	6.9%	(12.9)%	25.9%
Average Total Trademark Average Pendency (months)	9.8	10.1	9.8	9.5	9.6
<i>Percentage Change in Total Trademark Average Pendency</i>	(2.0)%	3.1%	(3.0)%	(3.1)%	1.1%

¹Includes utility, plant, reissue, design, and provisional filings, as well as requests for continued examination (RCE).

² Preliminary data

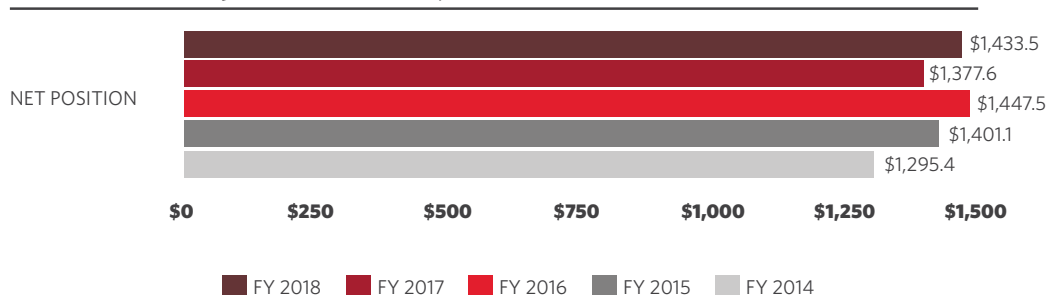
³ Effective January 16, 2018.

In FY 2018, despite a decrease in first action pendency of 0.4 months, unearned patent fees increased 2.3 percent as a result of increased fee rates³ associated with the more recent applications. Deferred revenue associated with the patent process is expected to decrease in the coming years due to anticipated decreases in application pendencies. In the FY 2019 President's Budget, the number of patent applications filed from FY 2019 through FY 2023 is expected to gradually increase, with first action pendency decreasing to 12.9 months and total pendency to 22.0 months by FY 2023. The pendency decreases will result in patent deferred revenue decreases.

The deferred revenue associated with the trademark process increased in FY 2018. Trademark deferred revenue increased by \$13.9 million, or 18.5 percent, from FY 2017, with an overall 22.3 percent increase over the past four years. The FY 2018 increase was consistent with an increase in trademark applications and the full annualization of new Trademark fee rates (effective January 14, 2017), combined with an increase in trademark first action pendency to 3.4 months and total trademark average pendency increasing to 9.6 months. Estimates included in the FY 2019 President's Budget project the pendencies to remain constant in the upcoming years.

The Statement of Changes in Net Position (see page 121) presents the changes in the financial position of the USPTO due to results of operations (discussed in the next section). The movement in net position is primarily the result of the net income or net cost for the year. The change in the net position during the past five years is presented in the following graph.

NET POSITION (dollars in millions)



Statement of Net Cost

The Statement of Net Cost (see page 120) presents the USPTO's results of operations by the following responsibility segments—Patent, Trademark, and Intellectual Property Policy, Protection and Enforcement Worldwide. The following table presents the total USPTO's results of operations for the past five fiscal years. In FY 2018, the USPTO generated a net cost of \$12.1 million. The net cost decreased due to an increase in earned fee collections, offset by a smaller increase in personnel services and benefit and depreciation and amortization program costs.

Net Income/(Cost) (dollars in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Earned Revenue	\$ 3,018.1	\$ 3,074.0	\$ 3,133.4	\$ 3,105.3	\$ 3,309.4
Program Cost	(2,732.4)	(3,012.8)	(3,119.6)	(3,193.4)	(3,321.5)
Net Income/(Cost)	\$ 285.7	\$ 61.2	\$ 13.8	\$ (88.1)	\$ (12.1)

The Statement of Net Cost compares earned fees to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation is based on earned fees 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, as these fees are considered earned immediately. Maintenance fees collected in FY 2018 are a reflection of the number of patents issued 3.5, 7.5, and 11.5 years ago that customers have elected to renew, rather than a reflection of patents issued in FY 2018. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

Earned Revenue

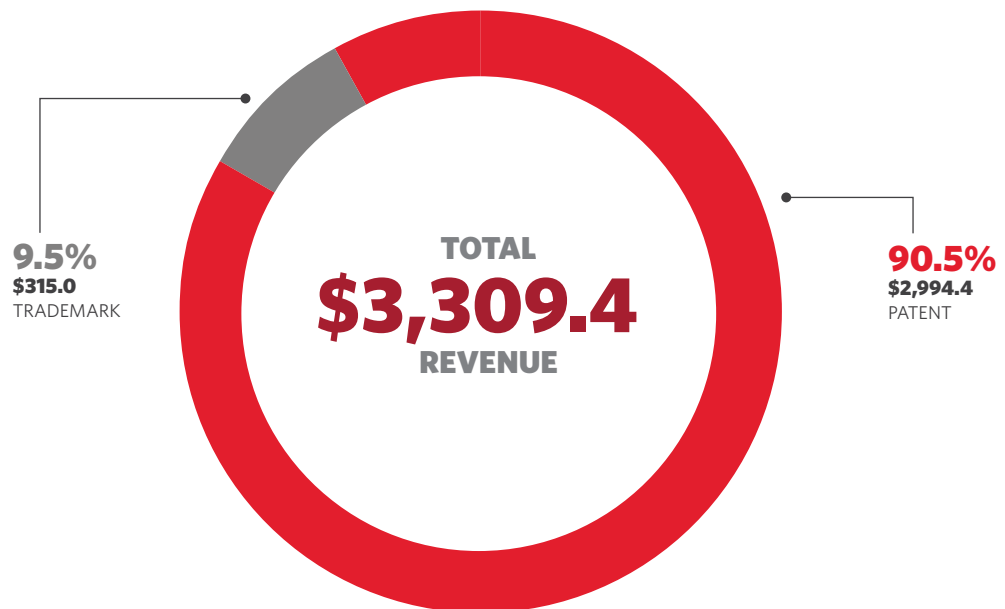
The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed.

Earned revenue totaled \$3,309.4 million for FY 2018, an increase of \$204.1 million, or 6.6 percent, over FY 2017 earned revenue of \$3,105.3 million. Of revenue earned during FY 2018, \$725.2 million related to fee collections that were deferred for revenue recognition in prior fiscal years, \$1,409.4 million related to maintenance fees collected during FY 2018, which were considered earned immediately, \$1,170.2 million related to work performed for fees collected during FY 2018, and \$4.6 million were not fee-related.

During FY 2018, the total number of patent filings decreased by 1.1 percent over the prior year. This is due to a reduction in requests for continued examination (serialized (new) patent filings increased slightly from FY 2017 to FY 2018). This and the increase in patent deferred revenue would typically cause a decrease in earned revenue; however, the increase in patent fee rates causing an increase in total collections resulted in an increase in earned revenue.

During FY 2018, the number of trademark applications increased by 7.5 percent over the prior year. Despite the increase in trademark deferred revenue, the increase in application filings coupled with the full annualization of new Trademark fee rates contributed to an increase in revenue earned.

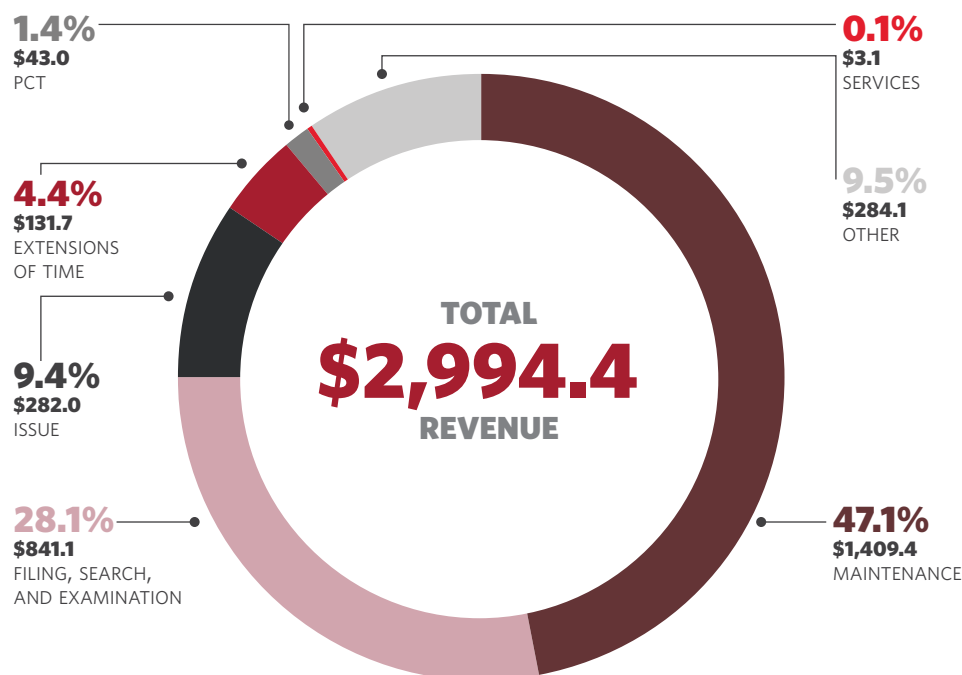
FY 2018 EARNED REVENUE (*dollars in millions*)



Patent

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees, initial application fees for filing, search, and examination, and issue fees. These fees account for approximately 84.6 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.

FY 2018 PATENT REVENUE BY FEE TYPE (dollars in millions)



Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2018, maintenance fee collections increased \$199.6 million, or 16.5 percent, from FY 2017.

In order to maintain exclusive rights, a patent holder must pay maintenance fees at three separate intervals: 3.5, 7.5, and 11.5 years from the date a patent is issued. Failure to pay these fees results in the lapse of patent protection and the rights provided by a patent are no longer enforceable. Maintenance fees can be paid during the “window period,” the six-month period preceding each due date. Additionally, a maintenance fee can be paid, with a surcharge, during the “grace period,” which is the 6-month period immediately following each due date. If a maintenance fee has not been paid in a timely manner and the owner of the patent wants to have the patent rights reinstated, a petition and proper fees are required.

Maintenance fees are recognized immediately as earned revenue and fluctuations in both the timing of renewal payments and the rates of renewal may have a significant impact on the total earned revenue of the USPTO. The table below shows the renewal rates for all three stages of maintenance fees based on the year the patent was issued. Maintenance fee payments are needed to fund operations, therefore the USPTO closely monitors payment behaviors (both rates of renewal and timing of payment) to forecast maintenance fee revenue. The revenue from renewals helps to recoup costs incurred during the initial patent process.

When analyzing patent renewal rates, no significant fluctuations have been observed. The payment window for some patents issued in 2014 (first stage), 2010 (second stage), and 2006 (third stage) has not yet closed. Using the data available at the end of FY 2018, the trend in first stage patent renewal rates is comparable to the past few years. An analysis of second stage patent renewal rates shows a minor downward trend, and thus far, the yearly renewal rate is 1.0 percent below the previous year. When looking at the third stage patent renewal rates, thus far, the yearly renewal rate is 2.0 percent below last year. The decision to renew a patent is influenced by many factors including, but not limited to, Federal court decisions, IP budgets, the perceived value of the patent, and the economy.

Patent Renewal Rates Issue Date	First Stage	Second Stage	Third Stage
1999	85.5%	67.7%	49.5%
2000	85.6%	68.6%	51.1%
2001	86.2%	68.0%	50.3%
2002	87.5%	67.4%	47.6%
2003	88.6%	69.4%	48.0%
2004	88.7%	70.7%	47.4%
2005	87.5%	69.3%	45.9%
2006	85.9%	67.4%	43.9%*
2007	87.3%	67.4%	
2008	88.1%	66.8%	
2009	87.3%	66.4%	
2010	86.5%	65.4%*	
2011	85.6%		
2012	85.6%		
2013	86.0%		
2014	85.7%*		

Note: The First Stage refers to the end of the 4th year after the initial patent is issued; the Second Stage refers to the end of the 8th year after the initial patent is issued; and the Third Stage refers to the end of the 12th year after the initial patent is issued. For example, 86.0 percent of the patents issued in 2013 paid the first stage maintenance fee.

*Preliminary data. The data in this table is through September 30, 2018 and the 1st stage payment window for some patents issued in 2014, 2nd stage renewals for patent issued in 2010, and 3rd stage renewals for patents issued in 2006, does not close until December 31, 2018. The full calendar year data for 2014, 2010, and 2006 will be available in the FY 2019 PAR. Past year's data has been revised from prior year reports.

Application fee revenue earned upon filing increased from \$81.2 million in FY 2017 to \$86.4 million in FY 2018 (increase of 6.4 percent), with the number of serialized (new) application filings increasing from 419,911 to 426,964 over the same period (increase of 1.7 percent). At the same time, total filings (i.e., including RCE filings) decreased from 650,350 to 643,349 (decrease of 1.1 percent) during this same period. This is likely due to multiple factors, including both customer responses to the revised fee rates (effective January 16, 2018), as well as proactive steps the agency has taken to reduce the need for RCEs. The FY 2019 President's Budget projects a slight decrease in total patent filings in FY 2019—again, owing to reductions in RCEs—with net increases beginning in FY 2020 through FY 2023, which will contribute to continued budgetary resources, as well as earned fee revenue.

Earned issue fee revenue decreased from \$285.6 million in FY 2017 to \$282.0 million in FY 2018 (decrease of 1.3 percent), with the number of patents issued decreasing from 347,642 to 339,534 over the same period (decrease of 2.3 percent). The decrease in patent issues is in line with the decrease in production and the patent allowance rate. The FY 2019 President's Budget projects that patents issued will gradually increase, which may result in increases in maintenance fees in future years.

Trademark

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

Earned revenue for trademark filings increased from \$159.1 million in FY 2017 to \$160.6 million in FY 2018, with the number of trademarks registered (disposed of) increasing from 327,314 to 367,382 over the same period, increases of 0.9 percent and 12.2 percent, respectively. The FY 2019 President's Budget projects that trademark applications filed will continue to increase, which will contribute to the continued growth in budgetary resources, as well as earned fee revenue.

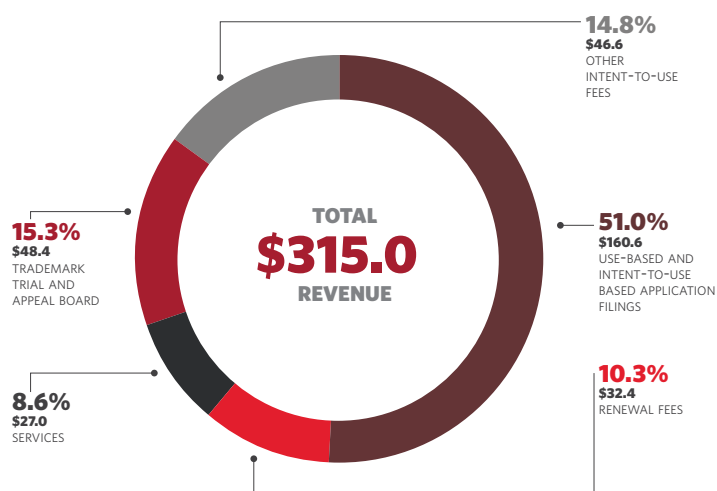
Trademark registrations are a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process. As shown below, the renewal rates for trademarks have remained fairly stable over the last five years, indicating continued earned revenue from this source. Further, in the FY 2019 President's Budget, earned revenue from trademark renewals is expected to continue at approximately the same renewal rates in the future.

Trademark Renewal Rates*	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018 ¹
Renewals	32.4%	32.4%	32.1%	31.0%	29.1%

* The renewals occur every 10th year for registered trademarks. For example, in FY 2018, 29.1 percent of the trademarks registered ten years ago were renewed.

¹ Preliminary data

FY 2018 TRADEMARK REVENUE BY FEE TYPE (dollars in millions)



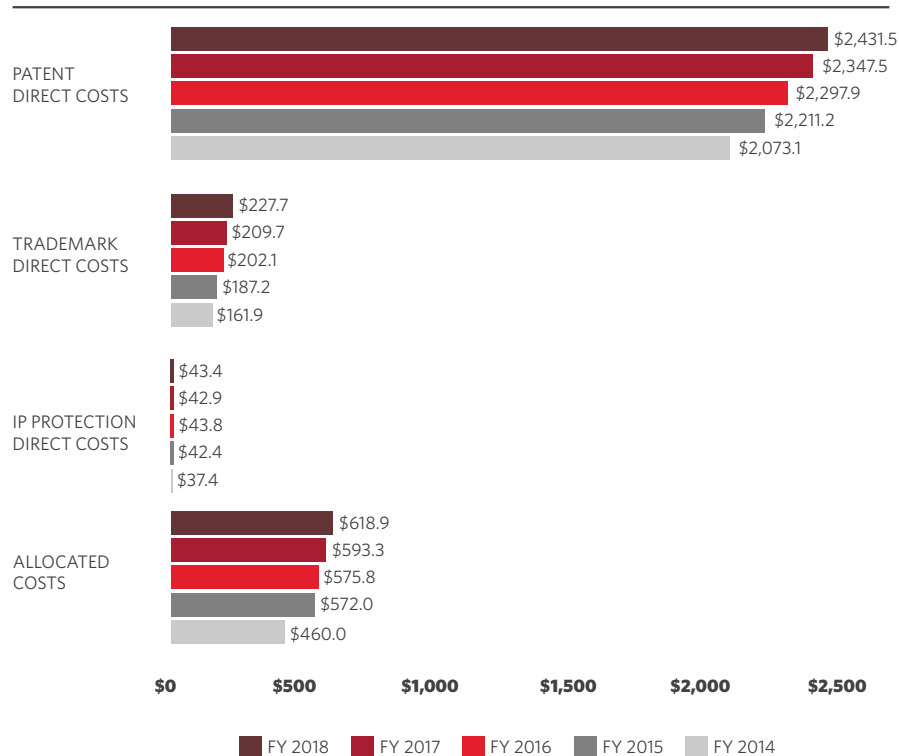
Program Costs

Program costs totaled \$3,321.5 million for the year ended September 30, 2018, an increase of \$128.1 million, or 4.0 percent, over FY 2017 program costs of \$3,193.4 million. The USPTO's most significant program cost is personnel services and benefits, which comprise approximately 67.3 percent of the 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 direct and allocated personnel services and benefits costs for the year ended September 30, 2018, were \$2,234.4 million, an increase of \$79.4 million, or 3.7 percent, over FY 2017 personnel services and benefits costs of \$2,155.0 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, offset by a slight net decrease of personnel, from 12,588 at the end of FY 2017 to 12,579 at the end of FY 2018.

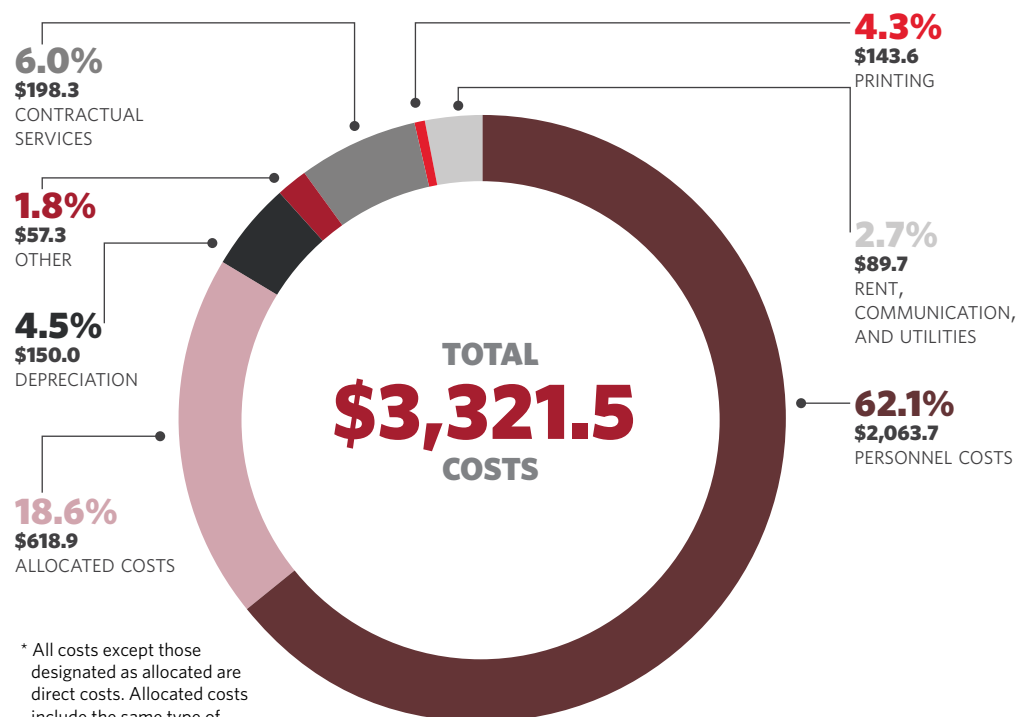
Total depreciation costs—the combined total of those included as direct costs and those allocated to the business areas—represent the next largest increase in costs for the year ended September 30, 2018. The total depreciation costs were \$218.9 million, an increase of \$36.2 million, or 19.8 percent, over FY 2017 depreciation costs of \$182.7 million. This change primarily reflects the completed next-generation IT projects that were placed in use in conjunction with our effort to modernize IT systems from end-to-end.

In setting its annual spending plans, the USPTO maximizes resources directed to its mission areas. For FY 2018, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 81.4 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using activity-based cost accounting. Allocated costs increased 4.3 percent over the past year in line with increased IT investments.

USPTO PROGRAM COSTS (dollars in millions)



FY 2018 USPTO PROGRAM COSTS* (dollars in millions)

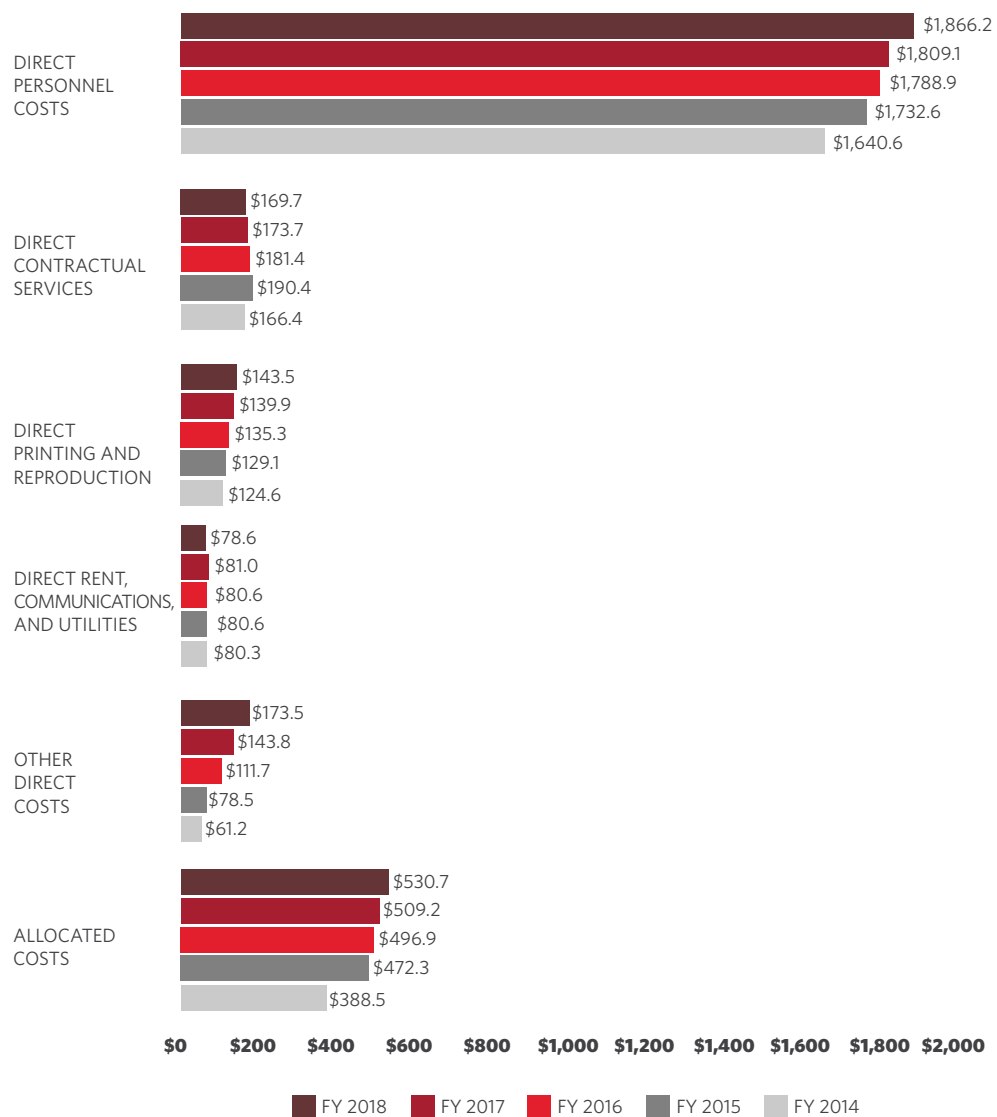


* All costs except those designated as allocated are direct costs. Allocated costs include the same type of costs as those that are direct; however, they include mission-enabling costs.

Patent

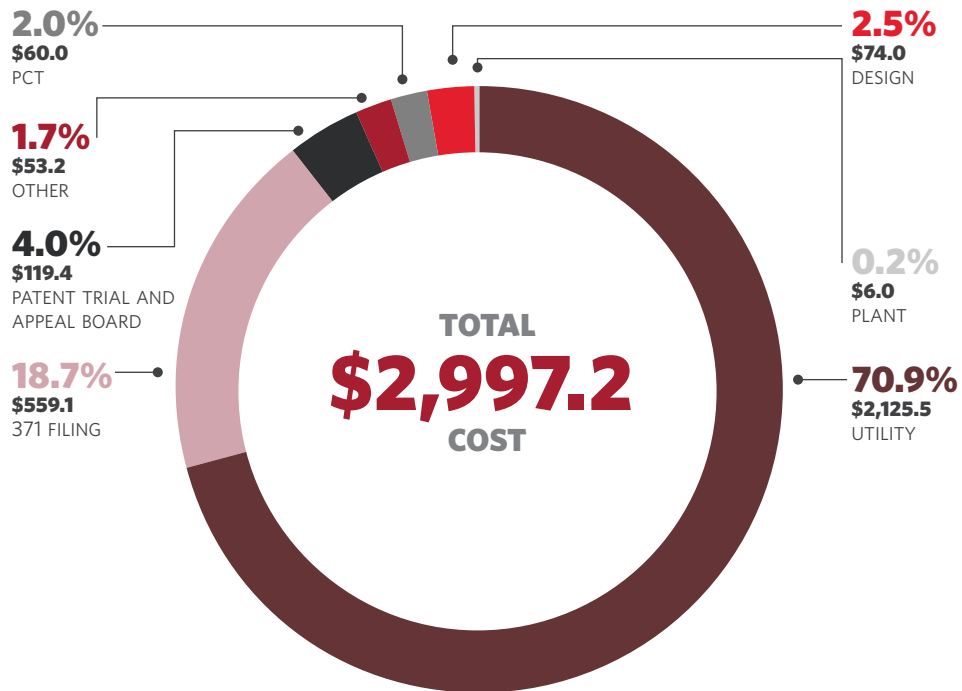
Total costs for the Patent program increased \$500.6 million, 20.3 percent, from FY 2014 through FY 2018. The Patent organization's most significant direct program costs relate to personnel services, which account for 45.1 percent of the increase in total direct cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2018, were \$1,866.2 million, an increase of \$57.1 million, or 3.2 percent, over FY 2017 personnel costs of \$1,809.1 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, offset by a slight net decrease of 20 personnel, from 9,986 at the end of FY 2017 to 9,966 at the end of FY 2018. Patent depreciation costs, a component of Other Direct Costs in the accompanying bar graph, accounted for the second largest increase for Patent operation costs for the year ended September 30, 2018. Direct Patent depreciation costs were \$121.9 million, an increase of \$26.7 million, or 28.0 percent, over FY 2017 depreciation costs of \$95.2 million. This change is primarily reflective of the completed Patent End-to-End and PTAB End-to-End system projects that have placed in use, completed in conjunction with our effort to modernize the systems from end-to-end.

PATENT COSTS (dollars in millions)



Patent costs were predominantly spread over two patent products: utility patents and 371 filings (an international application). The cost percentages presented are based on direct and indirect costs allocated to patent operations and are a function of workload volumes processed in each product area.

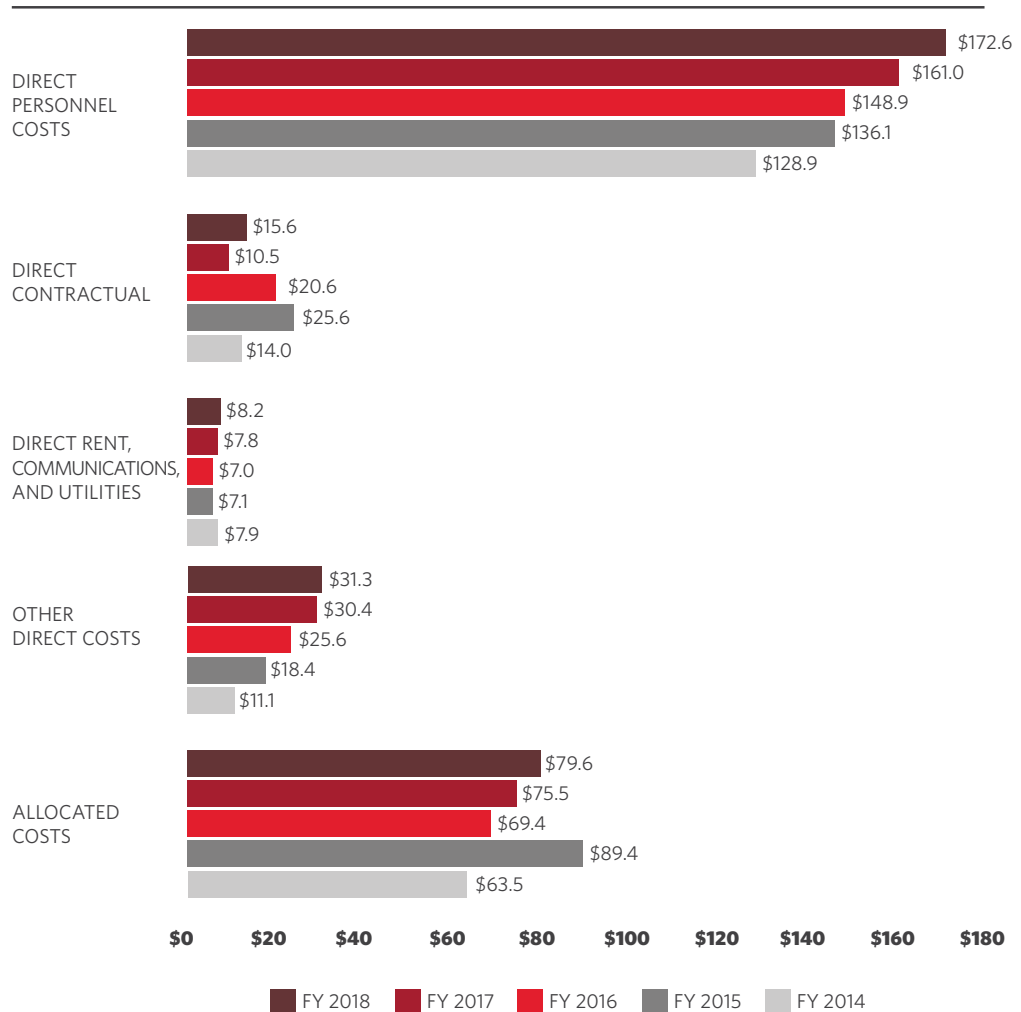
FY 2018 PATENT COST BY PRODUCT *(dollars in millions)*



Trademark

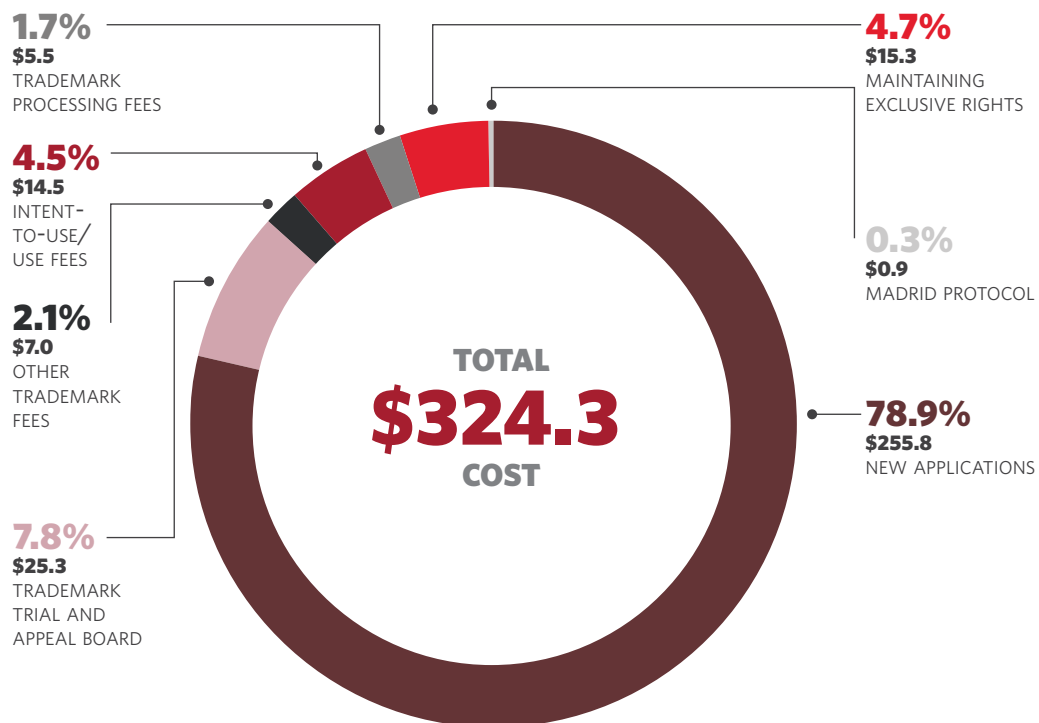
Total costs for the Trademark program increased \$81.9 million, 36.3 percent, from FY 2014 through FY 2018. The Trademark organization's most significant direct program costs relate to personnel services, and account for 53.4 percent of the increase in total direct cost of Trademark operations during the past four years. This increase of \$43.7 million was offset by other cost increases and decreases. Trademark personnel costs for the year ended September 30, 2018, were \$172.6 million, an increase of \$11.6 million, or 7.2 percent, over FY 2017 personnel costs of \$161.0 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, offset by a net increase of 48 personnel, from 837 at the end of FY 2017 to 885 at the end of FY 2018. Trademark contractual services costs accounted for the second largest increase for Trademark operation costs for the year ended September 30, 2018. Direct Trademark contractual services costs were \$15.6 million, an increase of \$5.1 million, or 48.6 percent, over FY 2017 contractual service costs of \$10.5 million. This change is primarily reflective of IT contractual cost increases for several Trademarks systems, including Trademark Quality Review System, Trademark Reporting and Data Mart, Madrid system, and Trademark Electronic Application Submission.

TRADEMARK COSTS (dollars in millions)



The overall cost percentages presented below are based on both direct costs and indirect costs allocated to trademark operations and are a function of workload volumes processed in each product area.

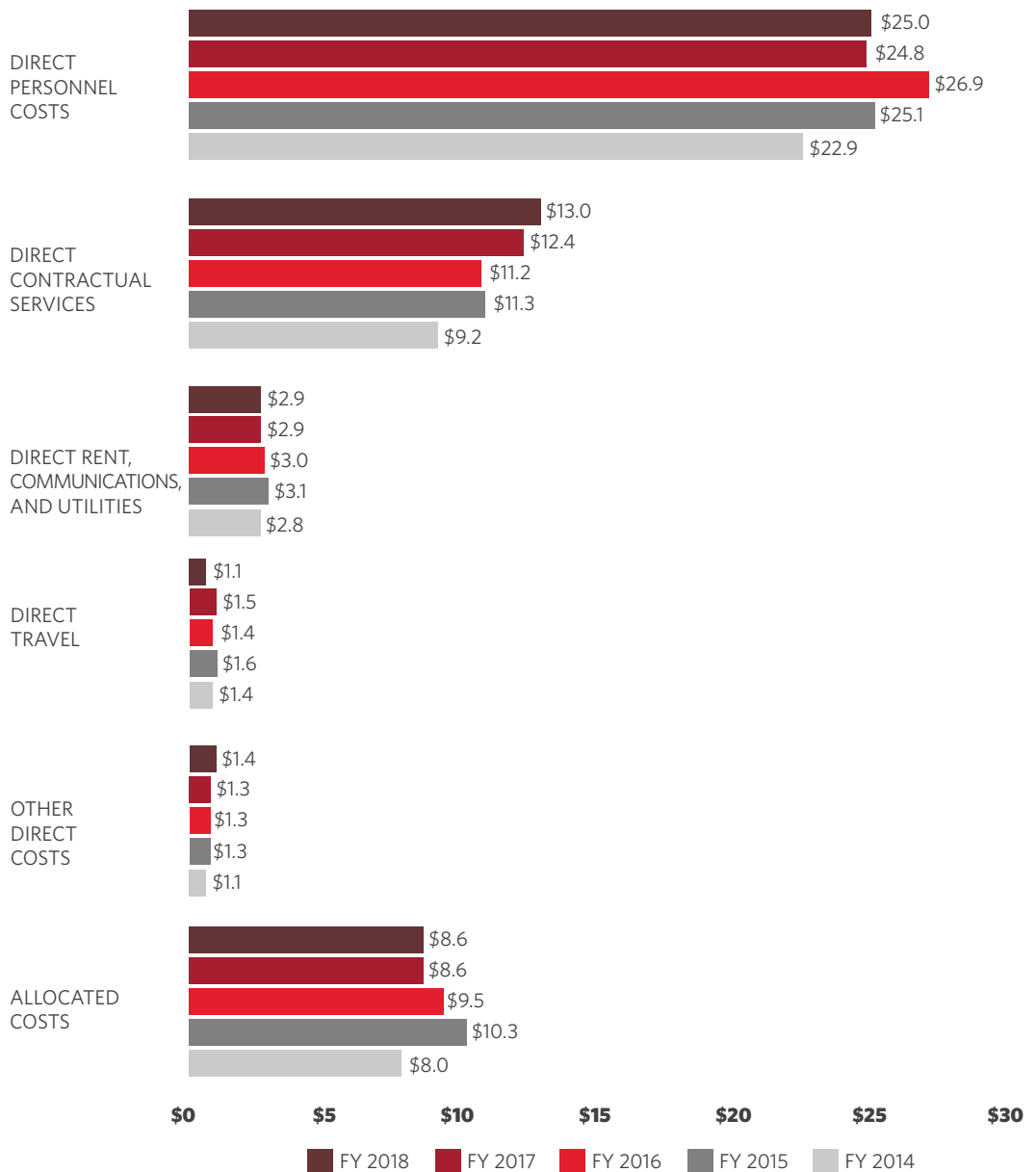
FY 2018 TRADEMARK COST BY PRODUCT *(dollars in millions)*



Intellectual Property Policy, Protection, and Enforcement Worldwide

Total costs for the IP Protection program increased \$6.6 million, or 14.5 percent, from FY 2014 through FY 2018. The most significant direct program costs for IP Protection in FY 2018 relate to personnel services, and account for 48.1 percent of the total cost for IP Protection operations. For the year ended September 30, 2018, the costs for policy, protection, and enforcement of intellectual property worldwide remained relatively stable, with an overall increase from \$51.5 million at the end of FY 2017 to \$52.0 million, an increase of \$0.5 million, or 1.0 percent. These costs were incurred in line with the activities discussed on pages 78 to 93.

INTELLECTUAL PROPERTY POLICY, PROTECTION, AND ENFORCEMENT COSTS (dollars in millions)

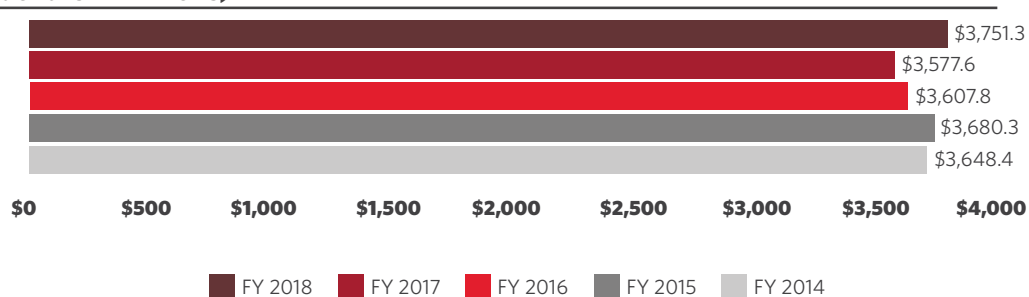


Statement of Budgetary Resources

During FY 2018, total budgetary resources available for spending was 4.9 percent greater than the amount available in the preceding year, with a 2.8 percent increase over the past four fiscal years. The change in budgetary resources available for use is depicted by the graph below. Budgetary resources increased due to patent fee rate increases and trademark application filing increases.

ANNUAL GROWTH IN AVAILABLE BUDGETARY RESOURCES

(dollars in millions)



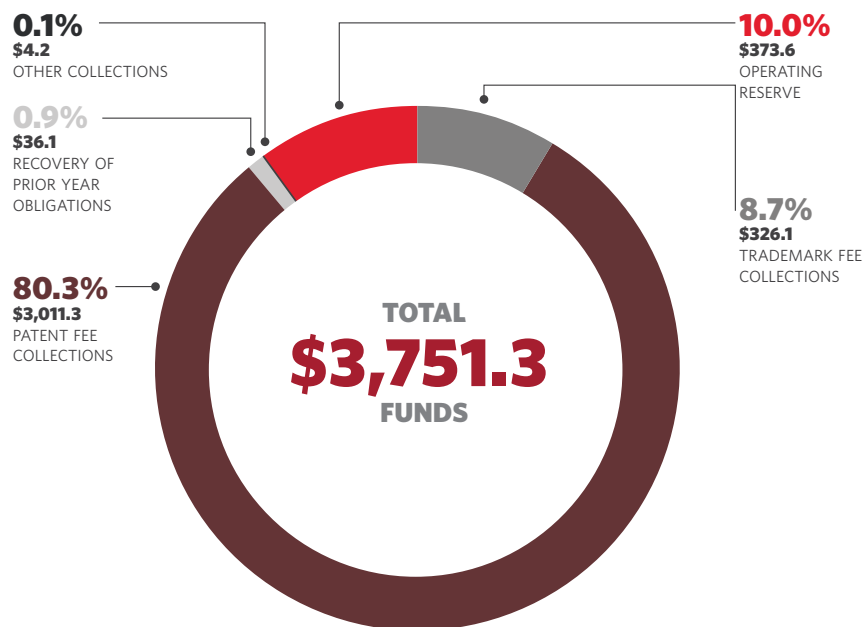
The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2018 for an amount up to \$3,500.0 million. In FY 2018, the USPTO did not collect the entire amount of anticipated fee collections appropriated; patent and trademark fee collections amounted to \$3,337.4 million (see Sources of Funds chart that follows). In past years, when the USPTO has not been appropriated the authority to spend all fees collected, the excess has been recognized as temporarily unavailable fee collections. However, the AIA established a statutory provision allowing the USPTO to deposit in the Patent and Trademark Fee Reserve Fund fees collected in excess of the appropriated levels for each fiscal year.

The USPTO is following the fee setting direction provided for in the AIA, as amended, and federal rulemaking process. During FY 2018, the USPTO continued to assess patent and trademark fees to assure that the Office is using the fee setting authority in a responsible manner. The USPTO has used the authority in the AIA to set patent fees to enable the Office to have sufficient resources to reduce the backlog of patent applications, provide strong, reliable, and predictable IP rights, improve our information technology, and manage patent revenue fluctuations and properly align fees in a timely, fair, and consistent manner. In January 2018, revised patent fee rates went into effect. The final fee schedule is responsive to stakeholder feedback as expressed during the public comment period while still allowing the USPTO to recover the aggregate estimated cost of Patent and Patent Trial and Appeal Board (PTAB) operations, as well as USPTO administrative services that support Patent operations.

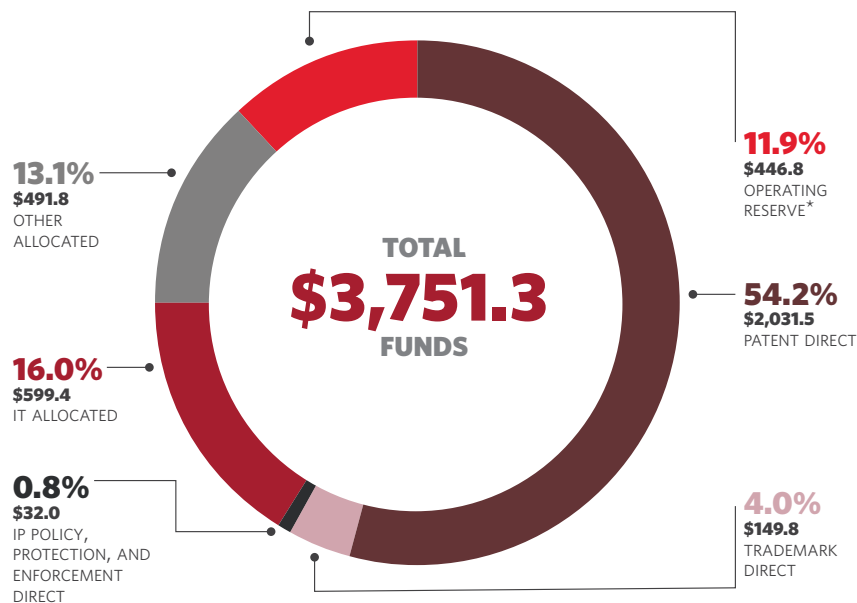
The USPTO has also used the authority in the AIA, as amended, to set trademark fees to enable the Office to have sufficient resources to address the constant stream of trademark applications, improve our information technology, and manage trademark revenue fluctuations and properly align fees in a timely, fair, and consistent manner. Previously, in January 2017, revised trademark fee rates went into effect. The final fee schedule was responsive to stakeholder concerns as expressed during the public comment period while still allowing the USPTO to recover the aggregate estimated cost of Trademark and Trademark Trial and Appeal Board (TTAB) operations, as well as USPTO administrative services that support Trademark operations.

The following charts present the budgetary resources made available to the USPTO in FY 2018, and the use of such funds representing FY 2018 total obligations incurred and the operating reserve, as reflected on the Statement of Budgetary Resources.

FY 2018 SOURCES OF FUNDS (dollars in millions)



FY 2018 USES OF FUNDS (dollars in millions)



* These funds are retained and carried forward into FY 2019.

During FY 2018, the USPTO did not collect any fees that were designated as temporarily unavailable. As a result, the \$937.8 million in temporarily unavailable fee collections at the end of FY 2013 remained the same through FY 2018.

The following chart illustrates amounts of fees that Congress has appropriated to the USPTO for spending over the past five fiscal years, as well as the cumulative unavailable fee collections.

Temporarily Unavailable Fee Collections (dollars in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Fiscal year fee collections	\$ 3,172.2	\$ 3,008.8	\$ 3,063.2	\$ 3,078.9	\$ 3,337.4
Fiscal year collections appropriated	(3,172.2)	(3,008.8)	(3,063.2)	(3,078.9)	(3,337.4)
Fiscal year unavailable collections	\$ -	\$ -	\$ -	\$ -	\$ -
Prior year collections unavailable	937.8	937.8	937.8	937.8	937.8
Subtotal	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8
Special fund unavailable receipts	233.5	233.5	233.5	233.5	233.5
Cumulative temporarily unavailable fee collections	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3

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

Statement of Cash Flows

The Statement of Cash Flow (see page 123), while not a required financial statement, is audited and is presented for purposes of additional analysis. The Cash Flow statement records the agency's cash transactions (the inflows and outflows) during the given period. The document provides aggregate data regarding all cash inflows received from both its ongoing operations and investment sources, as well as all cash outflows that pay for business activities and investments during the period. Cash flow is calculated by making certain adjustments to net income/cost by adding or subtracting differences in revenue and expense transactions (appearing on the Balance Sheet and Statement of Net Cost) resulting from transactions that occur from one year to the next. These adjustments are made because non-cash items are included in preparing the net income/cost (Statement of Net Cost) and total assets and liabilities (Balance Sheet). Since not all transactions involve actual cash items, many items have to be adjusted when calculating cash flow.

The USPTO receives fees for its primary activities of issuing patents and registering trademarks and chooses to include information on the sources and amounts of cash provided to assist report users in understanding its operating performance. While the fees received are an increase in cash flow, they may not necessarily be available for spending based on budgetary restrictions. Over half of the Fund Balance with Treasury represents fees the USPTO has collected in past years, but has not been authorized to spend through the annual appropriation process. Cash flow is determined by looking at three components by which cash enters and leaves the USPTO: operations, investing, and financing.

Composition of USPTO Cash Flows (dollars in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Cash Flows from Operations					
Net Income/(Cost)	\$ 285.7	\$ 61.2	\$ 13.8	\$ (88.1)	\$ (12.1)
Reconciling Adjustments					
Imputed Financing	62.5	46.6	34.7	20.1	69.1
Depreciation	90.7	105.3	139.0	182.7	218.9
Operating Adjustments					
Accrued Payroll, Leave, and Benefits	24.9	15.2	23.4	10.5	11.1
Deferred Revenue	158.3	(62.4)	(67.1)	(23.5)	34.0
Other Adjustments	38.3	3.7	(30.6)	2.7	12.2
Total Adjustments	374.7	108.4	99.4	192.5	345.3
Net Cash Provided by Operating Activities	660.4	169.6	113.2	104.4	333.2
Investing Activities					
Property, Plant, and Equipment	(150.5)	(179.4)	(245.6)	(201.0)	(216.3)
Net Cash Used in Investing Activities	(150.5)	(179.4)	(245.6)	(201.0)	(216.3)
Financing Activities					
Non-Expenditure Transfer	(2.0)	(2.0)	(2.1)	(2.0)	(1.0)
Net Cash Used in Financing Activities	(2.0)	(2.0)	(2.1)	(2.0)	(1.0)
Net Cash Provided/(Used)	\$ 507.9	\$ (11.8)	\$ (134.5)	\$ (98.6)	\$ 115.9

Historically at the USPTO, cash flow adjustments to operational activities result in an increase to net cash provided by operational activities. Depreciation and Accrued Payroll, Leave, and Benefits operate similarly, as the accrued expenses that do not affect the cash flow are adjusted for, thereby increasing net cash provided by operational activities. Deferred revenue is also a significant factor, as the USPTO has received the fees, but not completed all of the work; in a year when the deferred revenue liability decreases, such as FY 2017, net income increases without a corresponding increase in the cash flow; the increase to net income is removed for determining cash flow. Other adjustments are predominantly comprised of changes in accounts payable balances; in a year when the overall liability balance decreases, then a reader can conclude that an increased amount of cash was disbursed, thereby requiring a reduction to net cash provided by operational activities; alternately, in a year when the overall liability balance increases, a reader can conclude that a lesser amount of cash was disbursed.

The investment of property, plant, and equipment is a cash transaction that has not been accounted for in net income/cost and must be adjusted for in calculating net cash used in investing activities. The USPTO has been focused on upgrading our IT systems from end-to-end, which resulted in increases in IT software and software in development values.

Adjustments to financing-type activities are infrequent at the USPTO. Non-expenditure transfers at the USPTO are cash transactions reflecting the movement of appropriated fee collections to other federal governmental entities that have not been accounted for in net income/cost and must be adjusted for in calculating net cash used in financing activities.

Limitation on Financial Statements

The principal financial statements included in this report have been prepared by USPTO management to report the financial position and results of operations of the USPTO, pursuant to the requirements of 31 U.S.C. §3515(b). While the statements have been prepared from the books and records of the USPTO in accordance with Generally Accepted Accounting Principles (GAAP) for federal entities and the formats prescribed in OMB Circular A-136 (revised), 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 understanding that they are for a component of the U.S. Government, a sovereign entity.

Management Responsibilities

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

PERFORMANCE INFORMATION

Unaudited. Please see the accompanying auditors' report.



INTRODUCTION TO THE USPTO'S PERFORMANCE GOALS AND RESULTS

The Performance Section presents a detailed discussion of the USPTO's performance results by objectives within each strategic goal based upon the USPTO *2014–2018 Strategic Plan*. This is the fifth year that the USPTO has operated under this plan. The *2014–2018 Strategic Plan* is available at www.uspto.gov/about/stratplan/.

The USPTO strategic performance framework, provided in the Performance Highlights section of the Management's Discussion and Analysis, is designed to strengthen the capacity of the USPTO by focusing on a specific set of goals and the steps the USPTO must take to reach them, which include:

- Provide timely examination of patent applications—Reduce the average time to first office action for patent applications to 10 months (average time from filing until an examiner's initial determination on patentability) and average total pendency to 20 months (average time from filing until the application is issued as a patent or abandoned);
- Enhance quality of patent examination;
- Improve patent appeal and post-grant processes;
- Optimize trademark quality and maintain pendency;
- Demonstrate global leadership in all aspects of IP policy development;
- Improve IT infrastructure and tools;
- Implement a sustainable funding model for operations; and
- Continue to improve relations with employees and stakeholders.

These steps also support the U.S. Department of Commerce's focus on economic growth and its goal of delivering the tools, systems, policies, and technologies critical to transforming the U.S. economy, fostering U.S. competitiveness, and driving the development of new businesses.

The Balanced Scorecard included in the USPTO's *2014–2018 Strategic Plan* aligns the agency's goals and objectives with the associated performance indicators that provide meaningful information on the status and performance of every initiative provided in the plan.

PERFORMANCE AUDITS AND EVALUATIONS

The U.S. Government Accountability Office (GAO) completed and issued one final audit report in FY 2018 for the USPTO. The report, U.S. Patent and Trademark Office: Assessment of the Covered Business Method Patent Review Program (www.gao.gov/assets/700/690595.pdf) found PTAB (the Board) has a track record of issuing timely decisions that were upheld by the U.S. Court of Appeals for the Federal Circuit. However, the Board did not have documented procedures and guidance for reviewing trial decisions and the processes that led to the decisions to ensure consistency of its decisions. The GAO provided one recommendation—that USPTO develop guidance, such as documented procedures, for reviewing trial decisions for consistency—to mitigate these findings.

The USPTO concurred with the recommendations made in the report and began taking steps to address the recommendation. The Board will continue its efforts to document procedures for reviewing the AIA decisions and the processes leading to the decisions.

The Board will develop guidance as to: (1) how judges can raise issues deserving of Board management attention as they relate to consistency of decisions, as well as the manner by which management considers issues raised and makes other judges aware of such issues; (2) the duties and functions of a committee of judges who are responsible for reviewing Board decisions, before and after issuance, for possible precedential and informative designations in order to ensure consistency of decisions; and (3) procedures for a designated group of judges to review and summarize AIA decisions soon after issuance in a daily report given to all judges. The Board also will consider developing additional guidance in its endeavor to ensure consistency of its decisions.

PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with the Government Performance and Results Act (GPRA) Modernization Act of 2010 requirements, the USPTO is committed to making certain that the performance information it reports is complete, accurate, and consistent. The USPTO developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results as follows:

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

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

DATA ACCURACY—The USPTO conducts verification and validation of performance measures periodically to ensure quality, reliability, and credibility. At the beginning of each fiscal year, and at various points throughout the reporting or measurement period, sampling techniques and sample counts are reviewed and adjusted to ensure that 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 impact a specific performance indicator. For examination quality measures, the review programs themselves under review are assessed in terms of reviewer variability, data-entry errors, and various potential biases.

COMMISSIONERS' PERFORMANCE FOR FY 2018

The AIPA, Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, requires that an annual performance agreement be established between the Commissioner for Patents and the Secretary of Commerce, and the Commissioner for Trademarks and the Secretary of Commerce. The Commissioners for Patents and Trademarks have FY 2018 performance agreements with the Secretary of Commerce, which outline the measurable organizational goals and objectives for which they are responsible. They may be awarded a bonus, based on an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary. The results achieved in FY 2018 are documented in this report in the performance information for Strategic Goals I and II. FY 2018 bonus information was not available at the time this report was published. That information will be provided in next year's PAR. For FY 2017, the Commissioner for Patents was awarded a bonus of 21.4 percent of base salary. The Commissioner for Trademarks was awarded a bonus of 17.4 percent of base salary.

PATENTS:

STRATEGIC GOAL I

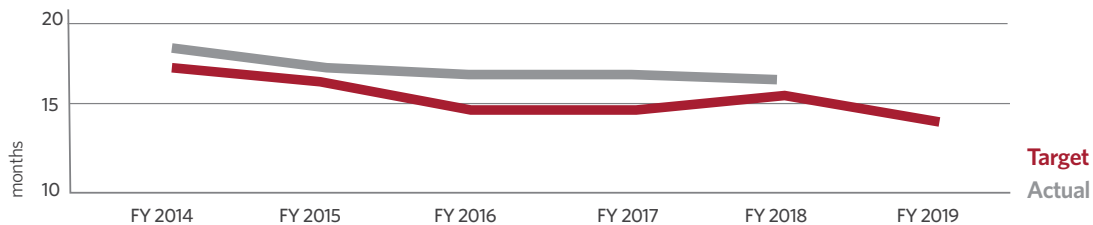
WHAT IS A PATENT?

A patent is an intellectual property right granted by the government of the United States of America to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in exchange for public disclosure of the invention when the patent is granted.

There are three types of patents: utility, design, and plant. Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof. Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture. Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant. For a detailed look at how the patent application examination process works, please visit www.uspto.gov/patents-getting-started/patent-process-overview.

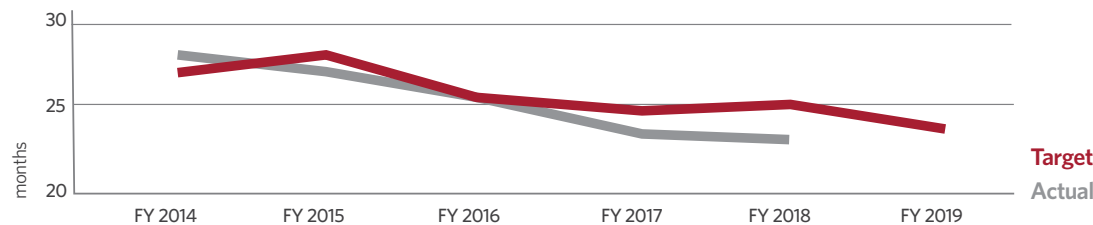
What follows are those Strategic Goal I key measures for which enough data are available to establish performance trends.

PATENT AVERAGE FIRST ACTION PENDENCY



Trend: The trend line indicates that the performance trend is positive with some variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 56.

PATENT AVERAGE TOTAL PENDENCY



Trend: The trend line indicates that the performance trend is positive with little variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 56.

STRATEGIC GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS

The USPTO is dedicated to carrying out its mission to deliver “high quality and timely examination of patent...applications” in accordance with laws, regulations, and practices and consistent with the goals and objectives in the USPTO 2014–2018 *Strategic Plan*. This goal and its key performance measures directly support the Department of Commerce Priority Goal to Improve Patent Processing Time and Quality. Additional information on the USPTO’s performance metrics is available at www.performance.gov/. Economic growth in advanced economies, like that of the United States, is driven by creating new and better ways of producing goods and services, a process that triggers new and productive investments.

PATENT QUALITY AND TIMELINESS

American innovators and businesses rely on the legal rights associated with patents to reap the benefits of their innovations. Timely issuance of high-quality patents—that is, patents that are correctly issued in compliance with the requirements of Title 35, as well as the relevant case law at the time of issuance—provides market certainty and allows businesses and innovators to make informed, timely decisions on product and service development. Processing patent applications in a high-quality and timely manner advances economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services, and products.

Between the end of FY 2017 and the end of FY 2018, average first action pendency decreased by 0.5 months (to 15.8 months) and total pendency decreased by 0.4 months (to 23.8 months). First action pendency measures the time from when an application is filed until it receives an initial determination of patentability by the patent examiner. Total pendency measures the time from filing until an application is either issued as a patent or abandoned (see Tables 4 and 5).

The USPTO’s dedicated employees continue to make great strides in reducing the inventory of unexamined patent applications, from 526,579 at the end of FY 2017 to 522,149 at the end of FY 2018, which represents a decline of 1 percent below FY 2017. At the same time, the Request for Continued Examination (RCE) inventory decreased from 22,473 at the end of FY 2017 to 20,297 at the end of FY 2018, a decline of nearly 10 percent.

TABLE 4.

MEASURE: PATENT AVERAGE FIRST ACTION PENDENCY (MONTHS)

Fiscal Year	Target	Actual
2014	17.4	18.4
2015	16.4	17.3
2016	14.8	16.2
2017	14.8	16.3
2018	15.4	15.8
2019	14.5	
Target not met.		

TABLE 5.

MEASURE: PATENT AVERAGE TOTAL PENDENCY (MONTHS)

Fiscal Year	Target	Actual
2014	26.7	27.4
2015	27.7	26.6
2016	25.4	25.3
2017	24.8	24.2
2018	25.0	23.8
2019	23.8	
Target met.		

OBJECTIVE 1: REFINE OPTIMAL PENDENCY

The USPTO recognizes that it must continually refine and define optimal pendency in light of how external factors affect workload inputs and the commitments made to the fee-paying public.

To that end, the USPTO has begun focusing on meeting the timeframes of Patent Term Adjustment (PTA), with a view toward minimizing PTA. This includes measuring all components of PTA, including 14 months to first action, four months to act on applicant's responses, four months to act on appeal decisions, four months to issue applications after payment of the issue fee, and 36 months total prosecution (collectively 14/4/4/4/36). Goals have been established for compliance with all 14/4/4/4/36 measures, and progress is tracked continuously.

In addition, the USPTO has continued its progress in reducing first action pendency and total pendency toward the traditional goals of 10 months to first action and 20 months total pendency.

OBJECTIVE 2: INCREASE EFFICIENCIES AND PATENT EXAMINATION CAPACITY TO ALIGN WITH OPTIMAL PATENT PENDENCY

Effective and Efficient Program Delivery

The Patent organization is identifying ways to improve efficiency, effectiveness, and accountability; develop a framework to analyze alignment of activities with mission and role of the agency; and develop appropriate proposals that lead to improvement. For each initiative, data analysis has been completed, recommendations have been made, and improvements targeted for implementation in FY 2019.

Stalled Career Examiner Study

The goal of this initiative is to assess and review factors that might attribute to employees plateauing at certain grade levels or performance to see how the agency could improve or develop programs to assist employees with progressing to improve organizational performance and/or effectiveness.

Examiner Performance Management Study

The goal of this initiative is to evaluate the effectiveness of the current USPTO employee performance management process, particularly the Patent warning process, to determine if the process is streamlined to the greatest extent and effectively maximizes employee performance.

Identify Opportunities for Maximizing Examination Time

The goal of this initiative is to seek out patent operational efficiencies by reviewing all non-production activities of patent examiners. Outlier/anomaly detection was performed using a data-mining approach to identify items, events, or observations that did not conform to an expected non-examining activity pattern.

Expansion of Patent Application Initiatives

The USPTO continued to evaluate programs designed to advance the progress of a patent application and to provide applicant assistance, including programs such as Track One for prioritized examination, First Action Interview, Quick Path Information Disclosure Statement (QPIDS), the After Final Consideration Program 2.0 (AFCP 2.0), and Patents for Patients.

Post Grant Outcomes

Post Grant Outcomes seeks to provide to the examiner the most useful post grant information from various sources, such as access to prior art and other evidence submitted by third parties in AIA trials before the PTAB. The goal of this program is to enhance the quality of patentability determinations in related pending patent applications by notifying examiners when they have an application related to an AIA trial proceeding, streamlining access to the contents of AIA trial proceedings, and determining and disseminating best practices for evaluating those proceedings. At the beginning of FY 2018, a feature was added to the examination toolkit to facilitate and assist an examiner to readily access documents directly related to a pending application. Since its launch, over 1,562 cases have been identified, and the examiner of record has been notified and given just-in-time training. This program serves to assist examiners in their examination process by not only making access to prior art easier, but also by improving patent quality. For more information on the Post Grant Outcomes Program, please visit www.uspto.gov/patent/initiatives/post-grant-outcomes.

Pro Se Art Unit

Established in October 2014, the USPTO's Pro Se Art Unit continues to provide dedicated educational and practical resources to small businesses, independent inventors, and under-resourced inventors. As a result, over 2,700 patents have been granted in applications handled by examiners in the Pro Se Art Unit. Through education and enhanced customer service, the Pro Se Art Unit has helped increase accessibility to patent protection with 55 percent of all applications examined by the Pro Se Art Unit resulting in a patent grant. In addition, examiners in the Pro Se Art Unit have worked with unrepresented applicants in thousands of applications to help make the patent system more transparent and understandable. By working proactively with unrepresented applicants from filing through disposal, the USPTO hopes to identify, streamline, and ameliorate procedural obstacles that plague first-time filers and increase pendency. Best practices are shared internally with patent examiners in "Working with Pro Se Applicants" refresher training.

Best practices are shared externally through Inventor's Eye articles, webinars, and a newly developed Pro Se Basic Training Series. At present, over 3,400 pro se-filed applications are assigned to the Pro Se Art Unit.

Customer Partnership Meetings

The USPTO is continuing to expand Customer Partnership Meetings in an effort to provide an informal conduit for all stakeholders to share insights and experiences that improve patent prosecution in specific technology areas. The USPTO hosted at least 14 Customer Partnership Meetings this year, which include Customer Partnership Meetings for multiple Technology Centers (TCs), including those focused on chemical and materials engineering (TC 1700), communications (TC2600) in collaboration with the Rocky Mountain Regional Office, and mechanical disciplines (TCs 3600/3700). In addition, the USPTO hosted the Biotech Chemical Pharmaceutical Customer Partnership Meeting, Design Day, Additive Manufacturing Partnership, Partnering in Patents, Circuits Customer Partnership Meeting, Semiconductor Partnership, and Business Methods Partnership. The increased interactivity between the USPTO and external stakeholders in specific technology areas aims to enhance relationships and improve resolution of future prosecution-related issues. For more information on Customer Partnership Meetings, please visit www.uspto.gov/patent/cpm.



Fred Steckler, Chief Administrative Officer, administers the oath of office to Matthew Such, Colleen Matthews, Alexa Neckel, and Keisha Bryant, who join the Office of the Commissioner for Patents as Technology Center Group Directors. (Photo: Jay Premack/USPTO)

Table 6 provides the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production.

TABLE 6.

MEASURE: TOTAL COST PER PATENT PRODUCTION UNIT

Fiscal Year	Target	Actual
2014	\$4,633	\$3,940
2015	\$4,646	\$4,086
2016	\$4,687	\$4,198
2017	\$4,607	\$4,312
2018	\$4,786	\$4,593
2019	\$4,888	
Target met.		

OBJECTIVE 3: INCREASE INTERNATIONAL COOPERATION AND WORK SHARING

The USPTO is a global leader in developing work sharing programs resulting in efficiencies for patent applicants and examiners. For example, the USPTO continues to expand its Patent Prosecution Highway (PPH) programs, which have proven to increase efficiencies and decrease costs for applicants filing in multiple offices. The PPH programs encompass over 30 international offices, accounting for over 85 percent of the world's patent applications.

The USPTO continued its stewardship of the Global Dossier, a set of business services that provide a single point of access to related applications filed in multiple patent offices at no cost to users. During FY 2018, the USPTO worked closely with the five largest IP offices worldwide (IP5) and external stakeholders to prioritize and implement enhancements to the services.



Meeting of the IP5 Deputy Heads at the USPTO's Global Intellectual Property Academy, where they discussed upcoming projects and initiatives. (Photo: Reid Bailey/USPTO)

The USPTO has also helped lead the way in developing new, innovative collaborative search programs. These collaborative search programs seek to ensure predictability and reliability of IP rights worldwide.

The USPTO has programs with the Japan Patent Office (JPO) and the Korean Intellectual Property Office (KIPO) to provide collaborative work sharing search services resulting in consistent and reliable outcomes across offices by identifying and sharing prior art early in prosecution. Work completed in FY 2017 in multilateral collaborative programs showed that through expediting examination, the examination process yielded a reduction in prosecution costs for both applicants and offices. In FY 2018, the USPTO continued to collect data to identify where gains in productivity and quality could be realized.

The USPTO continued to further enhancements to the PCT by piloting collaborative search services, one of which was launched on July 1. The goal of the PCT collaborative search and examination pilot is to test user interest, operational and quality standards, and an electronic collaboration tool or platform for use by examiners in multiple offices. A further goal is to determine what effect collaboration has on the quality of the work products and its repercussions on the national phase.

The USPTO continues to collaborate with the European Patent Office (EPO) to identify objective Cooperative Patent Classification (CPC) metrics to monitor consistency, in order to ensure high-quality placement of CPC symbols and retrieval of patent documentation. The USPTO uses these measures to identify technical areas for harmonizing classification practices.

The USPTO is also developing an automated tool for the agency's examiners, which imports relevant prior art and other pertinent information into pending U.S. patent applications as early as possible. In addition to envisioned increases to examination quality and efficiency, this initiative will potentially reduce the burden on applicants with complying with the duty of disclosure. Extensive stakeholder outreach will identify the needs of both examiners and applicants. The USPTO anticipates that this initial functionality will be available in early FY 2019, which will provide the ability to view a master reference list, including references cited in the instant application and imported references from the immediate U.S. parent application.

OBJECTIVE 4: CONTINUE TO ENHANCE PATENT QUALITY

Providing high-quality and efficient examination of patent applications is key to driving toward predictable, reliable, and high-quality IP rights, and the USPTO is committed to working with its internal and external stakeholders, as well as the IP community, on the continuous improvement of patent quality. The USPTO's quality efforts are largely focused on the following areas: data analysis of its work products through USPTO quality metrics; examiner and stakeholder training; enhancing searches to provide the best prior art early in prosecution; and improving customer experience. Table 7 shows the results in correctness of office actions that the USPTO achieved during FY 2018.

TABLE 7.

MEASURE: PATENT CORRECTNESS INDICATORS

Statute	Goal	Actual
35 U.S.C. § 101 (including utility and eligibility)	>97%	96.8%
35 U.S.C. § 102 (prior art compliance)	>95%	95.2%
35 U.S.C. § 103 (prior art compliance)	>93%	92.0%
35 U.S.C. § 112 (35 U.S.C. § 112(a),(b) including (a)/(b) rejections related to 35 U.S.C. § 112(f))	>93%	92.9%

Measuring and evaluating the quality of USPTO work products helps the agency gain a more thorough understanding of the quality of these work products and ultimately helps promote reliability and consistency. For example, the USPTO quality metrics approach captures, measures, and evaluates the quality of patent work products for compliance with Title 35 of the U.S. Code and the relevant case law at the time of the patentability determination. Data are captured via the USPTO master review form and is easily mined to determine trends, action plans, and the development of training curriculum.

The Integrated Quality System enables reviewers in both the Office of Patent Quality Assurance (OPQA) and the Technology Centers to consistently document and access office action quality review data. This system includes the Master Review Form, which captures both correctness and clarity information via a series of standardized questions. The form was built using smart form logic; thus, reviewers only see those sections/questions that are applicable to a particular review.

In FY 2018, OPQA completed 14,270 reviews. This volume of reviews allows the office to identify quality trends by statute, as well as by office action type for individual technical centers and workgroups, and to identify corps-level quality trends earlier than what was possible in the past.

In addition, the USPTO utilizes internal and external stakeholders' perception surveys. The survey addresses overall quality and overall consistency. The USPTO evaluates the survey results to determine whether there is a correlation between stakeholders' perception and USPTO quality metrics findings. This also enables ways to identify possible areas for quality improvement.

The USPTO provides employees with continuous training opportunities for refresher and master-level courses on topics related to patent quality, including legal and technical training (e.g., subject matter eligibility, obviousness, indefiniteness, and more). Ensuring an appropriately trained workforce is important for having high-quality, consistent examination.

In FY 2018, training was expanded to external stakeholders because it is an important part of the USPTO's mission to deliver IP information and education to external stakeholders. In addition, the number of Stakeholder Training on Examination Practice and Procedure (STEPP) sessions was expanded for attorneys and inventors. Training delivered through STEPP is designed to provide external stakeholders with a better understanding of how and why an examiner makes decisions when examining a patent application. In-person courses are led by USPTO trainers at USPTO headquarters and in each of its regional offices and are based on material developed for training employees.

Patent Quality Chats are hosted by the Office of the Deputy Commissioner for Patent Quality. The Patent Quality Chat series is a monthly webinar designed to provide information on patent quality topics and to gather the public's input on a regular basis. These webinars include a 20-minute presentation and reserve the remainder of the time for questions and comments from the virtual audience. All patent quality chats are free, open to the public, and can be found at www.uspto.gov/patent/initiatives/patent-quality-chat.

The virtual Instructor Led Training (vILT) was also initiated in FY 2018. It is a series of training sessions offered to stakeholders on a variety of focused topics related to examination practice and procedure using a webinar format.

In FY 2018, the focus on customer experience was renewed to create a customer-centric culture to ensure that those who interact with the USPTO receive the service that they require in an efficient and timely manner. The USPTO will continue working to improve the customer's overall experience.

OBJECTIVE 5: ENSURE OPTIMAL INFORMATION TECHNOLOGY SERVICE DELIVERY TO ALL USERS

An important component of the Patent goal is to leverage IT to accomplish the USPTO's mission-related objectives. This Patent objective reaffirms the agency's commitment to Patent End-to-End (PE2E) processing and lays out the USPTO's plans for ensuring optimal IT service delivery to both internal and external users.

Once fully deployed, the USPTO's PE2E system will provide examiners with an improved way of processing patent applications, integrating activities currently managed across separate systems into a central place, and leveraging modern technology.

The USPTO has progressed on a multipronged effort to stabilize the PALM legacy system used for patent examining. The Patent Reporting System has been improved for examiners and managers and has increased usage of the PALM services gateway as demonstrated by an increase in services.

The USPTO has continued the replacement of legacy tools with new tools. The entire patent-examining corps has migrated to the new Docket and Application Viewer (DAV) tool. DAV is a customizable, searchable tool to help examiners manage their workload and to prioritize tasks.

In 2018, the USPTO launched the Official Correspondence tool. This tool allows the patent examination corps to write their office actions, fill out the appropriate forms, route their office actions for approval, and communicate with the applicant. All patent examiners now can create their office actions with the Official Correspondence tool.

In FY 2018, select patent examiners began testing a new search capability. The high-performance tool finds prior art through the use of Boolean searches, hit terms, review results, and documents with additional foreign data and functionality.

The USPTO is working to further modernize its e-commerce capabilities—transactions that involve the transfer of information across e-commerce—and integrate MyUSPTO to tie all e-commerce offerings together at the USPTO. In 2017, a pilot program of the Patent Center was released. Patent Center is a unified interface for patent applicants. During the beta launch, it received text patent applications from pilot participants. In 2018, the Patent Center deployed functionality to replace Electronic Filing System-Web and Patent Application Information Retrieval and integrated them with MyUSPTO.

For patent applicants, MyUSPTO and the Patent Center provide a simpler authentication process, improved functionality, and a more user-friendly interface and documents. For patent examiners, the updated systems streamlined patent application review and management processes, and increased accuracy of application processing and publication. Overall, it supports a more easy-to-use electronic patent application process, with improved efficiency, communication, and patent quality.

OBJECTIVE 6: CONTINUE AND ENHANCE STAKEHOLDER AND PUBLIC OUTREACH

Expanding the USPTO's regional presence enhances its commitment to reaching stakeholders across the country. With four regional offices now open, the focus is on educating patent applicants on the wide variety of services provided by the USPTO. Some of these services concentrate on aspiring entrepreneurs, innovators, and students who are looking for beginner information on IP concepts. Other services take the form of meetings and roundtable sessions performed in conjunction with various state Patent and Trademark Resource Centers (PTRCs). These meetings and sessions include topics that focus on how IP can be used as a business strategy and basic information on patents. The agency is also keeping patent practitioners up to date through seminars that discuss such topics as reviews and petitions.

The USPTO continued to assist small businesses and under-resourced inventors through education and outreach programs, pro se assistance (e.g., walk-ins, calls, emails for inventors who are contemplating filing or have filed, new virtual walk-in service being piloted with four PTRCs, and the new Inventor Info Chat monthly educational online series), and raising awareness about other programs that could be of assistance. More information about the Pro Se Assistance Program is available online at www.uspto.gov/patents-getting-started/using-legal-services/pro-se-assistance-program.

The Patents Ombudsman Office enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution. More specifically, when there is a breakdown in the normal application process, including before and after prosecution, the Patents Ombudsman Office can assist in getting the application back on track. The Patents Ombudsman Office staff also provides informative presentations to educate customers on the Patents Ombudsman Office, with particular emphasis paid to how to proactively resolve the most frequent types of inquiries. In FY 2018, the program provided outreach to numerous IP professionals. More information on the Patent Ombudsman Office is available online at www.uspto.gov/patent/ombudsman-program.

OBJECTIVE 7: MAINTAIN PTAB'S ABILITY TO PROVIDE TIMELY AND HIGH-QUALITY DECISIONS

Allocating Resources Effectively

In September 2011, the AIA re-established the Board of Patent Appeals and Interferences as the PTAB, effective in September 2012. Since then, the PTAB has been accepting petitions for AIA post-grant proceedings (AIA trials). In FY 2018, PTAB received just over 1,600 petitions under the AIA and also decided over 11,000 ex parte appeals during this same period. The PTAB Ex Parte Appeal inventory has been reduced from over 21,000 in FY 2015 to under 11,000 by the end of FY 2018.

To meet the demand for its services, the PTAB has carefully monitored its resource needs and has taken action to ensure that these needs are met. This has required additional administrative infrastructure and minor organizational realignments, with close attention being paid to appropriate manager-to-employee ratios. PTAB recruited and is in the process of hiring a small number of additional administrative patent judges in FY 2018. The number of AIA petitions filed each month is difficult to predict because the impact of factors, such as rule changes, pending legislative initiatives, and judicial decisions, is not well-known or easy to predict. The recent Supreme Court decision in *SAS Institute v. Iancu* has resulted in several cases being granted a “good cause” extension for the date of the final written decision (35 U.S.C. § 316(a)(11)). This raises the potential for a slight and temporary spike in pendency during Q2 of FY 2019. The challenge of balancing workload with human capital resources at PTAB will remain a focus. The PTAB will continue to closely monitor filing trends and make adjustments to staffing requirements to meet goals.

Patent Trial and Appeal Board End-to-End (PTAB E2E) IT System

In September 2012, the USPTO deployed an e-filing system known as the *Patent Review Processing System* (PRPS) for trials under the AIA. Usage of PRPS exceeded expectations and required a transition to a new system to better serve the needs of the public.

In July 2016, the USPTO deployed a new system called *PTAB End-to-End (E2E)*. PTAB E2E is a fully integrated IT system designed to meet the specific business needs of the PTAB and its stakeholders. PTAB E2E uses a web browser and a step-by-step filing program to enable petitioners and patent owners to provide metadata and to upload PDF documents to the system. PTAB E2E also provides an interface to the Financial Manager for paying fees. The PTAB E2E system initially provided for AIA petitions to be filed for inter partes review, post-grant review, and covered business method review, and then included derivation proceedings in December 2016.

PTAB AIA data are provided to the public through anonymous search in PTAB E2E, as well as via bulk downloads through the PTAB Application Program Interface (API). PTAB E2E also supports a near real-time event notification RSS feed to provide timely case data to subscribers of the feed. Work is currently underway to integrate appeal decision functionality and to retire the legacy Adjudicated Case Tracking System for appeals. This will include integrating the existing Interferences and the iFiling Interference Web portal capabilities into PTAB E2E. Efforts are also underway to migrate all of the appeal decisions from 1997 onward into PTAB E2E out of the legacy Electronic Freedom of Information Act (eFOIA) system, which the agency is planning to retire. PTAB's decision documents and metadata will also be included in the USPTO “data lake” to allow for advanced analytics and reporting.

TRADEMARKS:

STRATEGIC GOAL II

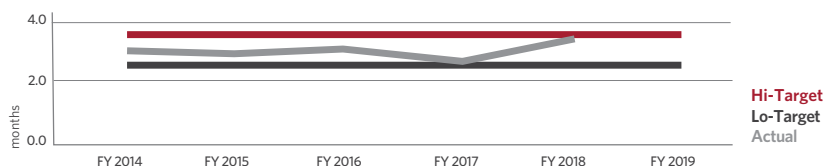
WHAT IS A TRADEMARK OR SERVICE MARK?

A trademark or service mark is a word, name, symbol, device, or any combination thereof, used to identify and distinguish the goods and services of one seller or provider from those of others and to indicate the source of the goods and services. Federal registration of a mark is not mandatory, but it has several advantages, including notice to the public of the registrant's claim of ownership of the mark, legal presumption of ownership nationwide, and a presumption of the exclusive right to use the mark on or in connection with the goods and services listed in the registration. Recordation of a registered trademark with U.S. Customs and Border Protection enables the owner to stop infringing goods from entering the United States.

For a look at the steps involved for obtaining a trademark registration from the USPTO, please visit www.uspto.gov/trademarks-getting-started/trademark-process.

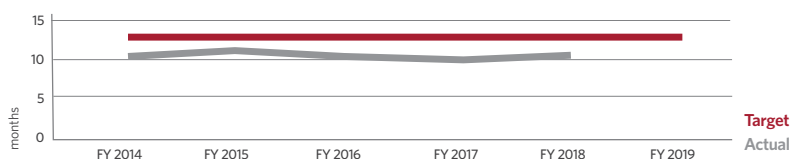
What follows are those Strategic Goal II measures for which enough data are available to establish performance trends.

TRADEMARK AVERAGE FIRST ACTION PENDENCY



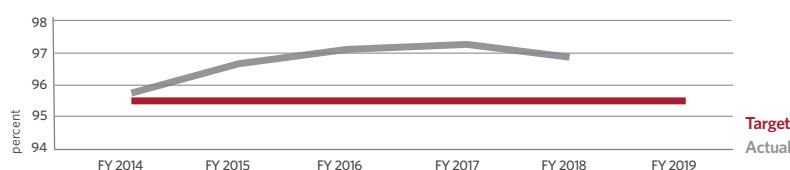
Trend: The trend line indicates that the performance is meeting goals within the expected target range of 2.5 to 3.5 months. Additional discussion for this measure can be found on page 68.

TRADEMARK AVERAGE TOTAL PENDENCY



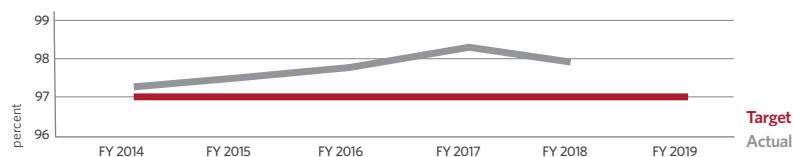
Trend: The trend line indicates that the performance trend is meeting goals within the target range. Additional discussion for this measure can be found on page 68.

TRADEMARK FIRST ACTION COMPLIANCE RATE



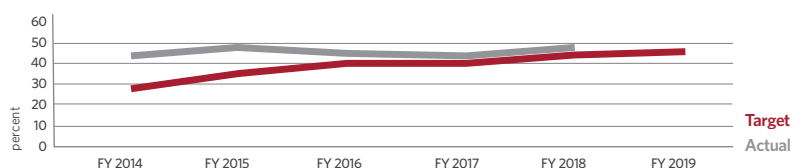
Trend: The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for the first Office action under the Trademark Act. Additional discussion for this measure can be found on page 70.

TRADEMARK FINAL COMPLIANCE RATE



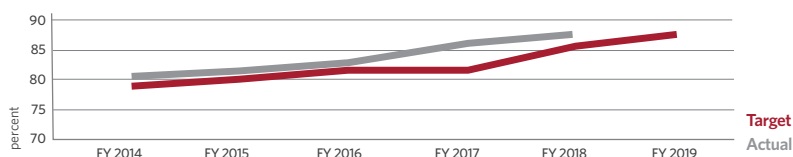
Trend: The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for registration based on the examiner's approval or denial of the application including first Office actions under the Trademark Act. Additional discussion for this measure can be found on page 70.

TRADEMARK EXCEPTIONAL OFFICE ACTION



Trend: The trend line indicates positive performance. Additional discussion for this measure can be found on page 71.

TRADEMARK APPLICATIONS PROCESSED ELECTRONICALLY



Trend: The trend line indicates positive performance. Additional discussion for this measure can be found on page 69.

STRATEGIC GOAL II:

OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

The USPTO's Trademarks operations are guided by the strategic goal to optimize trademark quality and timeliness. The USPTO protects consumers and provides benefits to businesses by executing the trademark laws of the United States. Federal trademark registrations allow consumers to identify the source of products and services and to indicate a trademark's quality to its owner and the public.

The USPTO consistently delivers high-quality trademarks within target pendency. Since 2008, trademarks have been registered in less than 12 months on average. An indication of registrability, by a first action, has been provided in less than 3.5 months on average every year since April 2007. The USPTO and its trademark stakeholders consider these to be optimal pendency rates. The number of trademark applications processed completely electronically increased to 87.9 percent in FY 2018. First and final action compliance rates, which measure trademark quality, exceeded 96 percent. The USPTO is positioned to maintain this strong performance as filings continue to increase.

The following objectives focus on management actions to ensure that staffing, resources, and refined processes are aligned to meet the public's demand for goods and services.

OBJECTIVE 1: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5-3.5 MONTHS WITH 12.0 MONTHS FINAL PENDENCY

The USPTO has continued to balance examination capacity with the changing volume of incoming applications. The trademarks organization manages the workload with production incentives, overtime, career development details, and additional hiring.

Over the past several years, economic uncertainty had affected business decisions and investments. Despite a stronger American economy this past year, uncertainty in the broader global market still contributes to volatile application-filing levels and the challenge of developing precise forecasts. Despite these factors, the USPTO managed resources and staffing to maintain the timeliness that the agency's stakeholders have come to expect.

In response to a 7.5-percent increase in trademark filings for FY 2018 and anticipated filings increase of 6.1 percent in FY 2019, the USPTO plans to continue hiring examining attorneys to ensure that capacity meets the expected increase in application volume.

Achieved Optimal Pendencies

First action pendency measures the length of time between receipt of a trademark application and when the USPTO makes a preliminary decision. In FY 2018, first action pendency was 3.4 months, within the optimum target range of 2.5-3.5 months.

Average total pendency—the average number of months from date of filing to notice of abandonment, notice of allowance, or registration—averaged 9.6 months. The USPTO has sustained optimal pendency (see Tables 8 and 9), which is an important indicator for stakeholders when making business decisions. The USPTO is committed to achieving its overall pendency targets.

TABLE 8.

MEASURE: TRADEMARK AVERAGE FIRST ACTION PENDENCY (MONTHS)

Fiscal Year	Target	Actual
2014	2.5 - 3.5	3.0
2015	2.5 - 3.5	2.9
2016	2.5 - 3.5	3.1
2017	2.5 - 3.5	2.7
2018	2.5 - 3.5	3.4
2019	2.5 - 3.5	
Target met.		

TABLE 9.

MEASURE: TRADEMARK AVERAGE TOTAL PENDENCY (MONTHS)

Fiscal Year	Target	Actual
2014	12.0	9.8
2015	12.0	10.1
2016	12.0	9.8
2017	12.0	9.5
2018	12.0	9.6
2019	12.0	
Target met.		

Electronic processing of trademark applications throughout the entire prosecution cycle increased to 87.9 percent of applications disposed in FY 2018, as shown in Table 10. The USPTO will continue to engage with the public to identify ways to streamline processes, lessen the financial burden on applicants by offering fee options, and efficiently process trademark applications to maintain optimal pendencies. The USPTO proposed a new rule on May 30, 2018, to require more electronic communication when filing applications. In *Federal Register*, 83 Fed. Reg. 24701, the agency proposed to amend the rules for filing trademark cases and the rules related to the Madrid Protocol for international registration of marks, to mandate electronic filing of trademark applications and submissions associated with trademark applications and registrations, and to require the designation of an email address for receiving USPTO correspondence. This proposed rule aims to further the USPTO's strategy to achieve complete end-to-end electronic processing of trademark-related submissions, thereby improving administrative efficiency by facilitating electronic file management, optimizing workflow processes, and reducing processing errors. The goal is exclusively electronic filing and correspondence by FY 2019.

TABLE 10.

MEASURE: TRADEMARK APPLICATIONS PROCESSED ELECTRONICALLY

Fiscal Year	Target	Actual
2014	78.0%	80.7%
2015	80.0%	82.2%
2016	82.0%	84.8%
2017	82.0%	86.5%
2018	86.0%	87.9%
2019	88.0%	
Target met.		

OBJECTIVE 2: MAINTAIN HIGH TRADEMARK QUALITY

Trademark examination quality is designated by the first and final compliance rate. Quality is assessed through an in-process review evaluation of the statutory bases for which the USPTO raises issues and/or refuses marks for registration based on the first Office action and the examiner's approval or denial of the application (see Tables 11 and 12).

TABLE 11.

MEASURE: TRADEMARK FIRST ACTION COMPLIANCE RATE

Fiscal Year	Target	Actual
2014	95.5%	95.8%
2015	95.5%	96.7%
2016	95.5%	97.1%
2017	95.5%	97.3%
2018	95.5%	96.9%
2019	95.5%	
Target met.		

Quality measurement considers adherence to registrability standards and the comprehensive excellence of USPTO actions, including research, writing, legal decision-making, and evidence. Trademarks routinely achieves quality targets, and sustains high performance by improving training and feedback, promoting electronic filing and processing, making greater use of online tools and enhanced processes, and adopting more rigorous customer-centric measures. All three Trademark quality targets were met again in FY 2018, which demonstrates the effectiveness of the organization's specialized training, online tools, and enhanced communication.

TABLE 12.

MEASURE: TRADEMARK FINAL COMPLIANCE RATE

Fiscal Year	Target	Actual
2014	97.0%	97.2%
2015	97.0%	97.6%
2016	97.0%	97.8%
2017	97.0%	98.3%
2018	97.0%	97.9%
2019	97.0%	
Target met.		

The USPTO has consistently exceeded its targets for Exceptional Office Action, the most comprehensive quality measure (see Table 13), illustrating the USPTO's commitment to ongoing excellence in searching, preparing supporting evidence, writing office actions, and communicating decisions. The measure demonstrates the USPTO's success in emphasizing a holistic approach to quality. The USPTO continues to address quality by developing guidelines specific to quality review findings. The target has been raised consistently to reflect not only the new level of quality, but also to consider the impact of hiring a significant number of new examiners and implementing new procedures or processes.

Incentive awards, like the non-monetary *Exemplary Office Action Award* established in 2017, have recognized and motivated examiners to strive for exceptional work products.

TABLE 13.

MEASURE: EXCEPTIONAL OFFICE ACTION

Fiscal Year	Target	Actual
2014	28.0%	43.0%
2015	36.0%	48.3%
2016	40.0%	45.4%
2017	40.0%	45.0%
2018	45.0%	48.0%
2019	46.0%	
Target met.		

The USPTO will continue its multifaceted training program for its trademark examining attorneys and support staff. New examining attorneys are first trained in the classroom and then work with a mentor for an extended period. Experienced examining attorneys are provided with continuing training resources to improve performance. This includes in-house legal training by the USPTO's Office of Trademark Quality Review and ongoing trademark case law updates and examination guidelines by the legal policy office. The USPTO provides continuing legal education on relevant topics by outside lawyers and offers training on the use of IT to provide new research resources and procedures to minimize errors. The USPTO continues to engage stakeholders in verifying trademark quality findings; offers user-group-provided, industry-specific training; and works with industry experts on updating identifications for goods and services. Regular meetings and

roundtables with outside constituent groups, a customer call center, and an email box for customer problems also provide valuable feedback about examination quality.

Table 14 shows how the USPTO evaluates the efficiency of the trademark examination process, as measured by the average cost of a trademark disposal compared with trademark direct and indirect costs. This efficiency measure is calculated by dividing total expenses associated with the examination and processing of trademarks (including associated overhead and allocated expenses), as well as multi-year investments in IT by outputs or office disposals. Actual results are based on total trademark-related expenditures office-wide compared with office disposals (abandoned and registered applications, etc.).

TABLE 14.

MEASURE: TOTAL COST PER TRADEMARK OFFICE DISPOSAL

Fiscal Year	Target	Actual
2014	\$650	\$559
2015	\$673	\$667
2016	\$590	\$600
2017	\$561	\$586
2018	\$540	\$576
2019	\$586	
Target not met.		

OBJECTIVE 3: ENSURE OPTIMAL INFORMATION TECHNOLOGY SERVICE DELIVERY TO ALL USERS

Modernize IT by Developing Trademark Next Generation

The USPTO launched the Trademark Next Generation (TMNG) initiative in 2010 to replace trademark legacy IT systems. The first phase of the effort separated Trademark IT infrastructure from the rest of the USPTO IT infrastructure to mitigate system dependency risks to the Trademark business area. Other early successes include the Trademark Status and Document Retrieval (TSDR) tool, the first cloud-based product under TMNG; Trademark Electronic Official Gazette (eOG), which provides users the ability to create and save custom queries, as well as the ability to export/download data; and an electronic, searchable, and editable version of the ID manual, *TMNG IDM*.

TMNG has not progressed as quickly as planned, but progress was made in FY 2018 on the development and eventual replacement of the first major legacy system, FAST 1, the online examination system used by examining attorneys. Trademarks management continues to invest smartly and appropriately in legacy capability while awaiting the delivery of a full next generation system. When implemented, TMNG is expected to provide a web-based, cloud-enabled, and user-centered, end-to-end solution that is faster, more practical, more feature-rich, and more reliable for USPTO employees, trademark applicants, trademark owners, and the public at large. In addition, the Trademark organization continues to expand the IT enterprise by building to a 100-percent electronic mandatory filing system, by procuring analytical capabilities to determine fraudulent specimens, and by envisioning and utilizing nascent artificial intelligence (AI) and machine-learning tools to better serve its employees and customers.

OBJECTIVE 4: CONTINUE AND ENHANCE STAKEHOLDER AND PUBLIC OUTREACH

The USPTO expanded outreach to practitioners across the country by making greater use of social media to host roundtables for open discussion to explore topics, including the current state of trademark operations; updates for entries in the Identifications and Classifications Manual for social media, finance, and computer terminology; and the impact of technology changes on descriptions of goods and services in registered marks.

In 2018, the USPTO continued its lunch-and-learn sessions sponsored by the Trademark Assistance Center, whereby regional offices host area business people, entrepreneurs, and the general public to learn about the trademark application process from experienced Trademarks staff. These highly interactive sessions are conducted via monthly meetings at USPTO regional offices in Detroit, San Jose, Dallas, and Denver. Trademarks has experienced steady interest in these sessions, which has led to increased visibility and access to the USPTO.

Trademark Expo

Trademarks hosted the National Trademark Exposition, in collaboration with the Smithsonian Institution, at the National Museum of American History on July 27–28, 2018, in Washington, DC. This two-day event was free to the public and attracted more than 40,000 visitors. The Expo supports the mission of the Smithsonian Institution and the USPTO by educating the public about the history and value of trademarks. The Expo highlighted the importance of trademarks in the global marketplace through seminars, children’s workshops, displays of authentic and counterfeit goods, and exhibits featuring registered trademarks. Exhibitors included government entities, nonprofits, small businesses, and corporations, each providing valuable educational information about trademarks.

The Expo also featured keynote speaker, National Basketball Association Hall of Famer Kareem Abdul-Jabbar, a registered trademark owner. Abdul-Jabbar highlighted the value of IP and the importance of protecting and maintaining brands.



The 2018 National Trademark Expo on July 27, 2018. From left to right: Expo Coordinators Chrisie King and Shana Webster-Trotman, Commissioner for Trademarks Mary Boney Denison, Director of the USPTO Andrei Iancu, Keynote Speaker Kareem Abdul-Jabbar, Acting Director of the National Museum of American History Sue Fruchter, and Director of the Lemelson Center for the Study of Invention and Innovation at the Smithsonian Institution Arthur Daemmrich. (Photo: Paul Ehlike/USPTO)

Providing Access to Pro Bono Trademark Legal Services Through Law School Clinics

The USPTO also assists patent and trademark applicants by providing pro bono services through its Law School Clinic Certification Program, now expanded to include 56 actively participating colleges and universities. The program benefits both law school programs and the business owners they represent in filing applications and obtaining trademark protection. The selection committees choose schools based on their solid IP curricula, pro bono services to the public, as well as community networking and outreach. The program enables law students enrolled in participating law schools to process patent and trademark applications before the USPTO under the close guidance of an approved faculty supervisor. In FY 2018, 581 trademark applications were filed as a result of the program, compared to 519 in FY 2017. For a more in-depth discussion on pro bono services, please see Management Goal, Objective 3, “Enhance Internal and External Relations” on page 108.

Engagement of Stakeholders for the Trademark Registry

The USPTO took additional steps this year to strengthen the integrity of the Trademark Register and to address the growing issue of unused marks, commonly referred to as *trademark cluttering*. Trademarks launched the *Proof of Use Audit Program* on November 1, 2017, in response to the results of a post registration pilot that showed more than half of a random sample of registrants were unable to provide the requested “proof of use” of their mark.

The new program improves integrity of the trademark register by allowing the USPTO to cancel audited registrations with unsubstantiated use claims or remove unsupported goods and services from others. A registration may be audited if the applicant meets both of two conditions: (1) filed a Section 8 or 71 declaration of use and (2) the registration includes at least one class with four or more goods or services, or at least two classes with two or more goods or services in at least two classes. If a registration is audited, the USPTO requires submission of proof of use for additional goods and services in the registration to ensure that the register accurately reflects that marks are in use in United States for all goods/services identified in registrations. By June 2018, examining attorneys issued 2,401 requests for the project and received 945 responses. The initial results of the program are promising, as 44 percent of registrations with a response subsequently deleted at least some goods or services.

Education and Outreach

The USPTO engages with small businesses around the country with information about trademark basics, enforcement measures, and tools for protecting and enforcing trademark rights. These educational programs and materials target groups generally not acquainted with trademark information, such as non-trademark attorneys, the small business community, the entrepreneurial community, and students. The USPTO partners with colleges and universities, entrepreneurship clubs, and similar groups to present lectures on trademarks and the importance of a strong mark that is both federally registrable and legally protectable. In 2018, the Trademarks organization made more than 130 such contacts, exclusive of the efforts of the regional offices, with groups across the country and at USPTO headquarters.



The 2018 Consumer Electronics Show in Las Vegas, Nev., January 9–12. From left to right: vendor Brach Cabral, along with USPTO staff John Cabeca, Wynn Coggins, and Elizabeth Dougherty. (Photo: Paul Rosenthal/USPTO)

The USPTO has also increased information available through its website by updating booklets, informational videos, and other digital resources. The public and other stakeholders have access to video that highlights the important role of trademarks in starting a business, provides guidelines on how to select the right mark, discusses the benefits of federal registration, suggests helpful resources for preparing and filing an application, and clarifies why addressing trademarks in a business plan can be critical to success.

Customer Experience

The USPTO established a five-year customer experience strategic plan to provide consistent, clear, and intuitive services to trademark customers. This focus on customer experience—what a customer thinks, feels, and does during interactions with the USPTO—enables the Trademarks business unit to bring customers to the center of what it does. In FY 2018, Trademarks began implementing customer surveys across various customer touch points. Trademarks is dramatically improving information quality on www.uspto.gov. Improvements during FY 2018 provided clear information on trademark searching and how to use TESS (Trademark Electronic Search System). This enhancement addressed a chief customer complaint that will benefit more than 5 million website visitors a year.

Cooperation with Global Peers and Stakeholders

The USPTO actively engages with its international IP partners to collaborate and exchange best practices and ideas to benefit current and potential trademark owners. The TM5 met at the 2017 annual meeting in Alicante, Spain, on November 30. The TM5 is comprised of the world's five largest trademark offices: European Union Intellectual Property Office (EUIPO), JPO, KIPO, Trademark Office of the State Administration of Industry and Commerce of the People's Republic of China (SAIC), and the USPTO. The partners agreed to three new projects: (1) Fraudulent Solicitations/Misleading Invoices (co-led by USPTO and EUIPO), (2) Quality Management (co-led by JPO and EUIPO), and (3) Priority Rights Documents (led by EUIPO). In addition to these key initiatives, the TM5 also approved:

- Invitations for Indonesia, Thailand, Cambodia, Vietnam, Australia, Singapore, New Zealand, Mexico, Norway, Switzerland, Israel, Jordan, and Saudi Arabia to join the USPTO-led Common Status Descriptors Project.
- Future revisions of the TM5 website to keep it current and more user-friendly.
- A new *Bad Faith Report* including cases from non-TM5 countries and with participation of the International Trademark Association (INTA).

The 2018 TM5 Annual Meeting will be held next fiscal year in Seoul, South Korea, on November 1-2, 2018.

For further information on international cooperation, please see Strategic Goal III, Objective 2, "Provide Leadership and Education on International Agreements and Policies for Improving the Protection and Enforcement of Intellectual Property Rights" on page 85.

OBJECTIVE 5: ENHANCE OPERATION OF THE TRADEMARK TRIAL AND APPEAL BOARD

On January 14, 2017, the TTAB's amended Rules of Practice in Trademark Cases became effective. During the almost two years since the rules have been in effect, the Board exercised flexibility in handling cases arguably affected by the "transition period" spanning the previous rules and the amended rules. The Board also exercised flexibility when processing the few cases affected by technical problems involving USPTO electronic systems. A primary purpose of the amended rules, to streamline trial proceedings by promoting efficient and cost-effective use of resources of both the Board and parties to the proceedings, has been realized. Feedback from stakeholders has been positive. Overall, the adoption of the amended rules has been seamless, largely due to the stakeholder input sought prior to the amendments. The Board continues to issue precedential orders that clarify and interpret certain aspects of the rules.

As part of the USPTO's ongoing effort to improve the accuracy of the U.S. Trademark Register and continuing significant stakeholder engagement from previous years, the Board hosted a public roundtable in September 2017 to review public comments received on options for allowing challenges by interested parties to registrations for unused marks. Based on stakeholder input and relevant requirements of the Trademark Act, in March 2018, the Board commenced a pilot program wherein cancellation proceedings with only abandonment and/or non-use claims are identified as candidates for handling in an expedited proceeding structured within the current rules for cancellation proceedings.

The pilot is in its early stages. Separately, in the first quarter of FY 2018, the Board sought stakeholder input, via the IdeaScale collaboration tool, regarding the overall stakeholder experience with the revised standard protective order that became effective June 24, 2016. Only a few comments were received, and these have been discussed at stakeholder meetings and with TPAC. In balance, the dearth of comments may signal broad acceptance of the protective order in its current form, and the few comments that were received were not in agreement on potential changes. Thus, next steps are under consideration that may lead to more specific and more plentiful comments.

The TTAB continues its commitment to transparent reporting of data and performance measures and welcomes comments on the utility of these measures from the TPAC and other stakeholders. Year-to-date data reported late in FY 2018 show an increase in filings and a continuing improvement (declines) in overall average pendency (from commencement to completion) of appeals, trial cases, and Accelerated Case Resolution (ACR) trial cases. It is significant to note that FY 2018 is expected to mark the sixth time in the last seven years that the TTAB has reduced overall average pendency in trial cases, and the TTAB may be approaching optimal pendency that reflects the balance sought by stakeholders who prize both efficiency and flexibility in scheduling and processing Board trial cases.

In June 2018, the TTAB maintained its commitment to issue its annual revision of the Trademark Board Manual of Procedure (TBMP) in a searchable format and PDF. The manual was revised to incorporate new material related to amendments of the Trademark Act, the Trademark Rules of Practice, the Federal Rules of Civil Procedure, and to interpretations provided by recent precedential case law. The Board continued to fulfill its commitment to developing the law by issuing precedential opinions and orders, with such decisions issued on a wide variety of substantive and procedural matters. Illustrating its commitment to proactively engage with the public regarding Board operations, the TTAB continued its partnership with the PTAB by collaborating on joint hearing programs at two law schools: Tulane University in February 2018 and the University of San Diego School of Law in September 2018. The purpose of such programs is to showcase PTAB AIA trial proceedings and appeals, side by side with TTAB trial and appeal proceedings. During those events, the Boards worked with law school faculty and local practitioners to offer educational sessions about practice before the two Boards. In addition, TTAB judges and interlocutory attorneys routinely speak at professional meetings nationwide and internationally and participate in programs sponsored at USPTO headquarters and regional offices, offering tips for practice before the Board, discussing the Board's practices and procedures, and seeking feedback with respect to expedited cancellation proceedings and other matters that arise during the course of the conversation. At many of the professional meetings, the Board provided information and materials commemorating the 60th anniversary of its creation by act of Congress in 1958 and its contributions to trademark jurisprudence.

The Board implemented updates to its IT systems, including both the online system for submission of electronic filings to the Board and the electronic case file system that houses submitted documents and proceeding data. These updates facilitated the work of the Board's paralegals and attorneys and also aided stakeholders using these systems. In addition, the Board continues to increase its interaction with Trademarks and the OCIO in regard to efforts focusing on development of next generation systems for appeal cases and for trial cases.

INTELLECTUAL PROPERTY:

STRATEGIC GOAL III

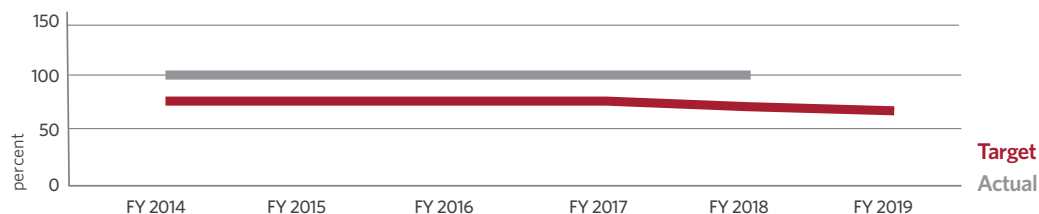
WHAT IS THE ROLE OF THE USPTO AND INTELLECTUAL PROPERTY POLICY?

The USPTO advises the president—through the Secretary of Commerce—and federal agencies on national and international IP policy issues, including IP protection and enforcement in other countries. The USPTO’s strategic plan highlights these activities in Strategic Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide.

What follows are the Strategic Goal III measures for which sufficient data are available to establish performance trends.

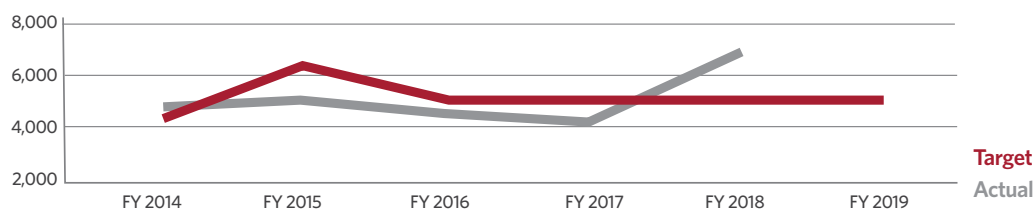
PERCENTAGE OF PRIORITIZED COUNTRIES FOR WHICH INTELLECTUAL PROPERTY COUNTRY TEAMS HAVE MADE PROGRESS ON AT LEAST 3 OF THE 4 PERFORMANCE CRITERIA:

1. Institutional improvement of IP office administration for advancing IP rights,
2. Institutional improvement of IP enforcement entities,
3. Improvement in IP laws and regulations, and
4. Establishment of government-to-government cooperative mechanisms.



Trend: The trend line indicates that the performance is maintaining standards for the target. Additional discussion for this measure can be found on page 93.

NUMBER OF PEOPLE, INCLUDING FOREIGN GOVERNMENT OFFICIALS AND U.S. STAKEHOLDERS, TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY



Trend: The trend line indicates that the performance trend is increasing with significant variability in predicting future results. Additional discussion for this measure can be found on page 91.

STRATEGIC GOAL III:

PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION, AND ENFORCEMENT WORLDWIDE

The USPTO is authorized by statute to provide guidance, to conduct programs and studies, and to interact with IP offices worldwide and international intergovernmental organizations on matters involving IP.

The USPTO's initiatives to fulfill this mandate are reflected under Strategic Goal III. It leads negotiations on behalf of the United States at the WIPO; advises the administration on the negotiation and implementation of the IP provisions of international trade agreements; advises the Secretary of Commerce and the administration on a full range of IP policy matters, including in the areas of patent, copyright, trademarks, plant variety protection, and trade secrets; conducts empirical research on IP; and provides educational programs on the protection, use, and enforcement of IP.

OBJECTIVE 1: PROVIDE LEADERSHIP AND EDUCATION ON INTELLECTUAL PROPERTY POLICY AND AWARENESS

The USPTO works to meet Objective 1 by providing policy formulation, by conducting a wide variety of educational and training programs on IP, by encouraging and undertaking empirical studies on the economic impacts of IP and innovation, and by improving access to IP-related data. In addition, the USPTO plays a leadership role in domestic and international IP initiatives and policy development for the administration, and engages with Congress and federal agencies on legislative efforts to improve the IP system.

Provide Leadership on Policy Formulation and Guidance on Key Intellectual Property Issues

Throughout FY 2018, USPTO officials provided policy formulation and guidance by organizing numerous briefings for congressional staff and by conducting public meetings to solicit stakeholder views on a range of IP policy matters, including patent-eligible subject matter, curbing abusive patent litigation, protecting trade secrets, and combatting fraudulent solicitations to trademark holders. The USPTO also continued to carry forth the recommendations made in the January 2016 *White Paper on Remixes, First Sale, and Statutory Damages*, issued by the Department of Commerce's Internet Policy Task Force (IPTF). The USPTO also exercised a leadership role by developing and strengthening international cooperative frameworks and agreements with foreign IP offices.

Internet Policy Task Force

As part of the work of the Department of Commerce's IPTF, in partnership with the National Telecommunications and Information Administration (NTIA), in FY 2018 the USPTO followed up on recommendations made in the IPTF green paper, *Copyright Policy, Creativity and Innovation in the Digital Economy*. This work included organizing a public meeting in January 2018 on developing the digital marketplace for copyrighted works and continuing to engage with stakeholders and monitor developments.

The USPTO also regularly coordinates with other members of the IPTF via monthly or biweekly conference calls that focus on such topics as privacy, cybersecurity, and emerging technologies, such as AI.

European Union's Digital Single Market Initiative

The USPTO, working with its IP attaché based in Brussels, Belgium, played a leading role in FY 2018 in the administration's ongoing analysis of the copyright-related proposals in the European Commission's Digital Single Market initiative and their subsequent consideration by the European Parliament and the European Council.

Requiring Local Counsel for Foreign Trademark Applicants

Foreign applicants for U.S. trademarks have been increasingly filing inaccurate, and possibly fraudulent, papers with the USPTO, often with the assistance of unauthorized foreign practitioners. This undermines the accuracy of the U.S. Trademark Register. In FY 2018, OPIA assisted the Commissioner of Trademarks in devising ways of responding to this surge in the number of foreign applications. Because many trademark offices around the world require local counsel, and many of the inaccurate trademark applications at the USPTO appear to involve the unauthorized practice of law by foreign practitioners, the USPTO is evaluating the feasibility of requiring foreign-domiciled trademark applicants to be represented by a U.S. attorney. The USPTO issued a notice of proposed rulemaking to this effect in FY 2018 and is expected to publish a final rule in early FY 2019.

Provide Domestic Education, Outreach, and Capacity Building

The USPTO provides IP educational and training programming both to improve IP laws and their administration around the world and to enhance IP awareness and technical capacity. The USPTO's IP educational programming for U.S. stakeholders complements international capacity-building programming by raising awareness of the importance of IP in an innovation economy and by providing education about navigating foreign IP systems. In FY 2018, OPIA conducted a total of 151 such training activities through its Global Intellectual Property Academy (GIPA), serving over 7,240 individuals (see Figures 5 and 6), exclusive of the efforts of the regional offices. Approximately 38 percent of all individuals served were domestic IP rights owners and users, and approximately 55 percent were patent, trademark, and copyright officials; prosecutors; police; customs officials; and IP policymakers.

In FY 2018, GIPA's domestic IP outreach focused on the importance of IP protection and enforcement to U.S. companies doing business abroad. Attendees included representatives of U.S. small and medium-sized enterprises (SMEs), IP practitioners, academics, and IP rights owners and users.

GIPA also presented programs for U.S. officials and policymakers to provide updates on domestic IP law and policy. In FY 2018, six programs addressed such topics as trademark and copyright law and policy, IP at international trade shows, and IP in China.

One GIPA program—on patent, trademark, copyright, and trade secret law—was offered to U.S. Foreign Service Officers posted in U.S. embassies around the world. It continued a USPTO training effort that began more than 15 years ago and was cosponsored by the U.S. Department of State's Foreign Service Institute.

FIGURE 5.
**EDUCATIONAL PROGRAMS
CONDUCTED BY GIPA**

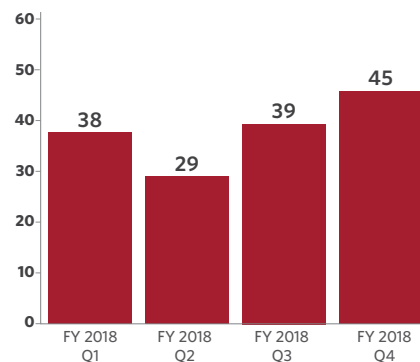
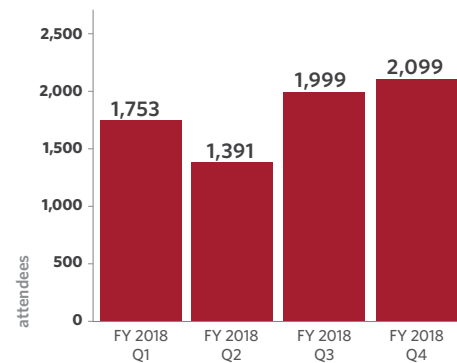


FIGURE 6.
**NUMBER OF ATTENDEES
TRAINED BY GIPA**



Leverage Technology to Increase Domestic and International Education, Training, and Outreach at All Levels

In addition to conducting live, in-person programs, the USPTO continues to utilize technology to make its training programs more efficient and to expand their reach. Both live online and on-demand modes of training and education are provided to increase just-in-time learning. When possible, IP awareness programs are webcast live to reach attendees from all over the country. In FY 2018, GIPA presented 32 programs with a distance-learning or remote engagement component. These included webinars on all areas of IP education—including IP in China—for a variety of business audiences, including SMEs. GIPA also continued a two-year quarterly webinar initiative to provide IP education to grantees of the U.S. Small Business Administration’s Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

In FY 2018, GIPA continued its eight-year commitment to produce and maintain in-depth, on-demand content through distance-learning modules on the USPTO website. These modules are available in five languages and cover six different areas of IP protection. New modules and micro-learning videos include an updated video [Introduction to Patent Protection](#) and a short, [Trade Secrets](#). Both are available on the [GIPA website](#) and on GIPA’s [YouTube playlist](#). This on-demand content collectively has drawn more than 80,000 unique views.

Expand Knowledge of the IP Landscape Through Empirical Research and Fact-Finding

OPIA’s work on developing IP policy is supported by empirical, evidence-based studies, including on the economic impacts of IP and innovation. These are carried out through the Office of the Chief Economist (OCE). OCE publishes reports on domestic and international policy issues and disseminates preliminary research through the USPTO Economic Working Paper Series. In FY 2018, OCE released one report and three working papers. OCE also published four papers in a special issue of the *Journal of Economics & Management Strategy* dedicated to innovation economics.

To promote awareness, encourage empirical economic research, and inform IP policy, the USPTO hosted several domestic and international conferences. Most notable, in the first quarter of FY 2018, the USPTO co-organized the 2017 IP Statistics for Decision Makers conference in Mexico City with the Organization for Economic Cooperation and Development (OECD), the Mexican Institute of Industrial Property, and the Canadian

Intellectual Property Office. This annual conference convenes decision-makers from the public and private sectors to present and discuss the latest research and analysis based on IP data. In FY 2018, the USPTO also partnered with several academic institutions, including Northwestern University and Cardozo Law School, to co-host conferences on legal and policy developments in IP and their economic implications.

OCE is leading a multi-year, interagency effort to encourage empirical research on IP enforcement, particularly in the areas of illicit trade in counterfeit goods, patents, commercial scale piracy, and trade secret theft. In FY 2018, this interagency group finalized an implementation plan and began work to improve researcher access to, and understanding of, relevant data. The group also initiated engagements with scholars and universities pursuing research relevant to IP enforcement.

Improve Transparency of and Access to Intellectual Property-Related Data

OCE continues to expand its efforts to enhance the utility of IP data. In FY 2018, it enhanced the performance and data coverage of PatentsView, the patent data web tool that allows users to explore more than 40 years of data on inventors, their organizations, locations, and overall patenting activity. Since its introduction in 2012, PatentsView has proven to be an invaluable resource for enriching our understanding of innovation and is widely used by scholars, policymakers, and developers.

In FY 2018, the USPTO released new and updated datasets in forms convenient for both public use and academic research on matters relevant to IP, entrepreneurship, and innovation. The USPTO also completed its collaborative efforts with the U.S. Census Bureau to create new data products describing the business dynamics of innovative firms. The two agencies produced datasets linking the USPTO's patent and trademark data to the Census Bureau's data on workers and firms. These datasets track the activities of IP-owning individuals and firms and serve as an invaluable resource for assessing the economic impact of IP. The patent-firm linked data was released through the Census Bureau's Regional Data Centers for use by academic scholars on approved research projects.

Engage Congress and Federal Agencies on Intellectual Property Legislation

Throughout FY 2018, the USPTO continued to engage Congress, other U.S. government agencies, state and local elected officials, and stakeholders to discuss, promote, and implement effective and balanced IP-related legislation, policy, and administrative actions. This engagement included matters involving patent litigation, patent subject matter eligibility, conduct of post-issuance patent review proceedings, cooperative educational efforts with the Small Business Administration, copyright policy, and USPTO operational matters related to the agency's fee-setting authority and telework programs. In FY 2018, USPTO Director Andrei Iancu discussed many of these issues, as well as the agency's priorities, during oversight hearings before the House and Senate Judiciary Committees. In addition, Director Iancu worked to further strengthen relations with members of Congress and stakeholders through targeted courtesy visit meetings.

The USPTO's strategic engagement with congressional leadership offices led to an extension of the agency's fee setting authority in October 2018. Congress extended the USPTO's fee setting authority an additional 8 years (until September 16, 2026), by passing the Study of Underrepresented Classes Chasing Engineering and Science Success (SUCCESS) Act of 2018. Congressional approval of the SUCCESS Act ensures the future stability of the USPTO's fee-based business model and allows the agency to more

efficiently set user fees to recoup its operational costs. The USPTO also played a lead role in the drafting and enactment of several IP-related bills during the 115th Congress, including the Orrin G. Hatch-Bob Goodlatte Music Modernization Act; the Marrakesh Treaty for the Blind; and the Small Business Innovation Protection Act.

Briefings and Congressional Staff Events

USPTO staff provided briefings for congressional staff on budgetary, operational, and IP policy issues, including efforts focused on enhancing patent quality, copyright policy matters, international treaties, USPTO efforts at WIPO, and post-issuance patent review proceedings. In December 2017, the USPTO conducted a “day in the life” informational session for congressional staff at its Alexandria headquarters, providing an opportunity for participants to learn about the patent- and trademark-examining functions and the USPTO’s overall operations.

During FY 2018, the USPTO supported various congressional events that focused on IP issues. These included programs for Capitol Hill staff and the public, co-hosted by the Congressional Inventions Caucus, Congressional Science, Technology, Engineering, and Mathematics (STEM) Caucus, and the Congressional App Challenge. The USPTO also hosted events on Capitol Hill and at its headquarters celebrating World IP Day and the winners of the Collegiate Inventor Competition.



The USPTO’s Chief Policy Officer and Director for International Affairs, Shira Perlmutter, speaks at an event celebrating World Intellectual Property Day at USPTO headquarters on April 26, 2018. (Photo: USPTO)

Regional and Local Events

The USPTO also conducted outreach to federal, state, and local elected officials and hosted events that featured remarks from numerous officials. For example, U.S. Rep. Mark Meadows addressed the importance of IP for small business owners and entrepreneurs at an informational session hosted at Western Carolina University. The USPTO’s China IP road show programs featured remarks by several elected officials, including U.S. Rep. Danny Davis; San Jose Mayor Sam Liccardo; a representative from the office of Kentucky Governor Matt Bevin; a city councilman from Louisville, Ky; and the district directors for U.S. Reps. Andre Carson and Ruben Gallego. USPTO staff also traveled to various cities in FY 2018 and met with local congressional staff and city and state officials to raise awareness of the resources available at the USPTO’s regional offices and at USPTO headquarters.

OBJECTIVE 2: PROVIDE LEADERSHIP AND EDUCATION ON INTERNATIONAL AGREEMENTS AND POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

The USPTO advances this objective in many settings and through a variety of undertakings. It helps lead efforts to improve IP rights systems in other countries, it provides technical expertise in the negotiation and implementation of international agreements that improve IP rights protection and enforcement, and it places a particular emphasis on China, working with the administration to improve IP protection and enforcement in that country. In performing these activities, the USPTO draws on subject-matter experts in the Office of Policy and International Affairs and its network of IP attachés based around the world.

Provide Technical Expertise in Negotiation and Implementation of Bilateral and Multilateral Agreements

In FY 2018, the USPTO continued to provide expert technical advice on IP protection and enforcement in connection with ongoing negotiations of trade agreements and to monitor the implementation of existing trade agreements. For example, the USPTO prepared for and participated in several official negotiating rounds, as well as informal bilateral and multilateral discussions, for the renegotiation of the North American Free Trade Agreement (NAFTA) with its counterparts in Mexico and Canada. The USPTO also assisted the Department of Commerce and the Office of the U.S. Trade Representative (USTR) in examining trade agreement compliance and abuse. Further, the USPTO provided technical advice to the USTR on IP issues and participated in exploratory discussions with the United Kingdom held by the U.S.-UK Trade and Investment Working Group.

An additional example of the USPTO's engagement in this area is the Hague Conference on Private International Law's Judgments Project. The project aims to enact a treaty that would provide for the recognition and enforcement of foreign judgments among the Hague Conference member states. In consultation with stakeholders, the USPTO serves as a technical expert, assisting the State Department regarding IP judgments that may fall within the scope of the project.

In addition, the USPTO serves as a technical expert on the International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGRFA). The USPTO currently serves on several of the treaty's working groups to ensure that IP rights are accorded appropriate respect relative to the ITPGRFA's aim of, among other things, providing the fair and equitable sharing of plant genetic resources for food and agriculture.

Work with the Administration to Improve IP Protection and Enforcement in China

The USPTO worked throughout FY 2018 to improve IP protection and enforcement for U.S. stakeholders in China. It did this through continued engagement with Chinese government officials responsible for IP rights enforcement, by monitoring changes to Chinese laws and regulations that affect IP, by conducting capacity-building and educational programs for Chinese officials, by collaborating with U.S. enforcement agencies, and through outreach to U.S. rights holders on how to enforce their IP rights in China.

Outreach to U.S. Rights Holders

In FY 2018, the USPTO conducted 14 China IP Road Shows designed to educate U.S. rights holders on how to better protect and enforce their IP in China. The programs, which were held at USPTO regional offices and other cities throughout the country, featured U.S. government officials, academic experts, law firm practitioners, and representatives of SMEs doing business in China.

Engagement with Chinese Officials

The USPTO has three IP attachés posted to China—in Beijing, Guangzhou, and Shanghai. They work closely with resident U.S. law enforcement attachés and are in contact with numerous Chinese government IP agencies to discuss enforcement challenges.

On several occasions during FY 2018, the USPTO's director and other USPTO officials met with senior Chinese government officials to discuss technical cooperation and outstanding IP policy issues facing the United States and China. These officials included the Vice Minister of China's State Administration for Industry and Commerce, the President of the Beijing IP Court, and senior representatives from the State Intellectual Property Office, the Ministry of Commerce, the Customs Administration of China, the Ministry of Agriculture, and the State Forestry Administration.

Review of Chinese Law and Regulation

In FY 2018, and in collaboration with other U.S. government agencies, the USPTO submitted comments to China regarding legislation that it was considering in the areas of e-commerce and unfair competition, which governs the treatment of trade secrets and their misappropriation.

Lead Efforts to Improve International Intellectual Property Rights Systems, Including at WIPO and Other Intergovernmental Organizations

The USPTO represents the U.S. government in IP discussions in intergovernmental organizations, such as WIPO, and with the world's largest IP offices (IP5, TM5, and Industrial Design 5 [ID5], each involving the relevant offices of the United States, China, Europe, Korea, and Japan). Its efforts in these settings are focused on furthering U.S. IP policy, enhancing the international framework administered by WIPO, and improving IP systems generally.

WIPO Patent Cooperation Treaty

The United States is a member of the WIPO-administered Patent PCT. The PCT system enables inventors to apply for patent protection in multiple countries via a single international patent application.

One of the PCT's undertakings is the Collaborative Search and Examination pilot, a program through which examiners from different IP offices around the world work together on corresponding PCT applications pending at their respective offices. The program helps U.S. rights holders by facilitating more comprehensive reviews of their PCT patent applications through a high-quality collaborative search. In 2018, the USPTO continued to lead the United States' participation in a successful effort to broaden participation in this collaborative program and to begin its operational phase.

Some of the IP offices that participate in the PCT system are designated as International Searching Authorities (ISAs) and International Preliminary Examination Authorities (IPEAs). These authorities—of which the USPTO is one—do the critical work of conducting preliminary examinations of the PCT applications. An IP office's status as an ISA must be renewed periodically, and in late 2017, the USPTO was reappointed as an ISA/IPEA, effective January 2018. The USPTO's work as an ISA/IPEA allows the United States to help lead the effort to maintain high standards for searching in the PCT system. In 2018, Singapore was the latest ISA/IPEA to sign an arrangement with the USPTO and become available for selection by U.S. PCT applicants.

In 2018, the USPTO entered into a pilot program for “netting” of PCT fees with the JPO and WIPO. This arrangement, similar to an existing arrangement with WIPO and the EPO, simplifies the flow of payments of PCT fees between the USPTO and the JPO, while shifting the cost of currency conversions to WIPO.

International Union for the Protection of New Varieties of Plants

The USPTO continued to provide leadership at the International Union for the Protection of New Varieties of Plants (UPOV), an intergovernmental organization that promotes development of new varieties of plants. To assist U.S. and other UPOV members, the USPTO organized a June 2018 workshop in conjunction with the governments of Canada and the Netherlands, as well as UPOV. Held in Des Moines, Iowa, and Saskatoon, Saskatchewan, it showcased the technological investments that are enabled by nations acceding to the UPOV Convention and was attended by high-level officials from several South American countries whose markets are critical for U.S. stakeholders.

Improve International Dialogue on Geographical Indications

A geographical indication (GI) can be a place name or any sign or symbol that consumers associate with a particular good that only comes from a particular place. In the United States, GIs are like trademarks in that they are developed and marketed by producer groups on their own initiative. They are controversial internationally because they highlight a tension between private property rights and government policies designed to protect local producers. Countries that encourage GI protection generally promote domestic systems in which the government does the work to protect the right. Proponents of the trademark system, on the other hand, observe that such a right only benefits a given group of individuals.

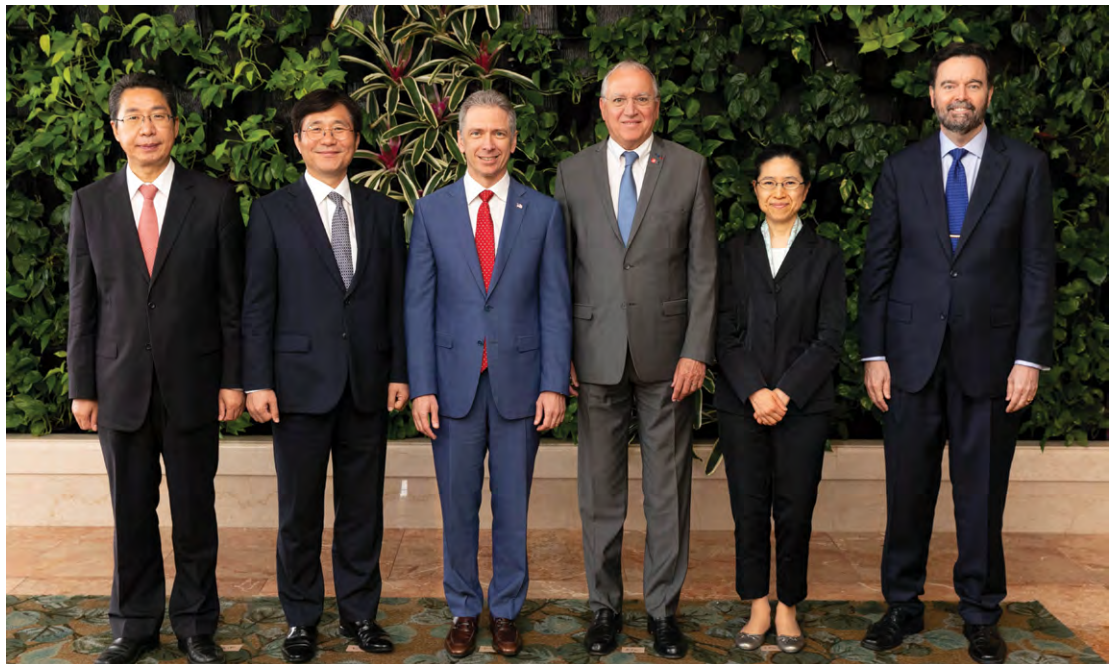
In FY 2018, the USPTO sought to advance U.S. interests as they relate to GI protection systems at the international level. It also worked to revive a discussion of GIs at WIPO and to mitigate the effects of recent revisions to the Lisbon System for the International Registration of Appellations of Origin that could harm U.S. producers, for example, by further restricting exports of dairy products.

The USPTO continues to explore options for a different system at WIPO that would better protect the interests of all U.S. stakeholders in the area of GIs. In addition, the United States has been pursuing trade agreements that would require GI applications, or requests for protection via international agreements, to be subject to examination, publication, pre-registration opposition, and post-registration invalidation.

Improve Efficiency and Cooperation in the Global Patent System

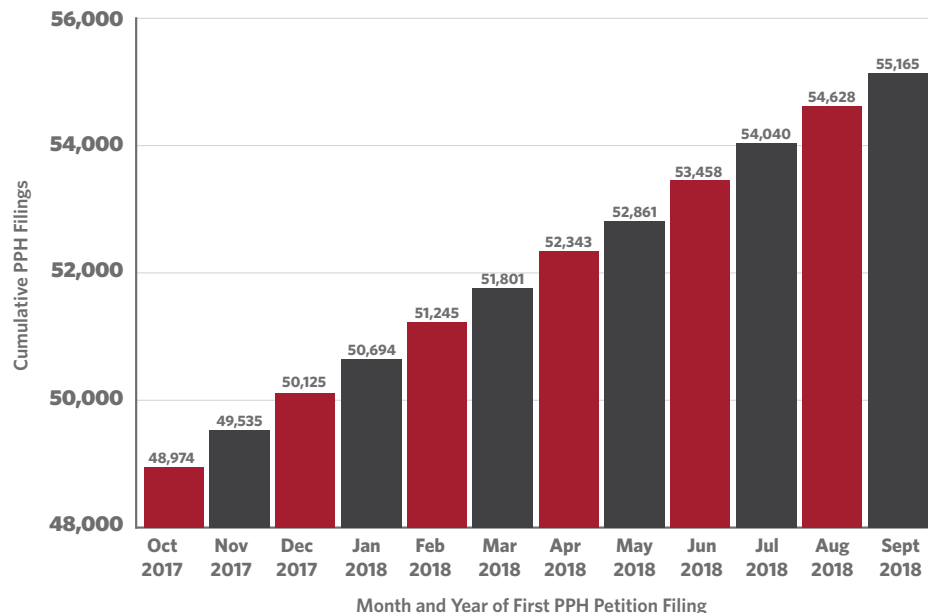
Patent work sharing with other IP offices continued to be a key element of the USPTO's international engagement in FY 2018. The PPH, first launched in 2006, is the cornerstone of the USPTO's work-sharing cooperation efforts. It allows an applicant who receives a positive ruling on a patent application from one participating office to request accelerated prosecution of corresponding applications in other participating offices. This potentially enables an applicant to obtain patents more quickly in multiple jurisdictions—and at less expense—while also enabling the participating offices to leverage each other's work. Patent offices can leverage PPH to improve examination efficiency and quality.

The PPH framework continues to be embraced across the world. In 2018, the Visegrad Patent Institute joined the PPH. As of September 30, 2018, a cumulative total of 55,165 applications with petitions had been filed under the PPH, with 47,626 applications granted. Figure 7 shows the USPTO's cumulative PPH filings for FY 2018.



USPTO Director Andrei Iancu (center) at the 2018 annual meeting of the IP5 in New Orleans, hosted by the USPTO with the heads of the other four IP5 offices. Together, the IP5 offices handle about 80 percent of the world's patent applications. From left to right: Dr. Shen Changyu, SIPO Commissioner (China); Mr. Yunmo Sung, KIPO Commissioner (Korea); USPTO Director Andrei Iancu; Mr. Benoît Battistelli, EPO President (European Union); Ms. Naoko Munakata, JPO Commissioner (Japan); and Mr. John Sandage, Deputy Director General of the World Intellectual Property Organization. (Photo: USPTO)

FIGURE 7.

CUMULATIVE PPH FILINGS IN 2018

Global PPH and the closely related IP5 PPH represent the culmination of the USPTO's efforts with the PPH framework. Launched in 2014, Global PPH simplifies and streamlines the existing PPH network by replacing the dozens of bilateral PPH arrangements among participating IP offices with a single, centralized framework of common requirements. This common set of standards makes it easier for offices to administer the program and also makes it easier for applicants to file their requests for participation in the PPH. The USPTO is one of 26 offices currently accepting PPH requests under the Global PPH pilot program.

In June 2018, the USPTO hosted the IP5 Heads of Office meeting held in New Orleans, La. The IP5 consists of the EPO, the JPO, the KIPO, the State Intellectual Property Office of the People's Republic of China (SIPO), and the USPTO. Together, these offices account for more than 80 percent of patent applications filed worldwide, as well as about 95 percent of all PCT work. In 2018, the IP5 continued the tradition of cooperation to strengthen work sharing, patent examination efficiency and quality, and the stability of patent rights for innovators around the world.

The USPTO helped lead to completion a comprehensive project evaluation by the IP5 in 2018, an effort undertaken to enhance procedural efficiencies for applicants who apply for patents in multiple IP5 offices. This entailed mapping all of the initiatives of the IP5 and prioritizing those projects that most efficiently achieve the IP5's goals and objectives.

In 2018, the USPTO joined KIPO and the JPO in the Collaborative Search Pilot (CSP) program. In this pilot, examiners from the three participating offices collaborate in producing a high-quality search, which is then used by all three offices in the examination of participating applications. There are plans to expand the CSP to additional offices in 2018–2019.

Improve Efficiency and Cooperation in the Global Industrial Design System

Throughout FY 2018, the USPTO continued its efforts to improve the global industrial design system, including through its leadership at WIPO and at the ID5 Forum, a group comprised of the world's five largest industrial design offices.

At WIPO, the USPTO continued to lead the discussion and study of new technological designs, including designs for graphical user interfaces (GUIs), icons for electronic displays, and designs for typefaces and type fonts. This USPTO-led initiative, and the resulting studies, provided U.S. and other industrial design stakeholders with a better understanding of the state of IP protection systems for cutting-edge designs in new technologies and areas of potential improvement to assist applicants in better protecting these designs in state-of-the-art technologies. In addition, the USPTO participated in an information session on the topic of new technological designs that included member states and non-governmental organizations. Finally, the USPTO actively participated in working group discussions to modernize the Hague System for protecting industrial designs, including providing more flexibility to applicants with regard to their signature requirements and replacing facsimile communication with more modern and user-friendly e-upload and payment systems.

At the ID5, the USPTO continued to lead the group's collaborative work on a range of current projects, including those on grace period, partial designs, electronic priority document exchange, and designs in emerging technologies. These projects are designed to aid U.S. and other rights holders in their efforts to obtain protection for their designs in multiple jurisdictions and to provide rights holders with enhanced, and easily accessible, information about design protection. The USPTO has also developed and proposed a series of new projects for consideration by the ID5 partners in FY 2019 relating to design patent remedies and potential provisions on ID5-recommended practices.

Improve Efficiency and Cooperation in the Global Trademark System

In FY 2018, the USPTO advanced several strategic cooperative projects through the TM5, a framework that brings together the world's five largest trademark offices. The TM5's mission is to promote cooperation and collaboration among its members and to contribute to more user-friendly, and if possible, interoperable trademark systems.

One important ongoing TM5 project led by the USPTO is the TM5 ID List, which entails the ongoing development of a harmonized pick-list of descriptions of goods and services that are acceptable in applications for trademark registration submitted to all participating IP offices. During FY 2018, work continued on expanding the number of identification (ID) entries and their translations into multiple languages. IP offices from countries that are not TM5 members have been invited and are actively participating in this project. To date, the TM5 partners have developed more than 18,792 entries for the list.

Another USPTO-led TM5 project entails the adoption of a set of "status descriptors." These are symbols with corresponding definitions that indicate the status of trademark applications and registrations in each TM5 partner office's online status systems.

In FY 2016, the USPTO deployed the common status descriptors on its TSDR tool, which is accessible on the USPTO's website, and by mid-FY 2018, all TM5 partner offices had implemented the descriptors. Recently, the TM5 partners invited several countries to implement the Common Status Descriptors in their external online status systems as well.

In FY 2018, the USPTO and EUIPO launched a new TM5 project aimed at combatting fraudulent and misleading solicitations to trademark owners. The TM5 partners will exchange best practices to combat the growing problem, raise public awareness of the global problem, and create a page on the TM5 website with information and a multinational database of solicitations reported by users as misleading. In addition, in FY 2018 the TM5 partners began working on a quality management project and a project on priority rights and documents under the Paris Convention.

The USPTO also continues to actively participate in the TM5's efforts to combat the problem of bad faith trademark filings, a practice through which bad actors seek to register trademarks that belong to others. In addition to current work on a new TM5 bad faith report, the USPTO also hosted a panel during a TM5 session at the 2017 annual meeting of the International Trademark Association and contributed to a new TM5 report on bad faith filings, *Case Examples of Bad-Faith Trademark Filings*.

Improve Enforcement and Provide Capacity Building and Technical Assistance to Key Countries and Regions

In FY 2018, the USPTO continued to develop and provide capacity-building programs to help improve IP systems in key countries and regions for the benefit of U.S. stakeholders. The programs addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, internet piracy, health and safety threats from counterfeit goods, trade secrets protection and enforcement, copyright policy, and patent and trademark examination. Participants included officials with IP-related responsibilities, such as judges, prosecutors, health officials, customs officers, patent and trademark examiners, and IP office administrators. These training programs for foreign government officials directly complement USPTO programs that focus on instructing U.S. stakeholders on how to navigate foreign IP systems.

The USPTO also entered into a number of agreements with intergovernmental organizations. One of these was a memorandum of understanding signed with INTERPOL's Illicit Goods and Global Health Program. Under the arrangement, the USPTO and INTERPOL will cooperate on training and capacity-building programs to promote effective IP enforcement internationally.

In FY 2018, the USPTO trained over 7,240 participants, including more than 3,950 foreign government officials representing 83 countries (see Figure 8). A complete list of all countries represented at GIPA trainings in FY 2018 is available online at the USPTO Data Visualization Center.

Table 15 shows the total number of people, including foreign government officials and U.S. stakeholders, trained through GIPA on best practices to protect and enforce IP in FY 2018. This is the fifth year in which this measure has been directly aligned with the USPTO's performance progress in Goal III.

FIGURE 8.
**CUMULATIVE
NUMBER OF
COUNTRIES
TRAINED FOR
THE FISCAL YEAR**

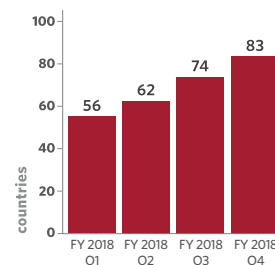


TABLE 15.

NUMBER OF PEOPLE, INCLUDING FOREIGN GOVERNMENT OFFICIALS AND U.S. STAKEHOLDERS, TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY

Fiscal Year	Target	Actual
2014	4,300	4,960
2015	6,300	5,283
2016	5,000	4,975
2017	5,000	4,134
2018	5,000	7,242
2019	5,000	
Target met.		
Measure updated in FY 2018 to include U.S. stakeholder education, to reflect administration priorities.		

Provide Policy Advice and Expertise to Other U.S. Government Agencies

Throughout FY 2018, the USPTO provided policy advice and technical expertise on domestic and international IP matters to multiple other federal agencies. These included the Office of the United States Trade Representative (USTR), the Office of the U.S. Intellectual Property Enforcement Coordinator, and other bureaus of the U.S. Department of Commerce.

The USPTO advised the USTR in the negotiation of trade agreements, on Trade Policy Reviews undertaken at the World Trade Organization (WTO), and on the proposed accessions of over 20 countries to the WTO.

In addition, the USPTO assisted the USTR in the preparation of its annual review of global developments on trade and IP, the Special 301 Report. This report identifies U.S. trading partners who have not provided appropriate IP protection and enforcement, or market access, for U.S. rights holders. The USPTO assisted in its preparation by providing extensive information on the state of IP protection and enforcement in many countries.

The USPTO likewise provided the USTR with information in connection with its compilation of the annual Notorious Markets List. The list highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting.

Increase the Effectiveness of Intellectual Property Attachés in Prioritized Countries and Regions

In FY 2018, the USPTO continued its ongoing effort to enhance the effectiveness of the IP attachés posted in prioritized areas. The USPTO selected a new IP attaché for deployment to Beijing, China, and soon will be selecting new IP attachés for deployment to New Delhi, India, and Mexico City, Mexico. The USPTO also has ensured that all the attachés continue to promote U.S. policies and U.S. stakeholder interests overseas.



As part of a series of outreach meetings in southern California in October 2017, several of the USPTO's IP attachés participated in a panel on IP issues at the University of California, Irvine Applied Innovation, a center that brings together inventors, entrepreneurs, and industry. (Photo: USPTO)

During FY 2018, the USPTO worked to enhance interactions between attachés and stakeholders, including through roundtables and meetings with rights-holder groups in different parts of the country. Delegations of attachés traveled to Southern California, Dallas (including the USPTO's Texas Regional Office), and Seattle. During these visits, the attachés spoke at several conferences and met with various companies, organizations, and associations to discuss a variety of international IP issues. The attachés also continued to lead the USPTO's successful implementation of country-specific action plans in prioritized countries, as shown in Table 16.

TABLE 16.

MEASURE: PERCENTAGE OF PRIORITIZED COUNTRIES FOR WHICH INTELLECTUAL PROPERTY COUNTRY TEAMS HAVE MADE PROGRESS ON AT LEAST 3 OF THE 4 PERFORMANCE CRITERIA

Fiscal Year	Target	Actual
2014	75.0%	100.0%
2015	75.0%	100.0%
2016	75.0%	100.0%
2017	75.0%	100.0%
2018	66.0%	100.0%
2019	66.0%	
Target Met.		
Measure: Target updated in FY 2018 to reflect a decrease in the number of prioritized countries from four to three.		

MANAGEMENT GOAL

WHAT IS MANAGEMENT'S FOCUS ON MAXIMIZING THE USPTO'S MISSION PERFORMANCE?

The USPTO's enterprise-wide mission support goal focuses on shared responsibility that is a prerequisite for achieving success as the USPTO grows and modernizes. This goal advances the USPTO's performance on its three core mission strategic goals through effective alignment and management of human capital, information resources, infrastructure and security management, and sustainable financial capital.

MANAGEMENT GOAL:

ACHIEVE ORGANIZATIONAL EXCELLENCE

OBJECTIVE 1: LEVERAGE INFORMATION TECHNOLOGY INVESTMENTS TO ACHIEVE BUSINESS RESULTS

This first objective focuses on the USPTO's IT activities that are required to support and move the agency toward the next generation of tools and services for all mission-specific systems that are identified under the strategic goals. The USPTO will continue to provide cost-effective and transparent operations, processes, and information as it moves to accomplish its goals as stated in the USPTO's *2014–2018 Strategic Plan*. These efforts include:

- Enhancing the internal and external user experience through a new and enhanced website that provides a customer transactional portal and the ability to operate in a mobile environment;
- Leveraging IT to improve internal and external collaboration and information-sharing by developing the ability to conduct fully electronic dissemination interactions and by increasing web-conferencing capabilities;
- Continuing to provide transparent operations, processes, and information, striving toward “24/7/365” operational capability to meet the business needs of customers and employees so that they can communicate, collaborate, and share information seamlessly and securely across the world;
- Evolving and improving the USPTO's IT infrastructure and services to be more modern, efficient, secure, and available through the use of virtual and cloud capabilities;
- Delivering cost-effective and seamless next-generation IT solutions apart from legacy systems, including integrations of PE2E, TMNG, and FPNG systems to meet the business needs of USPTO customers; and
- Providing advanced analytics by using big data, machine-learning, and AI techniques on USPTO's very large and complex datasets to deliver insights that have the potential to benefit every operational level of the USPTO.

It is critical that USPTO IT is secure so as to protect the integrity of applications submitted by USPTO customers and to ensure continuity of operations. Like other federal agencies, the USPTO regularly tests to identify cybersecurity risks and establishes Plans of Actions and Milestones (POA&Ms) to address cybersecurity vulnerabilities. Figure 9 and Table 17 show the total number of open POA&Ms for the USPTO's operational systems at the end of FY 2017 and for every quarter of FY 2018. Any known security weaknesses requiring remediation are tracked using POA&M. The USPTO's goal is to decrease the number of POA&Ms by remediating security weaknesses in the systems.

FIGURE 9.

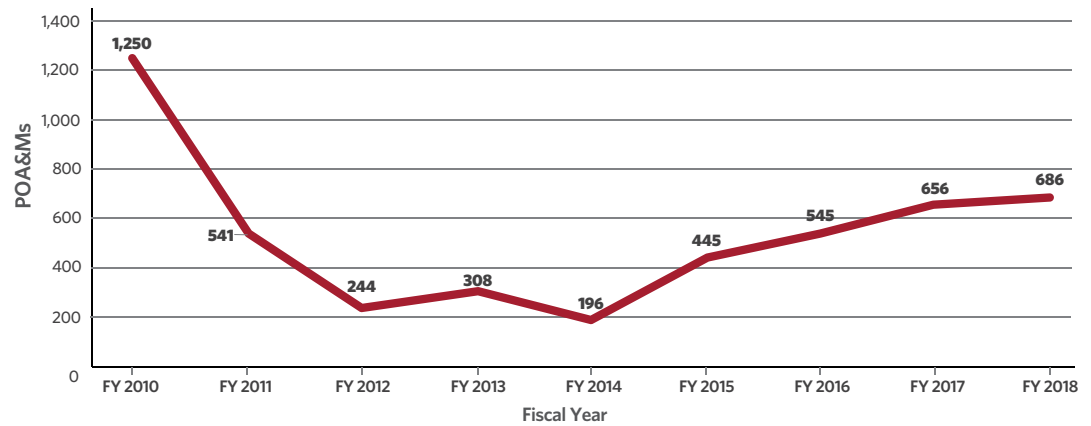
SUMMARY OF FY 2010 TO FY 2018 PLANS OF ACTIONS AND MILESTONES (POA&Ms)

TABLE 17.

FY 2010 TO FY 2018 PLAN OF ACTIONS AND MILESTONES DATA

	Created	Cancelled	Completed	Deleted	Total
FY 2010					1,250
FY 2011	508	755	462	-	541
FY 2012	455	189	563	-	244
FY 2013	357	81	212	-	308
FY 2014	316	51	338	39	196
FY 2015	635	13	289	84	445
FY 2016	1,013	39	787	87	545
FY 2017	1,029	58	710	150	656
FY 2018	1,149	54	819	246	686
Totals	5,462	1,240	4,180	606	3,621

In addition, the USPTO maintains careful control over its IT investments. In fulfilling responsibilities under 44 U.S.C. § 3504(h), the USPTO uses a capital planning and investment control process to select, prioritize, and control investments and a budget formulation process to determine funding levels for subsequent fiscal years. Projects are carefully managed throughout their life cycle, and progress reviews are conducted at key milestone dates to compare the project's status to planned benefit, cost, and schedule, along with technical efficiency and effectiveness measures. All major IT system investments are reported in OMB Circular A-11 Exhibit 53, Exhibit 300A, and 300B, and the USPTO's IT investment portfolio.

The USPTO has made progress toward improved operations and services, as well as toward improving its next-generation systems, which are discussed in the following sections.

Patent End-to-End (PE2E)

The USPTO made significant progress on patent prosecution tools for patent examiners, patent applicants, and international partners.

DAV is PE2E's patent examiner new case management tool deployed into production in FY 2015. It replaced the full functionality of the legacy electronic desktop application navigator (eDAN), and USPTO took a phased rollout to the Patent Examiner Corps. This enabled USPTO to retire the legacy eDAN system in 2016. The USPTO continued to deploy enhancements to provide additional functionality for the patent examiners. In FY 2018, the USPTO deployed enhancements to provide initial relevant prior art services and infrastructure, which will support future functionality and pilot program(s) in FY 2019.

The Office Correspondence (OC) tool is the authoring and workflow tool, which integrates with DAV by leveraging notes, references, and copy-paste capabilities. The OC tool was successfully deployed to an initial pilot audience of patent examiners in December 2016. The USPTO developed significant functionality in FY 2017, at which time patent examiner staff were added to the pilot audience. In late May 2017, the USPTO began training patent examiners and completed this training in FY 2018. As of the end of FY 2018, more than half of the Patent Corps were using the OC tool for creating office actions, with full Patent Corps use of the tool projected by the end of the first quarter of FY 2019. The legacy system (OACS) will retire in FY 2019.

The Examiner Search tool is a modern, scalable enterprise search tool for patent examiners. The release to an initial pilot audience was completed in December 2016. Development is taking longer than expected due to the complexity of the search algorithms, performance, and scalability. In FY 2017, the USPTO improved the performance and quality of the Examiner Search tool, and continued training for a limited audience of patent examiners. In FY 2018, the USPTO deployed new features of the tool, such as allowing users to highlight text on images, a feature that is not currently available in legacy search systems. The USPTO conducted stress testing throughout FY 2018 and will continue to conduct further analysis and take corrective actions to scale for the entire Patent Corps. In FY 2019, the USPTO plans to incorporate new foreign collections of patent documents prior to the production deployment of the Examiner Search tool and will continue deployment of new features beyond the previous search tool.

PE2E's Content Management System (CMS) combines multiple disparate patent document storage solutions into a single, highly available content hub. The initial CMS was deployed to patent examiners in FY 2016; however, it later experienced obstacles related to data storage. As a result, the USPTO evaluated new solutions based on lessons learned from the previous CMS deployment and completed performance and resilience testing of storage and storage service prototypes in FY 2017. A redesigned storage and storage services infrastructure was deployed in FY 2018, which addressed previous performance and resiliency issues and meets USPTO's disaster recovery requirements. Existing data were migrated from the legacy information framework system (approximately 180 terabytes [TBs] of data) to the PE2E CMS. The current plan is to complete data-quality testing in FY 2019 and deploy the redesigned solution into production. This will give DAV users access to the redesigned PE2E CMS data.

In FY 2016, eCommerce Modernization focused on (a) providing a cohesive login system by using the USPTO's Single Sign On platform and (b) receiving smart text (XML) versions of key patent application documents. The USPTO has developed prototypes for evaluation of smart text submissions by a group of patent applicant beta testers. Their feedback of the new patent application submission and management system provides input for additional product enhancements. In FY 2017, the USPTO expanded the number of patent applicants by using the pilot system and continued development of additional functionality. In FY 2018, USPTO deployed additional patent application filing capabilities for XML (DOCX) text. Patent applicants who have been testing the new product have filed over 2,000 DOCX patent applications, and the USPTO has deployed new reporting tools. In FY 2019, the USPTO will continue adding functionality and conducting training for new users who will be using the new patent application submission and management system to file patent applications.

The CPC system maintains a Patent Classification Scheme that is harmonized between the USPTO and the EPO. The USPTO deployed into production the initial release of CPC in FY 2013 and continues to make strides to automate collaboration between the USPTO and the EPO. Doing so dramatically reduces the time required to execute required revisions to the Patent Classification Scheme. Because of a change in priorities, the USPTO deferred the attainment of full functional parity from FY 2017 to FY 2019 and legacy system retirement to FY 2020.

Trademarks Next Generation (TMNG)

The TMNG Examination Tool continued to encounter significant challenges in FY 2018. Although TMNG-Examination (which will ultimately replace FAST1) was deployed to the first Trademark law office in May of 2016, it did not fully meet the requirements and provide the capabilities necessary for trademark-examining attorneys to successfully perform their jobs; thus, the Trademark Business continues to rely on FAST1. The teams currently are working to resolve defects documented by the 70+ beta testers and to enhance TMNG-Examination capabilities based on feedback from said beta testers.

A "Path Forward" team comprised of representatives from OCIO, Trademarks, and the Office of the Under Secretary was initiated to resolve key issues that TMNG-Examination currently faces. Thus far, the team has identified critical success factors, helped select and deploy a commercial-off-the-shelf editor to replace the TMNG custom editor, and defined the rollout plan of TMNG-Examination to all law offices. A third party conducted a thorough analysis of TMNG, and the USPTO is working to review and implement their recommendations where needed. The focus is on establishing consistent business and IT visions for TMNG.

Due to the delays in deploying TMNG-Examination, Trademarks legacy systems continue to be enhanced to meet internal and external requirements. The OCIO is committed to keeping these aging legacy systems viable until they can be replaced by TMNG. In FY 2018, there have been enhancements to the Trademark Electronic Application System (TEAS), TEAS International (TEASi), the Madrid Processing System (MPS), Trademark Trial and Appeal Board Information System (TTABIS), and the Electronic System for Trademark Trial and Appeals (ESTTA). In the fourth quarter of FY 2018, OCIO delivered the Trademark Quality Review (TQR) product for the Office of Trademark Quality. This tool replaces the previous labor intensive and error-prone process of manually selecting applications for review and then transcribing information between various systems. By leveraging the Big Data infrastructure, the Big Data Reservoir (BDR)-TQR product was delivered

more efficiently compared with traditional development efforts. This new delivery system automates the business process related to the congressionally required trademark quality and paves the way to leveraging advanced analytics to improve trademark quality programs and efforts.

Fee-Processing Next Generation (FPNG) System

The USPTO continued efforts to fully replace its legacy fee-collection system with FPNG. In FY 2016, all externally facing components were replaced by FPNG. In FY 2017, all USPTO system integrations to the legacy collection system were moved to FPNG. In FY 2018, the first internally facing components of FPNG were deployed to all users. These components streamlined the refund request workflow, eased access to data needed for refund decision-making, and provided improved external customer notifications. In FY 2018, an FPNG-pricing application was deployed for use by the Office of Enrollment and Discipline, and the remainder of the internally facing components of FPNG were developed. On the basis of this continued progress, retirement of the legacy Revenue Accounting and Management (RAM) system is planned for early FY 2019.

Digital Services & Big Data

The USPTO generates and distributes, both internally and externally, a vast amount of data each day. The USPTO has an enterprise data inventory that includes patent, trademark, and policy-related data that are used by independent inventors, startups to large corporations, law firms, strategic patent analytics companies (e.g., Bloomberg, LexisNexis, Thomson Reuters, etc.), academia, government agencies, foreign IP offices (e.g., EPO, SIPO, KIPO, and JPO), and the public at large.

The goals of Digital Services & Big Data (DSBD) are two-fold: First, deliver and operate enterprise IT capabilities to improve office performance by using data science, machine learning, and AI. Second, improve the discoverability, accessibility, and usability of the USPTO's valuable public patent and trademark information.

Notable work in the DSBD portfolio includes the BDR, a unique analytic platform in production that contains data from multiple data sources, which allow data scientists to perform advanced analytics by using machine-learning and AI. The DSBD team continues to add the USPTO's text-based data assets to the BDR, including derived textual information from patent applications, quality reviews, PTAB decisions, and subsequent office actions. With this additional textual information, data scientists can analyze the entire patent prosecution history—from initial filing all the way through post-grant—and provide actionable intelligence both internally and to the public. In 2018, DSBD delivered the first release of the USPTO "big data" infrastructure supporting USPTO advanced analytics. This marks the first use of machine-learning technology on a distributed data storage in production at the USPTO. It has been instrumental in supporting USPTO data driven strategic goals related to optimizing both patent and trademark quality through analytical studies, as well as newly developed advanced analytical services. In late 2018, the DSBD data science team developed a machine-learning service that leverages an ensemble of these advanced analytical services, including figure searching, semantic searching, keyword/synonym extraction, and auto-classification of documents. This new cognitive assistant platform—"U"-nity—enables rapid deployment of advanced analytical tools to augment PE2E and other next generation tools with machine learning and AI. This tool is currently being assessed in partnership with the Office of Patent Information Management.

Other notable work has focused on improving the USPTO's APIs to provide the public with better access to the USPTO's data. This has included standardizing the use of APIs; expanding the USPTO's "API Catalog" to more than 10 APIs, including an API for PTAB; providing bulk search and download capabilities of patent documents; and adding to the catalog of open-source visualizations. In 2018, DSBD continued extending the capability of the Open Data portal (<https://developer.uspto.gov/>) by allowing users to search Trademark images with a Trademark (TM) Image Search feature, adding PTAB decision notification and securing the underlying developer platform and user experience enhancements. Two new APIs were released, as well as a published paper on the [USPTO Patent Prosecution Research Data: Unlocking Office Action & Citation Traits](#). This marks the first time that comprehensive data on over 4.4 million office actions from the last several years have been made readily available to the public.

OBJECTIVE 2: CONTINUE TO BUILD AND MAINTAIN A FLEXIBLE, DIVERSE, AND ENGAGED WORKFORCE

The USPTO understands the critical role that employee engagement plays in impacting the agency's ability to fulfill its mission and effectively and efficiently serve the public. As such, the agency routinely evaluates and adjusts its strategies and leverages the insights of USPTO staff to ensure that the workforce remains engaged. The USPTO is pleased with the high engagement levels of its employees and continues to emphasize employee engagement as a key driver for mission achievement.

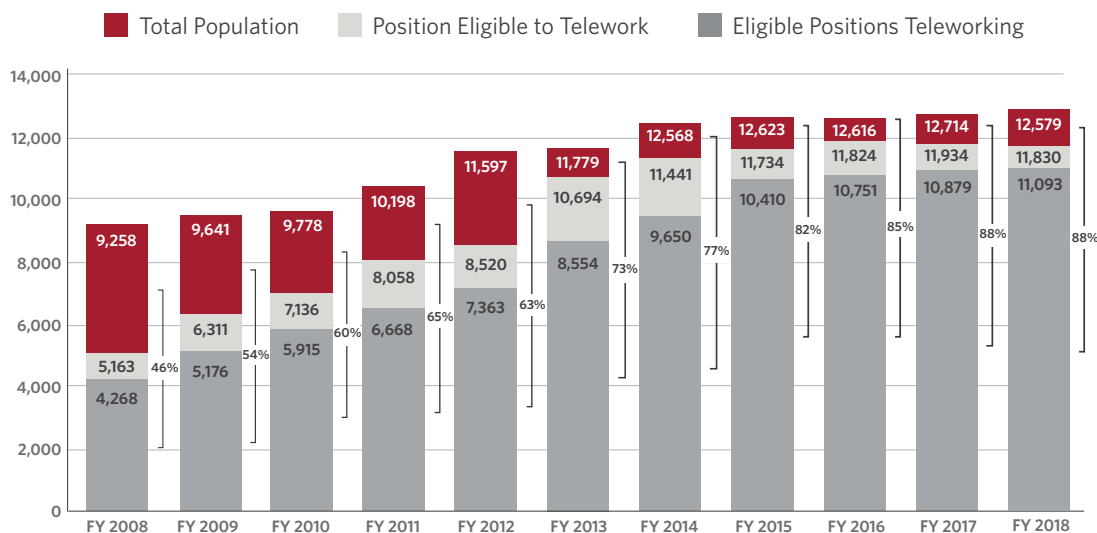
The USPTO's 2015–2018 *People Plan* is centered on three pillars that have a direct impact on organizational performance: Lead, Engage, and Enable. By leveraging these three pillars, the USPTO continued to enhance the employee experience, drive higher performance, and positively impact USPTO mission accomplishment.

Continue to Enhance the USPTO Telework Environment by Expanding Telework Opportunities and Developing Skill Sets Specific to Managing in a Telework Environment

Telework at the USPTO is a corporate business strategy, which supports mission achievement and goal fulfillment via a distributed workforce. At the end of the FY 2018, 11,093 employees agency-wide were working from home at least one day per week, translating to 88 percent of the USPTO workforce. This is a decrease of 12 teleworking employees from last fiscal year.

Since its start 21 years ago with 18 trademark examining attorneys, telework has grown dramatically at the USPTO. Figure 10 shows the growth of the total population, positions eligible to telework, and eligible positions teleworking agency-wide. The graph represents the USPTO telework growth since FY 2008.

FIGURE 10.
TELEWORK GROWTH



Percentages represent % of total population teleworking.

Between FY 2017 and FY 2018, the percentage of positions eligible to telework decreased from 94.66 percent to 94.20 percent. See Figure 11 for the state-by-state breakout of full-time telework participants in FY 2018. Figure 12 shows the percentage of eligible employee's teleworking by organization/business unit in FY 2018.

FIGURE 11.
FULL-TIME TELEWORKERS BY STATE, FY 2018

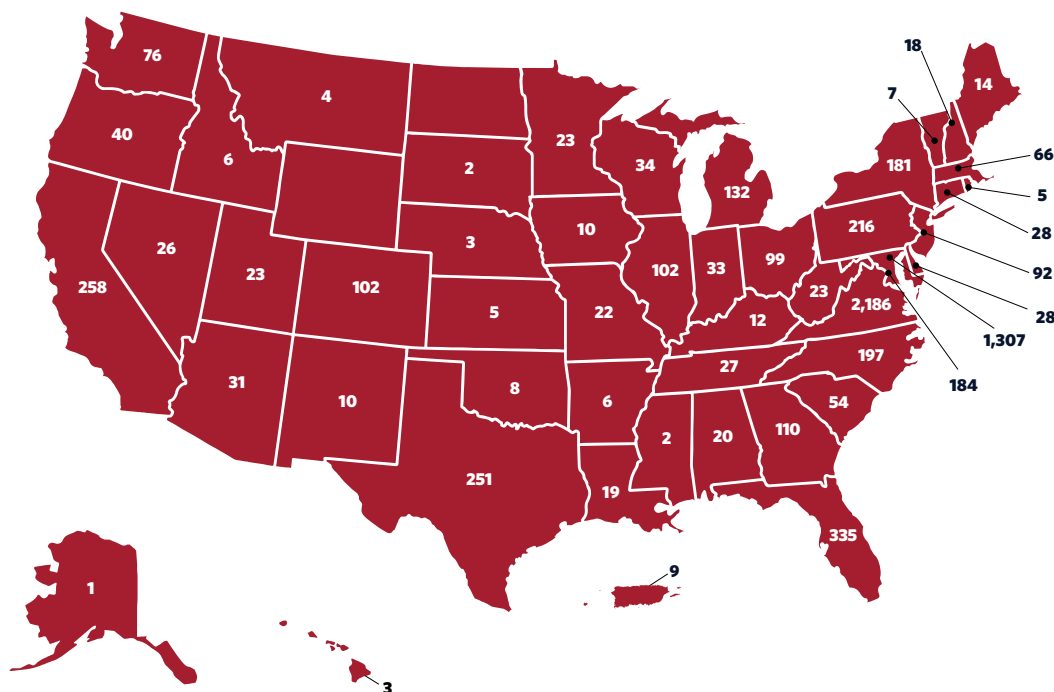
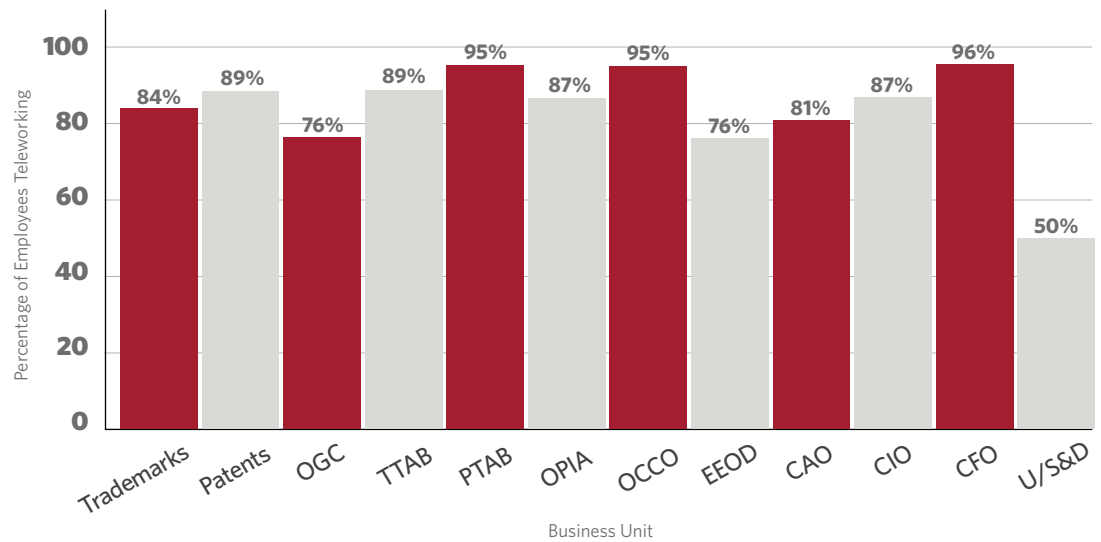


FIGURE 12.

PERCENTAGE OF EMPLOYEES TELEWORKING BY BUSINESS UNIT

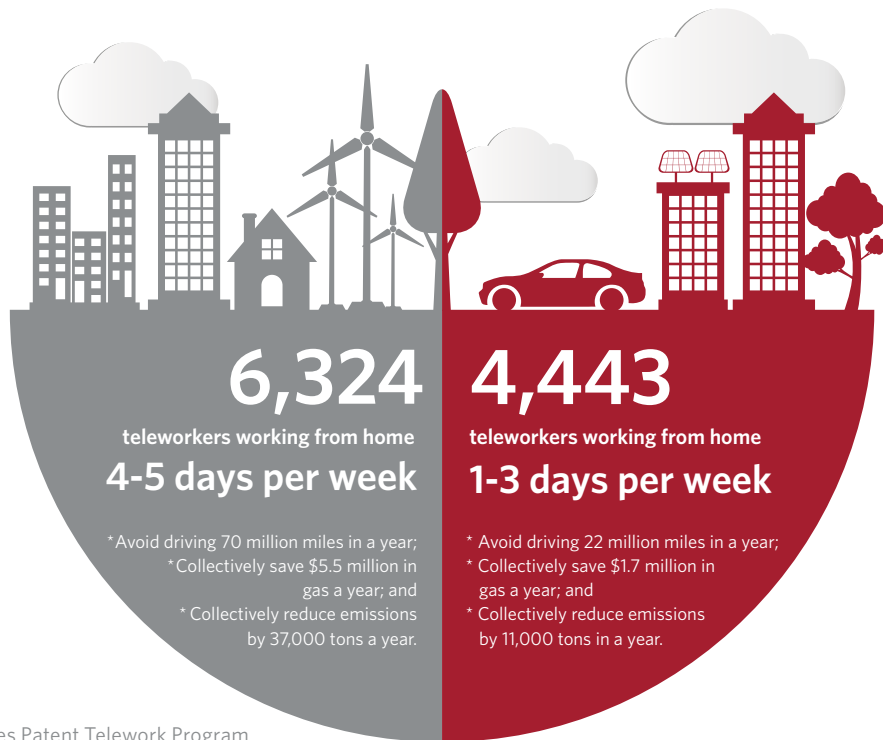
As part of the Telework Enhancement Act of 2010, the USPTO was granted legislative authority to conduct the federal government's initial Telework Travel Expenses Test Program. The USPTO Telework Enhancement Act Pilot Program (TEAPP) allows hoteling (or full-time teleworking) employees to elect, voluntarily and for their own convenience, to live greater than 50 miles from the USPTO campus, thereby changing their official duty station. These employees waive their right to travel expenses for up to six annual mandatory trips back to the USPTO headquarters in Alexandria. In FY 2018, 2,784 employees were participating in the TEAPP, which is an increase of 4 percent from FY 2017. The *National Defense Authorization Act* (NDAA), signed by President Trump on August 13, 2018, included a three-year extension to the USPTO's authority to run the TEAPP, which expired in December 2017. Under this extension, the TEAPP is now authorized until December 31, 2020.

A structured telework program provides cost savings by reducing the need for additional office space, enhances recruitment and retention, fosters greater efficiency in production and management, and provides opportunities for expanded work flexibility and better work-life balance for participating employees. In addition, during federal inclement weather closures in the Washington, DC, metropolitan area, teleworking and hoteling employees remain productive. During the FY 2018 winter season, on average, patent examiners maintained a 97 percent production rate, and trademark examining attorneys maintained a 95 percent production rate compared with a non-inclement weather day.

The USPTO's teleworkers help to minimize the USPTO's impact on the environment in the Washington, DC, metropolitan area: In FY 2018, they spared the environment more than 51,000 tons in estimated CO₂ emissions. Figure 13 highlights the environmental impact of telework in FY 2018.

FIGURE 13.

ENVIRONMENTAL IMPACT OF TELEWORK



*Includes Patent Telework Program
10 Hours Per Bi-Week

To ensure the continued success of the USPTO's telework program, in FY 2018, the USPTO implemented a number of concrete steps to strengthen its support for managers and employees in areas of communication, collaboration, and training. Notably, the USPTO:

- Requires all current teleworkers to review and electronically certify their specific telework guidelines. The computer-based training also contains important information on telework duties and responsibilities and reiterates telework best practices;
- Provides and presents a telework overview at New Supervisor Orientation sessions;
- Convenes patent examiners who telework remotely or are on-site at the regional offices as part of the Patents Training at Headquarters (PaTH), including breakout sessions on effective collaboration and telework; and
- Holds, on a biennial basis, the Trademark Organization Reconnect and Collaboration Home (TORCH) training events, which include breakout sessions on effective collaboration and telework.

Further, the USPTO implemented a series of standard operating procedures to bolster the management of the telework program. As a result, these recommendations have made an impact on improving operations across the agency. The USPTO will continue to evaluate and implement other program management improvements and controls.

Implement Programs Aimed at Enhancing Employee Engagement and Ensuring that the Nationwide Workforce Stays Integrated with the Corporate Culture

Although the USPTO People Survey was not administered in FY 2018, the USPTO continues to listen to the voice of its employees, in large part through the annual Federal Employee Viewpoint Survey (FEVS) results. The results speak for themselves—USPTO employees are willing to exert discretionary effort to get the job done (94 percent), understand their work and how it contributes to the USPTO mission (89 percent), and recognize the importance of their work (91 percent)—all indicators of an engaged workforce. The FY 2018 FEVS concluded in June, and the USPTO employee participation rate was 70 percent (almost twice the overall government response rate), exceeding last year's response rate by 7 percent.

Employees also provided valuable input with respect to communication, training, and career development opportunities. Both at the enterprise and the business unit level, programs are either being planned or implemented to develop world-class training on managing a distributed workforce, succession planning, and developing programs that improve both the customer and employee experience.

Promote Learning and Job Opportunities for All Levels of Employees

The USPTO continues to leverage new and existing training and developmental programs, designed to increase employee knowledge, skills, and abilities. These programs helped to ensure that the agency remained a high-performing organization in FY 2018.

Career Enhancement Opportunities Program

Under its umbrella program, Career Enhancement Opportunities (CEO), the USPTO continues to provide training for employees who are in positions or occupational series that offer limited opportunities for advancement. Topics include job opportunities, professional development, resume writing and interviewing skills, and retirement options.

After Work Education Program

Continued funding for programs such as the After Work Education (AWE) Program reflects the value that the USPTO places on educational opportunities and career advancement for employees. A component of the CEO umbrella, AWE is a voluntary program available to eligible employees to aid in the development and enhancement of work skills as they relate to the agency's mission. The AWE Program offers classes that can be taken at an accredited college or university, the courses of which benefit both the employee and the USPTO by either improving an employee's current performance, allowing for expansion or enhancement of an employee's current job, or enabling an employee to develop skills and/or knowledge for other agency positions.

Upward Mobility Program

Another CEO component, the USPTO Upward Mobility Program (UMP) provides specific career-development opportunities for employees who are in positions or occupational series that offer limited opportunities for advancement. Under this program, eligible employees apply for available trainee positions in which an Individual Training Plan (ITP) is developed to assist with and to track their respective growth in their positions. Upon successful completion of an ITP, employees may be reassigned or non-competitively promoted to the corresponding target position's full promotion potential.

Administrative Professionals Excellence Program

The eight-month voluntary Administrative Professionals Excellence (APEX) Program includes a comprehensive curriculum for technical and administrative support staff employees at the GS-5 through GS-12 levels. The APEX Program is designed to provide meaningful learning opportunities to enhance professional career and personal growth focused on six competencies. Learning activities include a blend of live classroom discussions, core and elective self-paced computer-based training modules, a mid-year review, and concludes with a capstone project. In FY 2018, 15 employees participated in the APEX training.

Enterprise-Wide Mentoring Program

The Enterprise-Wide Mentoring Program is a nine-month formal mentoring partnership that provides resources for employees to partner with others to achieve their career-development goals. Comprehensive support includes a facilitated matching process, guidance for developing a mentorship action plan, and formal training for mentors and mentees. In FY 2018, there were 149 mentoring pairs, for a total of 298 participants in the program.

Custom Courses

In FY 2018, the USPTO coordinated and facilitated 23 custom courses for USPTO employees. Custom courses aim to provide unique training based on the needs of USPTO employees across all business units. Four hundred six employees attended the various courses, which included resume writing, crucial conversations, emotional intelligence, and customer service.

Supervisor Certificate Program and Leadership Development

The Supervisor Certificate Program (SCP) is part of the larger USPTO Leadership Development Program (LDP). The SCP's interactive curriculum addresses leadership competencies (e.g., managing self, people, and projects), is tailored to the unique needs of new USPTO supervisors, and fulfills the Office of Personnel Management's (OPM) requirement that all agencies deliver training to new supervisors during the first year of supervisory status. For USPTO, this consists of 40 hours of training, including one full day of human capital subjects.

In FY 2018, 40 supervisors completed the SCP. In addition to the SCP, the LDP provides non-technical leadership training to individual leaders (i.e., non-supervisory employees), aspiring leaders (i.e., employees who may want to become managers), and mid- and senior-level leaders (i.e., experienced managers, supervisors, and executives). In FY 2018, 401 employees completed individual and aspiring leader training offered over 19 sessions, and 141 mid- and senior-level leaders completed training offered over nine sessions, with 169 employees actively enrolled in self-paced training.

Leadership Academy

The Leadership Academy purpose is based on a leadership development model that was created specifically in the context of the USPTO's culture and environment, whereas the USPTO Ideal Leader Profile serves as the foundation for the Academy design and curriculum. In FY 2018, the Leadership Academy launched the first two cohorts consisting of 39 participants via the Apollo Leadership Experience at the Johnson Space Center in Houston, Texas. This experience carefully matched the qualities of the Ideal Leader Profile and delivered an immersive leadership development experience for executive-level participants. Both cohorts rejoined for a collaborative follow-on event as a continuum of this learning.



Leadership Forum

In FY 2018, the USPTO held its bi-annual Leadership Forum, which provides all supervisors, managers, and executives practical knowledge in an environment that combines education with collaboration to ensure that leaders have the tools they need to lead the USPTO workforce. Held August 6–9, the forum featured four keynote addresses and 46 workshop sessions, with all 1,308 eligible participants required to attend at least 12 hours of training.

Enhance Recruitment and Hiring Efforts to Help Sustain and Develop a Highly Qualified and Diverse Workforce, Including the Senior Team

The USPTO's Office of Human Resources' (OHR) Marketing and Outreach team continues to leverage 21st Century strategies to build awareness and engagement among key demographics, including (but not limited to) mission-critical occupations, millennials, people with disabilities, veterans, African-Americans, Hispanics, and women in support of agency-wide recruitment. These efforts are anchored by visual storytelling on social media, throughout USPTO's digital online properties and via video. Current recruitment strategies not only align with the agency's branding standards, but also align with the preferences among today's job seekers when considering a future employer. The approach is as follows:

- Champions USPTO's brand, culture, and positioning as a "top employer of choice";
- Features the "USPTO Experience" via compelling stories from real employees about job satisfaction, challenges, and triumphs;
- Allows one-to-one engagement and dialogue among the agency, potential candidates, and affiliates by targeting messaging and message distribution for maximum resonance;
- Provides updates on agency senior leadership activities and hiring events;
- Promotes vacancies to both active and passive job seekers with clear information and pathways to leadership; and
- Emphasizes how the USPTO supports employees through life's transitions and fosters an environment rooted in diversity and inclusion.

Ongoing outreach to millennials primarily occurs each spring and fall as teams of Patents recruiters are deployed throughout the country, attending hiring fairs and hosting information sessions at colleges and universities, some of which are minority-serving institutions. The team also locates and supports discipline- and demographic-specific industry events and conferences to help business units engage with top talent to build long-term, meaningful relationships.

Social Media

Engagement metrics on social media and other digital properties, including www.uspto.gov/jobs, show that the USPTO's strategies are effective. Integrated and interactive digital recruitment strategies launched through social media channels, like LinkedIn, Twitter, Facebook, and YouTube, help the USPTO continue to connect and stay connected with potential candidates. As of Q4 FY 2018, the USPTO exceeded 28,687 followers on LinkedIn, which is a 10 percent increase over 2017. Twitter followers increased nearly 12 percent increase from last year to reach nearly 1,690 followers. Major campaigns in FY 2018 that were amplified across USPTO recruitment social networks include (but are not limited to) 10 Million Patents and several executive and senior positions within OCIO, OPIA, PTAB, and Trademarks.

Veteran Hiring Program

In FY 2018, the Veteran Hiring Program (VHP) participated in 15 recruitment events, including Recruit Military, Hiring Our Heroes, Military Officers Association of America, Military Officer Job Opportunities, Service Academy Career Conference, and various events in conjunction with Fort Belvoir and Fort Myer and Operation Warfighter/Wounded Warrior. In addition, the VHP partnered with USPTO Military Association to host a recruitment event for veterans and military spouses on the USPTO Alexandria Campus. The VHP team has focused on a continued partnership with various veteran organizations to establish fruitful relationships and to increase awareness of our non-competitive hiring program across military installations and federal government alike. The VHP continues to seek innovative outreach and educational opportunities for veterans.

In FY 2018, hiring included 486 mission-critical hires (i.e., patent examiners, administrative patent judges, trademark examining attorneys, IT specialists, human resources specialists, contract specialists, and general attorneys). Veteran-hiring percentages were 7 percent for patent examiners and 17 percent for non-patent examiner hires.

Senior Executive Service (SES) Pipeline

As part of the USPTO succession-planning efforts for FY 2018, live and webcast Senior Executive Service (SES) Pipeline sessions were held in FY 2018, focused on helping employees learn how to develop a plan, prepare, and gain the qualifications to take their career to the next level. Attendees included a blend of GS-13 through GS-15, senior level, and administratively determined employees.





USPTO staff celebrates its 21st annual Community Day. (Photo: Michael A. Cleveland/USPTO)

Continue to Build Collaborative Relationships with USPTO's Affinity Groups

The USPTO is proud to have an incredibly diverse workforce with many employees of various backgrounds and cultures. The USPTO has a network of 17 affinity groups, which are voluntary employee organizations that are based on a shared common background and/or special interest. Each group is led by a team of volunteers who host cultural, social, and career-development programs and events for their members and for the wider USPTO community, including for the first time this year some of the regional offices. OEEOD continues to work with the USPTO's affinity groups to host programs that promote cultural understanding, such as the annual International Food Sample Festival. In addition, OEEOD partnered with various affinity groups to host events to celebrate special emphasis months, such as Black History Month, Women's History Month, and Asian American and Pacific Islander Heritage Month. OEEOD also works to support the events of affinity groups that are unique to the USPTO, for example, the Asian Pacific American Network's annual Lunar New Year and Diwali Celebrations, the American Muslim and Arabic Cultural Association and Bangladeshi American Intellectual Property Organization's joint Eid al-Fitr luncheon to celebrate the end of Ramadan, the Intellectual Property Society of Iranian American's Nowruz lunch, and the USPTO Military Association's annual "Walk of Thankful Recognition" to commemorate Memorial Day.

OBJECTIVE 3: ENHANCE INTERNAL AND EXTERNAL RELATIONS

Increase the Number of Individuals and Educators Reached by Intellectual Property-Related Programming

The USPTO Law School Clinic Certification Program allows law school students working at participating clinics to acquire firsthand patent and trademark application preparation and prosecution experience by providing pro bono legal services to individuals and small businesses throughout the country. The students at these clinics work under the supervision of an approved faculty clinic supervisor and according to guidelines established by the Office of Enrollment and Discipline. Between July 2017 and June 2018 (FY 2017 Q4 and FY 2018 Q1, Q2, and Q3), participating law schools reported filing 132 patent applications and 576 trademark applications on behalf of their clients and projected the number of future application filings to be equal to or to surpass the number of filings in prior years. During this same period, participating law schools succeeded in obtaining 32 patents and 411 trademark registrations on behalf of their clients and also filed responses in over 180 patent matters and in over 430 trademark matters. In total, participating law school clinics served roughly 2,000 clients over this period. The Law School Clinic Certification Program continued to expand during the first quarter of FY 2018, up to its

closing date on December 31, 2017. The program currently includes 62 participating law schools.

In FY 2018, the USPTO continued to support the Patent Pro Bono Program, which is a nationwide network of 22 independently operated regional programs that match volunteer patent professionals with qualified financially under-resourced inventors and small businesses for the provision of patent application preparation, filing, and prosecution services. During this time, the USPTO recognized participating practitioners and introduced an initiative to acknowledge law firms, corporations, and employers that contribute a minimum number of service hours to the program. In addition, the USPTO increased access to the Patent Pro Bono Program for non-English speaking inventors and small businesses, for example, by translating its training materials into Spanish. During the first three quarters of FY 2018, the program assisted under-resourced inventors and small businesses in the filing of 205 patent applications, fielded 1,757 public inquiries, and matched 432 under-resourced inventors with qualified patent practitioners. There are currently 1,610 practitioners participating in the Patent Pro Bono Program.



Student participants of USPTO's Law School Clinic Certification Program, held on April 13, 2018.
(Photo: Jay Premack/USPTO)

Improve Information and Communication Channels

As an ongoing effort to reach as many people and as much of the country as possible, the USPTO has two distinct but related groups that work in tandem with each other to “get the message out.” The OCCO leads the agency's efforts to (1) identify for the public valuable and needed information and messaging, and (2) create and manage effective channels to deliver that information to the right audience. The OCCO works with the Office of the Under Secretary and other USPTO business units to create and deliver communications through news media interaction, social media, websites, email, speeches, publications, public events, and more.

To amplify and disseminate communications across the country, the OCCO works closely with the USPTO regional offices. These offices carry out the strategic direction of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO at a more localized level.

By serving as hubs of outreach and education, the USPTO regional offices engage in a broad range of IP programs and events and focus on building communication channels by listening to the particular needs of their regions. The regional offices worked with the OCCO to create new, regionally focused email newsletters in FY 2018. In FY 2018, the regional offices held over 1,368 events, reaching over 95,412 entrepreneurs and IP-related stakeholders.

In addition to amplifying communications from headquarters to the rest of the country, the regional offices serve as incubators for new programming. For example, the Texas Regional Office presented Spanish and Mandarin Chinese programs to non-English speaking stakeholders around Texas and Tennessee. The Silicon Valley Regional Office convened five government agencies in the Los Angeles area to warn businesses about predatory practices involving fraudulent invention-promotion firms. This effort raised awareness and highlighted resources that business can use to avoid falling prey to these practices. The Elijah J. McCoy Midwest Regional Office supported the law student community in its 4th International Patent Drafting Competition and also partnered with the Office of Patent Quality to emphasize patent quality and patent application readiness for law students and IP. The Rocky Mountain Regional Office leveraged the region-wide PTRC network to simultaneously present “Trademark Tuesday” programming in collaboration with the Trademark Assistance Center to PTRC across their region. They also contributed to the Denver March Pow Wow, an intertribal gathering of Native American tribes across the United States. Executing these programs required close collaboration across the various business units at headquarters. The most successful events are being reproduced nationwide.

For a more in-depth discussion on how the USPTO regional offices support the agency’s core mission to foster American innovation, please see Management Goal, Objective 5, “Establish Regional Offices and a Regional Presence” on page 113.

Support Government-Wide Efforts to Promote Science, Technology, Engineering, and Mathematics Education Initiatives

STEM education is critical to the country’s economic prosperity as STEM students are the innovators and inventors of the future. The government recognizes the value of STEM education and has many initiatives to attract and retain K-12 students in STEM-based learning. STEM education is also critical to the USPTO’s continued success, because not only are STEM students the future innovators who will create the IP that forms the basis of technology and innovation, but STEM students also are the USPTO’s future workforce. STEM education is also critical to the USPTO’s continued success, because not only are STEM students the future innovators who will create the IP that forms the basis of technology and innovation, but STEM students also are the USPTO’s future workforce. The USPTO fully supports government-wide STEM efforts through the partnerships managed by the OCCO and the USPTO’s Office of Education and Outreach (OEO).

Through its signature partnership with the non-profit National Inventors Hall of Fame (NIHF), the USPTO supports a menu of education and outreach programs reaching students and teachers across the nation. In partnership with the NIHF, the USPTO runs a series of STEM and IP-based summer camps and after school programs that reach more than 150,000 students each year, from pre-kindergarten through high school, in 1,300 school districts across all 50 states, plus Washington, D.C., and Puerto Rico.

NIHF’s flagship national program, supported by the USPTO, is Camp Invention, which is taught by an elite group of 13,000 STEM instructors, plus 90,000 interns at the high school and college level. The teachers for Camp Invention receive training in STEM and IP, and are introduced to the patents and trademark systems, about which they can then teach in their own classrooms. At the collegiate level, the USPTO and NIHF host the Collegiate Inventors Competition. This annual competition brings teams of graduate and undergraduate inventors to meet and discuss innovation and IP with Hall of Fame inductees and USPTO experts.

As the administrators of the presidentially awarded National Medal of Technology and Innovation (NMTI), the USPTO partners with the National Science and Technology Medals Foundation to recognize inventor excellence and to inspire future generations to become inventors. Since 2017, the USPTO has supported the foundation's "An Evening With..." program, which brings NMTI and National Medal of Science laureates to college campuses around the country. The program makes a personal connection among college students and leading innovators and thinkers who have all been recognized as our nation's greatest in technology and innovation. In 2018, the program added elements to expose these great minds to high school students. Small groups meet and have lunch with the laureates, where they learn firsthand stories of achievement and failure from the laureates and can ask their own questions.

In FY 2018, the USPTO's OEO led collaborations to put on over 200 student-focused IP and STEM program experiences for K-12 students. OEO provides STEM-based educational and outreach programming for K-12 students, teachers, parents, and administrators with an emphasis on IP, innovation, and invention. For example, the USPTO offered half-day and full-day professional development workshops in over a dozen U.S. cities over the last fiscal year. In addition, OEO held its annual five-day professional development program, the National Summer Teacher Institute (NSTI). This program is designed to introduce concepts of IP protection, innovation, entrepreneurship, and STEM to K-12 educators. Teachers receive content and learn concepts that they are able to share when they return to their respective schools, school districts, and communities, and so act to amplify the USPTO's efforts. The material is aimed to help teachers unleash the innovative potential of their students by encouraging them to think and act creatively. To date, teachers from 47 states, the District of Columbia, Puerto Rico, and the Department of Defense Education Activity, South Pacific region, have participated in the program.

For this year's 5th annual NSTI, which was held in Tampa, Fla., the USPTO received over 250 applications from teachers across America. From these applications, OEO selected 50 teachers representing 28 states and multiple STEM disciplines for this year's program. These teachers listened to presenters from academia, industry, the IP bar, and the non-profit sector. They also had the opportunity to hear inspiring messages from Congresswoman Kathy Castor of Florida's 14th district and both Florida U.S. Senators Marco Rubio and Bill Nelson. Overall, the program was a great success, and teachers left feeling inspired to bring STEM and IP concepts back to their classrooms.

The USPTO regional offices, by working closely with OEO, directly support STEM events that run the gamut, from Maker Faires® to Camp Invention® functions throughout the country. This year, the Silicon Valley Regional Office continued the USPTO's 12th year participating in the Maker Faire® in San Mateo, Calif. In addition, the Texas Regional Office participated in World IP Day Dallas and EarthX in collaboration with Dallas Independent School District in Dallas by demonstrating the importance of IP in innovation to K-12 students. The Elijah J. McCoy Midwest Regional Office held its second All About STEM! event in collaboration with the Detroit Public Library PTRC, where the office recognized regional science fair projects that demonstrated innovative problem solving. For the third time in Wichita Mini-Maker Faire, the Rocky Mountain Regional Office's outreach team participated in a Girls & Science event, Expanding Your Horizons, which inspired girls to recognize their potential to pursue opportunities in STEM.

Another notable ongoing collaboration is the USPTO's partnership with the Foundation for Inspiration and Recognition of Science and Technology (FIRST®) on its annual Global Innovation Award. This program involves an invention competition designed to encourage First Lego League (FLL) participants to take their invention ideas to the next level. The USPTO works in collaboration with FIRST® to increase student knowledge and 21st century skills in problem-solving and team-building. The USPTO has collaborated with FIRST® on this program from its inception eight years ago. During that time, a number of FLL teams have gone on to apply for, and in some instances obtain, U.S. patents on their invention projects. This year, the Midwest and Texas regional offices participated in the 2018 FIRST Championship, and the FIRST Lego League Global Innovation event took place in San Jose, Calif., where representatives from OEO and the Silicon Valley USPTO conducted demonstrations, workshops, and participated in the final award ceremony.

OBJECTIVE 4: SECURE SUSTAINABLE FUNDING TO DELIVER VALUE TO FEE-PAYING CUSTOMERS AND THE PUBLIC

The USPTO operates like a business in that it fulfills requests for IP products and services that are paid for by users of those services. In many instances, these requests are received in one fiscal year and fulfilled in a subsequent year. Therefore, the USPTO engages in a complex multi-year planning and budgeting model. Through the sustainable funding objective, the USPTO continues its work to maintain a funding model that leverages innovative financial management practices and helps to ensure secure funding streams that support mission operations.

In November 2017, the USPTO published a final rule—effective on January 16, 2018—to set and adjust patent fees (www.gpo.gov/fdsys/pkg/FR-2017-11-14/pdf/2017-24390.pdf). This rule was based on a proposal that was first discussed with the public in November 2015; it included targeted fee adjustments to continue to fund patent operations, enhance patent quality, reduce patent application pendency, support the PTAB's continued efforts to deliver high-quality and timely decisions, invest in strengthening the USPTO's IT capability and infrastructure, and achieve operating reserve targets.

The USPTO reviews the patent and trademark fee schedules at least every two years. These regular reviews allow the agency to assess whether fees are generating sufficient resources to support the USPTO's demand-driven operations and whether they also provide an opportunity to research, analyze, and recommend potential revisions and additions to the schedules. Given the authorities entrusted to the USPTO through the AIA, the USPTO takes financial stewardship and accountability seriously. The USPTO employs a balanced approach to budget planning, striving to pursue improvements while operating responsibly within its means and making prudent fee adjustments only as required.

Although new patent fees were put into effect in January 2018, much has changed since 2015 when the USPTO first developed the proposal on which these fee rates were based. These changes include unanticipated delays in finalizing and publishing the 2017 patent fee-setting rule, anticipated financial adjustments required to implement policy and process changes that will enable the office to improve the quality and reliability of issued

patents and necessary business improvements that have been identified through the USPTO's planning processes. In light of these developments, the USPTO worked throughout much of FY 2018 to develop a new fee proposal, which was delivered to the PPAC on August 8, 2018. The PPAC subsequently held a public hearing on September 6, 2018. It is not currently anticipated that new fees will be initiated before January 2021. Additional information in this proposal is available on the [Fee Setting and Adjusting](#) page of the USPTO's website.

In addition to ensuring the sufficiency of available resources, the USPTO has been taking concrete steps to enhance the value received for money spent. Throughout FY 2018, the USPTO implemented policy and process changes to improve its internal acquisition and procurement services. These improvements include the full rollout of eAcquisitions, a suite of IT tools that will increase transparency in the procurement process and will improve reporting, communication, and workflow between USPTO's procurement staff and business units. In addition, in late FY 2018, the USPTO piloted a new Vendor Portal, including an e-Invoicing solution to streamline the invoice intake and payment process. Once fully rolled out, the Vendor Portal will enable the USPTO to better manage communications and workflow between the office and its critical private sector business partners.

OBJECTIVE 5: ESTABLISH REGIONAL OFFICES AND A REGIONAL PRESENCE

The AIA, which was signed into law on September 16, 2011, charged the USPTO with establishing regional offices, and the USPTO has fulfilled this commitment. In line with the AIA's stated purposes, the USPTO uses the regional offices to engage more directly and meaningfully with the nation's inventors, entrepreneurs, IP practitioners, academics, and policymakers; to facilitate the hiring and retention of a highly qualified, diverse, nationwide workforce; to decrease the number of patent applications waiting for examination; and to improve the quality of examination by listening to USPTO stakeholders.

The regional office system consists of the Elijah J. McCoy Midwest Regional Office in Detroit; the Rocky Mountain Regional Office in Denver; the Silicon Valley USPTO in San Jose; and the Texas Regional Office in Dallas. Each regional office not only supports the employees who physically work in the regional office, but also engages with employees who telework in the region. This includes patent examiners who perform high-quality and timely examination of patent applications, PTAB judges who issue high-quality and timely decisions, and outreach experts who disseminate IP information across the country.

Strategic Partnership and Collaboration Across the Regions

The USPTO regional offices support the agency's core mission to foster American innovation and competitiveness by bringing resources and services to entrepreneurs, inventors, small businesses, and educators where they live.

The regional office outreach teams work with innovation communities to provide programming that meets their particular needs, as well as the needs of the USPTO. This includes communicating and advancing IP policies; delivering IP education across all levels of sophistication, from first-time inventors to skilled patent practitioners; and getting K-12 students excited about a career in STEM. The regional offices often work with the Office of Innovation Development for assistance with off-the-shelf programming and support when engaging with independent inventors and small businesses. For a more in-depth discussion on how the USPTO regional offices are currently supporting STEM, please see Management Goal, Objective 3, "Enhance Internal and External Relations" on page 108.



Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, takes a tour of the Texas Regional Office, meeting with employees and having a discussion with the Patent Trial and Appeal Board. (Photo: Jay Premack/USPTO)

The regional offices communicate policy through active engagement with stakeholders across the country. They function as conduits for policy matters by participating in events such as PTAB Bar Association events, National Association of Patent Practitioner meetings, American Intellectual Property Law Association meetings, and state bar association meetings. In addition, all of the regional offices host policy-related events throughout the year, such as events for China IP Road Shows, anti-counterfeiting seminars, StopFakes, World IP Day, and USPTO Design Day, which bring together a broad range of stakeholders—patent prosecutors, litigators, inventors, academics, and patent examiners—for a public discussion on the state of IP law. In FY 2018, the regional offices directly supported 13 of the 16 official World IP Day events in the United States. This year’s World IP Day campaign celebrated the brilliance, ingenuity, curiosity and courage of the women who are driving change in our world and shaping our common future.

The regional offices also extended IP discussions to serve industry-specific stakeholders, like the “Beer Disputes and The Board: What’s Been Brewing?” program on recent decisions involving craft beer and wine trademarks, which was kicked-off at the Texas Regional Office in collaboration with the TTAB and the Dallas Bar Association’s Intellectual Property Section. These engagements provide IP stakeholders with a forum to discuss and share their perspectives on the IP ecosystem.

Increased Access to Resources

The regional offices provide a setting for scientists, engineers, and other technology experts to educate examiners about emerging topics in their fields of study. Through the Patent Examiner Technical Training Program, the regional offices hosted innovators from NREL, Samsung, Beaumont Health, Neuro Rehab VR, and many others to share their research with examiners in the regional offices and across the country. As part of the Site Experience Education (SEE) program, some senior examiners had the opportunity to take part in visits to these companies’ labs and industrial plants where innovation happens

every day. Many of these trips were planned with the participation and coordination of the regional offices to take advantage of the networks built through their extensive engagement across their regions. In total, the regional offices supported 15 SEE trips in FY 2018.

In conjunction with the Office of Patent Training, the regional offices also trained 164 patent practitioners as part of STEPP, a program that teaches new practitioners the basics of patent examination.

The PTAB in the regional offices adds a measure of transparency and accessibility to PTAB proceedings. In FY 2018, 278 judges in the regional offices participated in PTAB hearings, and 348 ex parte appeal or IPR hearings were held in regional offices.

Each regional office is equipped with several universal public workstations, which enable members of the public to work with tools that are nearly identical to those used by patent examiners and trademark examining attorneys. This can save potential applicants time and money by allowing them to perform a brief initial search for their invention or mark. Professional practitioners and searchers can also use the workstations. The regional offices also provide hands-on workshops for those who may not be familiar with the USPTO search systems. In FY 2018, the regional offices created over 513 new accounts and had over 632 visits to the universal public workstation rooms.

Retaining a Nationwide Workforce

The regional offices play an important role in supporting the agency's mission to maintain a diverse workforce by allowing the USPTO to attract talent that is unable or unwilling to relocate to the Washington, DC, metro area. The regional offices employ 261 examiners and 57 administrative patent judges on-site. Last year, each regional office also on-boarded new cadres of patent examiners to the USPTO, hiring 82 examiners in FY 2018.

As the regional offices have matured in recent years, they have supported career advancement and have created unique opportunities for employees to participate in career development details. Dozens of supervisory patent examiners have taken temporary work assignments to train new examiners and to participate in outreach and engagement programs in the regional offices. Ten supervisory patent examiners (SPEs) have permanently relocated to the regional offices, including four employees who were promoted to the SPE position from within the ranks of the regional offices or hoteling examiners. In addition, multiple patent examiners have voluntarily relocated to regional offices to support their mission and to take advantage of career development details. In addition to the popular patent examiner outreach detail, the regional offices piloted the addition of trademark examining attorneys to the outreach detail program, which provided valuable expertise to the public on trademarks and training to regional office staff.

As part of the efforts to attract talent to the office, the regional offices engage with university students across the region to educate them on IP, the patent process, and the potential of a rewarding career at the USPTO.

FINANCIAL SECTION



Front Row (left to right): Shana Willard, Jeff Isaacs, Lindsay Visco,
Dennis Detar, Ali Emgushov, and Veronica Augburn-Seaforth
Back Row (left to right): Welton Lloyd, John Ward, and Walter Schlueter

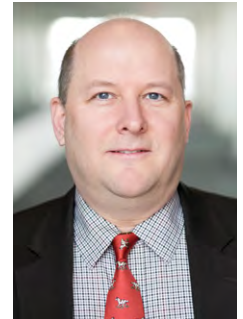
MESSAGE FROM THE ACTING CHIEF FINANCIAL OFFICER

The USPTO's strong financial management practices serve the agency well and allow the Office of the Chief Financial Officer (OCFO) to play a pivotal role in supporting the agency's continued mission success. This year was an exciting one for the USPTO—we issued patent number 10,000,000! Witnessing how this milestone touched on so many offices across the Agency was rewarding. For instance, collaboration between the OCFO and the OCIO was crucial in establishing an integrated project team to put in place the resources needed to ensure the patent and other business systems across the agency (which hadn't been designed to handle such a high patent number) were ready for that historic patent to be issued. We remain committed to leveraging the OCFO's resources and expertise to provide excellent service and foster strong relationships with our customers—both within and outside the USPTO—that enable us to resolve future challenges as effectively and efficiently.

Ensuring sustainable funding is always a priority for the Agency. We continue to strategically use our operating reserves as an effective risk mitigation tool to allow the USPTO to proactively minimize our financial and operational risks. For example, these reserve balances allowed USPTO to maintain uninterrupted services through two short lapses in appropriations that affected much of the federal government during the second quarter of FY 2018. We also continue to use the fee setting authority originally granted in the *Leahy-Smith America Invents Act* (AIA) to set fees at responsible rates that will generate sufficient revenue to allow us to recover our operating costs without placing an undue burden on our customers. Congress granted us this authority because it recognized that the USPTO, in collaboration with the larger intellectual property community, is uniquely positioned to determine the most appropriate fee rates. As the USPTO's needs and the economic and legal environment in which it operates constantly change, we regularly analyze our fee structure to ensure that the USPTO fee schedule both supports sound public policy and generates sufficient income to fund agency operations and investments. Based on a comprehensive fee review conducted in FY 2015, the USPTO revised patent fee rates, which went into effect in January 2018. During FY 2017, we conducted another biennial review of our fees, as required by the Chief Financial Officers Act of 1990. Based on the results of the 2017 review, and considering the future financial needs of the USPTO, we have determined that there is a need for USPTO to once again set and adjust patent fees. Given the length of time that accompanies the process, we anticipate new fee rates will take effect in FY 2021. As Director Iancu noted in his remarks at the Patent Public Advisory Committee's public hearing on the USPTO's latest fee proposal, the fee schedule that we are proposing seeks to provide the USPTO sufficient financial resources to implement improvements needed to identify and advance policies that deliver a strong, reliable, and predictable patent system.

Our relative financial stability over the last several years has enabled us to focus on innovation within the USPTO by investing in our information technology, including our financial systems. These investments are providing USPTO's employees and customers with IT systems and tools that are more modern, efficient, and secure. In April 2018, the USPTO replaced its legacy refund approval/dismissal system with the Fee Processing Next Generation (FPNG) system. The final release of our Fee Processing Next Generation system is planned for early FY 2019, at which point we expect to be able to retire the USPTO's legacy fee collection system.

The OCFO also continues to work closely with our internal customers to identify areas for improvement within the acquisition process to ensure we are receiving the best value for the money we spend on goods and services. In FY 2018, we began rolling out eAcquisitions,



Sean M. Mildrew

the USPTO's new procurement management software solution, which will provide end-to-end procurement lifecycle support and facilitate collaboration between program office and procurement personnel. In addition, in partnership with the OCIO, we hosted a reverse industry day, whereby existing vendors shared with the USPTO ways that we could further improve processes and gain efficiencies in the acquisition process. This was a success for the OCIO, our internal USPTO customers, as well as the vendors.

We continue to expand our enterprise risk management so that we are proactive in getting ahead of the agency risks. This year, we increased our internal control testing in the IT security area. This has allowed us to work with the OCIO and remediate identified deficiencies earlier, and has allowed for a smoother process in working with the financial statement auditors.

We are also finalizing a new USPTO five-year Strategic Plan, recognizing the role that a strong intellectual property system plays in helping to expand the economy and increase job creation. This new Plan was drafted with input from the public and employees. We plan to publish the final *2018–2022 Strategic Plan* in November 2018.

As we have taken on new challenges, we have maintained our outstanding reporting record:

- This fiscal year marks our 26th year of receiving an unmodified opinion on the Agency's financial statements, and the auditors reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting;
- As part of the annual audit, it was determined that our financial system complies with federal financial systems requirements;
- The Association of Government Accountants (AGA) awarded the USPTO the Certificate of Excellence in Accountability Reporting for the 16th consecutive year for our FY 2017 Performance and Accountability Report, including "best in class" honors for the "most exceptional performance reporting in a Performance and Accountability Report"; and
- The USPTO also received the Certificate of Excellence in Citizen-Centric Reporting for our 7th Citizen-Centric Report, awarded by AGA for 2017, again clearly demonstrating the USPTO's excellence in integrating performance and accountability reporting.

I am proud to be part of a team of colleagues that works hard to develop strategies that strengthen our cross-functional partnerships throughout the agency. Going forward, this strength will continue to enable the successful execution of OCFO objectives, and allow us to facilitate mission success by providing exceptional financial management information, services, and advice to the USPTO.



Sean M. Mildrew
Acting Chief Financial Officer
November 9, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

Consolidated Balance Sheets

As of September 30, 2018 and 2017

(Dollars in Thousands)

ASSETS

Intragovernmental:

Fund Balance with Treasury (Note 2)	\$ 2,372,752	\$ 2,259,911
Accounts Receivable (Note 3)	13	-
Other Assets—Advances and Prepayments (Note 6)	2,193	11,174
Total Intragovernmental	2,374,958	2,271,085

Undeposited Collections (Note 4)	8,392	5,346
Accounts Receivable, Net (Note 3)	389	334
Property, Plant, and Equipment, Net (Note 5)	527,081	523,842
Other Assets—Advances and Prepayments (Note 6)	15,240	16,567
Total Assets	\$ 2,926,060	\$ 2,817,174

LIABILITIES

Intragovernmental:

Accounts Payable	\$ 11,301	\$ 13,451
Accrued Payroll and Benefits	16,487	16,037
Accrued Workers' and Unemployment Compensation	2,063	2,110
Customer Deposit Accounts (Note 7)	7,024	6,802
Total Intragovernmental	36,875	38,400

Accounts Payable	101,361	88,252
Accrued Payroll and Benefits	128,481	124,904
Accrued Leave	117,620	110,486
Customer Deposit Accounts (Note 7)	124,325	128,409
Deferred Revenue (Note 9)	970,889	936,854
Actuarial FECA Liability (Note 10)	12,632	12,017
Contingent Liability (Note 12)	300	300
Total Liabilities (Note 8)	\$ 1,492,483	\$ 1,439,622

NET POSITION

Cumulative Results of Operations—Funds from Dedicated Collections (Note 14)	\$ 1,433,577	\$ 1,377,552
Total Net Position	\$ 1,433,577	\$ 1,377,552
Total Liabilities and Net Position	\$ 2,926,060	\$ 2,817,174

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Consolidated Statements of Net Cost

For the years ended September 30, 2018 and 2017

(Dollars in Thousands)

	2018	2017
Strategic Goal 1: Optimize Patent Quality and Timeliness		
Total Program Cost	\$ 2,962,234	\$ 2,856,705
Total Program Earned Revenue	(2,994,383)	(2,804,098)
Net Program (Income)/Cost	(32,149)	52,607
Strategic Goal 2: Optimize Trademark Quality and Timeliness		
Total Program Cost	307,255	285,162
Total Program Earned Revenue	(315,005)	(301,248)
Net Program Income	(7,750)	(16,086)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide		
Total Program Cost	51,986	51,544
Net Cost of Operations (Note 14)	\$ 12,087	\$ 88,065
TOTAL ENTITY		
Total Program Cost (Notes 15 and 16)	\$ 3,321,475	\$ 3,193,411
Total Earned Revenue	(3,309,388)	(3,105,346)
Net Cost of Operations (Note 14)	\$ 12,087	\$ 88,065

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Consolidated Statements of Changes in Net Position

For the years ended September 30, 2018 and 2017

(Dollars in Thousands)

	2018	2017
	Funds from Dedicated Collections	Funds from Dedicated Collections
Cumulative Results of Operations		
Beginning Balances	\$ 1,377,552	\$ 1,447,522
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(1,000)	(2,000)
Other Financing Sources:		
Imputed Financing	69,112	20,095
Total Financing Sources	68,112	18,095
Net Cost of Operations	(12,087)	(88,065)
Net Change	56,025	(69,970)
Cumulative Results of Operations	\$ 1,433,577	\$ 1,377,552
Net Position, End of Year	\$ 1,433,577	\$ 1,377,552

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Combined Statements of Budgetary Resources

For the years ended September 30, 2018 and 2017

(Dollars in Thousands)

	2018	2017
BUDGETARY RESOURCES		
Unobligated Balance, Brought Forward	\$ 373,575	\$ 461,238
Recoveries of Prior Year Obligations	36,079	33,503
Unobligated Balance from Prior Year Budget		
Authority, Net (discretionary)	409,654	494,741
Spending Authority from Offsetting Collections (discretionary)	3,341,661	3,082,829
Total Budgetary Resources	<u>\$ 3,751,315</u>	<u>\$ 3,577,570</u>
 Memorandum (non-add) entries:		
Net Adjustments to Unobligated Balance, Brought Forward	<u>\$ 36,079</u>	<u>\$ 33,503</u>
 STATUS OF BUDGETARY RESOURCES		
New Obligations	\$ 3,304,480	\$ 3,203,995
Unobligated Balance, End of Year:		
Apportioned	446,835	373,575
Total Status of Budgetary Resources	<u>\$ 3,751,315</u>	<u>\$ 3,577,570</u>
 OUTLAYS, NET		
Net (Collections)/Outlays (discretionary)	<u>\$ (117,951)</u>	<u>\$ 94,625</u>

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, 2018 and 2017

(Dollars in Thousands)

	2018	2017
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Cost of Operations	\$ (12,087)	\$ (88,065)
Adjustments to Reconcile Net Cost of Operations to Net Cash provided by Operating Activities:		
Imputed Financing from Cost Absorbed by Others	69,112	20,095
Depreciation, Amortization, and Loss on Asset Dispositions	218,944	182,735
Changes in Operating Assets and Liabilities:		
(Increase)/Decrease in Accounts Receivable	(68)	140
Decrease/(Increase) in Advances and Prepayments	10,308	(2,565)
Increase in Accounts Payable	5,079	6,703
Increase in Accrued Payroll and Benefits	4,027	7,323
Increase in Accrued Leave and Workers' and Unemployment Compensation	7,087	3,205
Decrease in Customer Deposit Accounts	(3,862)	(2,134)
Increase/(Decrease) in Deferred Revenue	34,035	(23,544)
Increase in Contingent Liability	-	300
Increase in Actuarial Liability	615	288
Total Adjustments	345,277	192,546
Net Cash Provided by Operating Activities	333,190	104,481
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of Property and Equipment	(216,303)	(201,013)
Net Cash Used in Investing Activities	(216,303)	(201,013)
CASH FLOWS FROM FINANCING ACTIVITIES		
Transfers Out Without Reimbursement	(1,000)	(2,000)
Net Cash Used in Financing Activities	(1,000)	(2,000)
Net Increase/(Decrease) in Fund Balance with Treasury and Undeposited Collections	115,887	(98,532)
Fund Balance with Treasury and Undeposited Collections, Beginning of Year	2,265,257	2,363,789
Fund Balance with Treasury and Undeposited Collections, End of Year	\$ 2,381,144	\$ 2,265,257

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Notes to Financial Statements

As of and for the years ended September 30, 2018 and 2017

NOTE 1. Summary of Significant Accounting Policies

Basis of Presentation

As required by the Chief Financial Officers Act of 1990 and 31 United States Code (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 goals. 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 No. A-136, *Financial Reporting Requirements*, as amended, as well as the accounting policies of the USPTO. Therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the USPTO's budgetary resources. GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board, which is the official body for setting the accounting standards of the federal government.

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

The presentation of the FY 2018 and FY 2017 *Combined Statements of Budgetary Resources* (SBR) has changed considerably from the previous SBR presentation included in the USPTO's FY 2017 Performance and Accountability Report, due to revisions to the SBR format included in the July 2018 issuance of OMB Circular A-136, *Financial Reporting Requirements*. In the *Budgetary Resources* section of the SBR, the new format collapsed previous SBR lines for current fiscal year recoveries of prior year obligations, which are summarized into a newly captioned line, *Unobligated Balance From Prior Year Budget Authority, Net*. The adjustments are also aggregated and reported in the new memorandum line, *Net Adjustments to Unobligated Balance, Brought Forward*. The new SBR eliminated the previous *Change in Unpaid Obligated Balance, Net* section, and the *Budget Authority, Net* section. Lastly, the new SBR does not display the calculation of *Outlays, Net*, which is *Outlays, Gross*, less *Actual Offsetting Collections*.

The federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

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

NOTE 1. Summary of Significant Accounting Policies *(continued)*

Allocation transfers are legal delegations by one department of its authority to obligate budget authority and outlay funds to another department. The USPTO does not receive any allocation transfers.

Basis of Accounting

These financial statements reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized when incurred, without regard to the receipt or payment of cash. Budgetary accounting is designed to recognize the obligation of funds according to legal requirements, which in many cases is made prior to the occurrence of an accrual-based transaction. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds.

Funds from Dedicated Collections

Funds from dedicated collections 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, funds from dedicated collections include the salaries and expenses fund (013X1006), fee reserve fund (013X1008), and the special fund receipts (0135127). Additional details are provided in Note 14.

Fiduciary Activities

Fiduciary activities are not recognized on the financial statements, but reported on schedules in the notes to the financial statements. Fiduciary balances are not assets of the federal government. Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the federal government of cash or other assets in which non-federal individuals or entities have an ownership interest that the federal government must uphold. At the USPTO, fiduciary activities are recorded in the Patent Cooperation Treaty fund (013X6538) and the Madrid Protocol fund (013X6554). Additional details are provided in Note 19.

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 estimates.

Revenue and Other Financing Sources

Exchange Revenue: The USPTO has fee setting authority under section 10 of the Leahy-Smith America Invents Act (AIA), as amended. Section 10(a) of the AIA authorizes the Director of the USPTO to set or adjust by rule all patent and trademark fees to recover the aggregate estimated cost to the USPTO. Provided that the fees in the aggregate achieve overall aggregate cost recovery, the Director of USPTO may set individual fees under section 10, at, below, or above their respective cost. Since FY 1993, the USPTO's funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when

NOTE 1. Summary of Significant Accounting Policies *(continued)*

received, with an adjustment to defer revenue for services that have not been performed. Individual fees for Patent maintenance fees and Trademark renewal fees are recorded as exchange revenue when received and help to recoup costs incurred during the initial patent and trademark review processes. 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 financial gifts and gifts-in-kind. All such transactions are included in the consolidated Gifts and Bequests Fund financial statements of the U.S. Department of Commerce. These gifts are not reflected in the USPTO's financial statements. Most gifts-in-kind are used for official travel to further attain the USPTO mission and objectives.

Imputed Financing Sources from Cost Absorbed by Others (and Related Imputed Costs): In certain cases, operating costs of the USPTO are paid for in full or in part by funds appropriated to other federal entities. For example, Civil Service Retirement System (CSRS) pension benefits for applicable USPTO employees are paid for in part by the U.S. Office of Personnel Management (OPM), and certain legal judgments against the USPTO are paid for in full from the Judgment Fund maintained by Treasury. Also, the cost of collecting fees electronically for the USPTO are paid for in full by Treasury. The USPTO includes applicable Imputed Costs on the *Consolidated Statements of Net Cost*. In addition, an Imputed Financing Source from Cost Absorbed by Others is recognized on the *Consolidated Statements of Changes in Net Position*.

Transfers Out: Intragovernmental transfers of budget authority without reimbursement are recorded at book value.

Entity/Non-Entity

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity's use are termed non-entity assets. Most of the USPTO's assets are entity assets and are available to carry out the mission of the USPTO, as appropriated by Congress, with the exception of a portion of the Fund Balance with Treasury and undeposited collections. Additional details are provided in Note 7.

Fund Balance with Treasury

The USPTO deposits fees collected in commercial bank accounts maintained by the Treasury's Bureau of the Fiscal Service (BFS). 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 BFS. Treasury processes all disbursements. Additional details are provided in Note 2.

Accounts Receivable

Accounts receivable balances are established for amounts owed to the USPTO from its employees and governmental entities that do business with the USPTO. 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 goals. The USPTO's accounts receivable balances are comprised of amounts due from current and former employees for the reimbursement of education expenses and other benefits,

NOTE 1. Summary of Significant Accounting Policies *(continued)*

amounts due from foreign intellectual property offices for the reimbursement of services provided, amounts due from other federal agencies for the reimbursement of services provided, and other revenue-related receivables. Additional details are provided in Note 3.

The USPTO has established an allowance for certain accounts receivables that are considered not collectible. 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 USPTO regards all of the intergovernmental receivables balances as fully collectable.

Advances and Prepayments

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. Additional details are provided in Note 6.

Undeposited Collections

The USPTO's undeposited collections balance primarily consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. The undeposited collections balance also consists of 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, 2017, insignificant amounts of cash were held outside the Treasury to be used as imprest funds. Effective November 1, 2017, the USPTO no longer accepts cash as payment for products and services for which fees are required. Additional details are provided in Note 4.

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	\$50 thousand or greater	\$250 thousand or greater
Software	\$50 thousand or greater	\$250 thousand or greater
Software in Development	\$50 thousand or greater	\$250 thousand or greater
Furniture	\$50 thousand or greater	\$50 thousand or greater
Equipment	\$50 thousand or greater	\$250 thousand or greater
Leasehold Improvements	\$50 thousand or greater	Not applicable

Costs capitalized are recorded at actual historical cost. Depreciation is expensed on a straight-line basis over the estimated useful life of the asset with the exception of leasehold improvements, which are depreciated over the remaining life of the lease or over the useful life of the improvement, whichever is shorter. As needed, useful lives of assets are updated to reflect current estimates; the estimated useful life is used on a prospective basis. Additional details are provided in Note 5.

NOTE 1. Summary of Significant Accounting Policies *(continued)*

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

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

Workers' Compensation

The Federal Employees' Compensation Act (FECA) provides compensation 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 Department of Labor (DOL) and are paid ultimately by the USPTO.

Accrued Liability: The DOL bills the USPTO annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process.

Actuarial Liability: The DOL estimates 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.

Unemployment Compensation

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid.

Annual, Sick, and Other Leave

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

Employee Retirement Systems and Post-Employment Benefits

USPTO employees participate in either the CSRS or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Pub. L. No. 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 OPM, who administers the plans. While the USPTO reported no

NOTE 1. Summary of Significant Accounting Policies *(continued)*

liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the OPM who administers these programs. The USPTO financial statements recognize a funded expense for the USPTO's share of the costs to the federal government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. In addition to the funded expense, the USPTO financial statements also recognize an imputed cost for the OPM's share of the costs to the federal government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. The USPTO's appropriation requires full funding of the present costs, as determined by the OPM, of post-retirement benefits for the Federal Employees Health Benefit Program (FEHB), the Federal Employees Group Life Insurance Program (FGLI), and pensions under the CSRS. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by the OPM, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors. Any difference between the OPM factors for funding purposes and the OPM factors for reporting purposes is recognized as an imputed cost. Additional details are provided in Note 13.

For the years ended September 30, 2018 and 2017, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 22.1 percent of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2018 and 2017, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 13.4 percent and 13.5 percent, respectively, of the employee's basic pay for those employees covered by FERS, based on OPM cost factors. As contribution funding increases, imputed costs will correspondingly decrease.

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 balance is estimated by analyzing the process for completing each service that the USPTO provides. The percent incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue. Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the

NOTE 1. Summary of Significant Accounting Policies *(continued)*

first action pendency rates, and changes in fee rates. Increases in patent and trademark filings, first action pendency rates, and fee rates result in increases in deferred revenue. The components of the liability are provided in Note 9.

Net Position

Net Position is the residual difference between assets and liabilities, and is composed of Cumulative Results of Operations.

Cumulative Results of Operations is the net result of the USPTO's operations since inception.

Environmental Cleanup

The USPTO does not have any known liabilities for environmental cleanup.

NOTE 2. Fund Balance with Treasury

As of September 30, 2018 and 2017, Fund Balance with Treasury consisted of the following:

<i>(Dollars in Thousands)</i>	2018	2017
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	\$ 624,778	\$ 581,085
Unobligated Balance Available	446,835	373,575
Temporarily Not Available Pursuant to Public Law	937,818	937,818
Non-Budgetary Fund Balance with Treasury	<u>363,321</u>	<u>367,433</u>
Total Fund Balance with Treasury	<u>\$ 2,372,752</u>	<u>\$ 2,259,911</u>

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

To help smooth the impact of economic downturns on operations and to help mitigate funding uncertainty, the USPTO has reserved a portion of the amount Congress makes available annually through appropriations to the USPTO Salaries and Expense general fund as a designated operating reserve that will be carried over for use in future years. As of September 30, 2018, the total Patent reserve was \$311,539 thousand and the total Trademark reserve was \$135,296 thousand. As of September 30, 2017, the total Patent reserve was \$252,920 thousand and the total Trademark reserve was \$120,655 thousand.

As of September 30, 2018 and 2017, the USPTO collected less fees than appropriated for the fiscal year. As a result, there were no funds deposited into the Patent and Trademark Fee Reserve Fund (general fund). Additional details are provided in Note 14.

As of September 30, 2018 and 2017, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts held in a special fund of \$233,529 thousand for each year presented and non-entity customer deposit accounts held in deposit funds of \$129,792 thousand and \$133,904 thousand, respectively.

NOTE 3. Accounts Receivable, Net

As of September 30, 2018, USPTO entity accounts receivable consisted of the following:

<i>(Dollars in Thousands)</i>	Accounts Receivable, Gross	Allowance for Uncollectible Accounts	Accounts Receivable, Net
Intragovernmental	\$ 13	\$ -	\$ 13
With the Public	\$ 559	\$ (170)	\$ 389

As of September 30, 2017, USPTO entity accounts receivable consisted of the following:

<i>(Dollars in Thousands)</i>	Accounts Receivable, Gross	Allowance for Uncollectible Accounts	Accounts Receivable, Net
Intragovernmental	\$ -	\$ -	\$ -
With the Public	\$ 478	\$ (144)	\$ 334

NOTE 4. Undeposited Collections

As of September 30, 2018 and 2017, undeposited collections consisted of the following:

<i>(Dollars in Thousands)</i>	2018	2017
Deposits in Transit	\$ 8,355	\$ 5,299
Undeposited Collections	37	47
Total	\$ 8,392	\$ 5,346

As of September 30, 2018 and 2017 undeposited collections included customer deposit accounts held with the public amounting to \$1,557 thousand and \$1,307 thousand, respectively.

NOTE 5. Property, Plant, and Equipment, Net

As of September 30, 2018, property, plant, and equipment, net, consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Useful Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	3-5	\$ 340,497	\$ 253,204	\$ 87,293
Software	3-5	883,961	657,749	226,212
Software in Development	-	132,768	-	132,768
Furniture	5-7	25,995	8,207	17,788
Equipment	3-8	7,839	5,320	2,519
Leasehold Improvements	5-20	142,960	82,459	60,501
Total Property, Plant, and Equipment		<u>\$ 1,534,020</u>	<u>\$ 1,006,939</u>	<u>\$ 527,081</u>

As of September 30, 2017, property, plant, and equipment, net, consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Useful Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	3-5	\$ 315,537	\$ 229,258	\$ 86,279
Software	3-5	764,305	522,126	242,179
Software in Development	-	114,418	-	114,418
Furniture	5-7	17,449	5,357	12,092
Equipment	3-8	9,558	7,069	2,489
Leasehold Improvements	5-20	137,432	71,047	66,385
Total Property, Plant, and Equipment		<u>\$ 1,358,699</u>	<u>\$ 834,857</u>	<u>\$ 523,842</u>

The USPTO does not have any restrictions on the use or convertibility of the property, plant, and equipment balances.

NOTE 6. Other Assets—Advances and Prepayments

As of September 30, 2018 and 2017, other assets consisted of the following:

<i>(Dollars in Thousands)</i>	2018	2017
Intragovernmental		
Advances and Prepayments	\$ 2,193	\$ 11,174
With the Public		
Advances and Prepayments	\$ 15,240	\$ 16,567
Total	\$ 17,433	\$ 27,741

The largest governmental prepayments include the USPTO deposit accounts held with the U.S. Government Publishing Office to facilitate recurring transactions, the U.S. Postal Service for postage, the Department of Transportation for transit subsidy services, Library of Congress for library services, and the Department of Commerce for centralized services.

The largest prepayments with the public as of September 30, 2018 and 2017 were predominately \$13,319 thousand and \$13,097 thousand, respectively, for various hardware and software maintenance agreements and \$1,914 thousand and \$3,470 thousand, respectively, for various library and online database subscriptions.

NOTE 7. Entity and Non-Entity Assets

Non-entity assets are amounts held on deposit for the convenience of the USPTO's customers.

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.

As of September 30, 2018 and 2017, entity and non-entity assets consisted of the following:

<i>(Dollars in Thousands)</i>	2018	2017
Fund Balance with Treasury:		
Intragovernmental Customer Deposit Accounts	\$ 7,024	\$ 6,802
Customer Deposit Accounts with the Public	122,768	127,102
Total Fund Balance with Treasury	129,792	133,904
Undeposited Collections:		
Customer Deposit Accounts with the Public	1,557	1,307
Total Non-Entity Assets	131,349	135,211
Total Entity Assets	2,794,711	2,681,963
Total Assets	\$ 2,926,060	\$ 2,817,174

NOTE 8. Liabilities Covered and Not Covered by Budgetary Resources

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO's liabilities covered by budgetary resources are funded by realized budgetary resources. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances (operating reserve) as of September 30, 2018.

Although future appropriations to fund liabilities not covered by budgetary resources are probable and anticipated, Congressional action is needed before budgetary resources can be provided.

As of September 30, 2018 and 2017, liabilities covered and not covered by budgetary resources were as follows:

<i>(Dollars in Thousands)</i>	2018	2017
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	\$ 11,301	\$ 13,451
Accrued Payroll and Benefits	16,487	16,037
Accrued Unemployment Compensation	82	247
Total Intragovernmental	27,870	29,735
Accounts Payable	101,361	88,252
Accrued Payroll and Benefits	63,548	61,698
Deferred Revenue	446,657	373,373
Total Liabilities Covered by Resources	\$ 639,436	\$ 553,058
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	\$ 1,981	\$ 1,863
Total Intragovernmental	1,981	1,863
Accrued Payroll and Benefits	64,933	63,206
Accrued Leave	117,620	110,486
Deferred Revenue	524,232	563,481
Actuarial FECA Liability	12,632	12,017
Contingent Liability	300	300
Total Liabilities Not Covered by Resources	\$ 721,698	\$ 751,353
Liabilities Not Requiring Resources		
Intragovernmental:		
Customer Deposit Accounts	\$ 7,024	\$ 6,802
Total Intragovernmental	7,024	6,802
Customer Deposit Accounts	124,325	128,409
Total Liabilities Not Requiring Resources	\$ 131,349	\$ 135,211
Total Liabilities	\$ 1,492,483	\$ 1,439,622

NOTE 9. Deferred Revenue

As of September 30, 2018, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	Patent	Trademark	Total
Unearned Fees	\$ 881,784	\$ 89,068	\$ 970,852
Undeposited Checks	34	3	37
Total Deferred Revenue	<u>\$ 881,818</u>	<u>\$ 89,071</u>	<u>\$ 970,889</u>

As of September 30, 2017, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	Patent	Trademark	Total
Unearned Fees	\$ 861,720	\$ 75,087	\$ 936,807
Undeposited Checks	42	5	47
Total Deferred Revenue	<u>\$ 861,762</u>	<u>\$ 75,092</u>	<u>\$ 936,854</u>

NOTE 10. Actuarial FECA Liability

The FECA actuarial liability is calculated annually, as of September 30th by the DOL. For FY 2018 and 2017, projected annual payments were discounted to the present value based on averaging the Treasury's Yield Curve for Treasury Nominal Coupon (TNC) issues for the current and prior four years to reflect the average duration in years for income and medical payments, respectively. Interest rate assumptions utilized for discounting were as follows:

2018	2017
For wage benefits:	For wage benefits:
2.72% in year 1, and thereafter	2.68% in year 1, and thereafter
For medical benefits:	For medical benefits:
2.38% in year 1, and thereafter	2.22% in year 1, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2018 and 2017 was \$12,632 thousand and \$12,017 thousand, respectively.

NOTE 11. 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 are cancelable with appropriate notification and expire at various dates between FY 2019 and FY 2026. While most of USPTO's facilities are rented from GSA, the operating lease in San Jose, California is a non-GSA lease. During the years ended September 30, 2018 and 2017, the USPTO paid \$93,978 thousand and \$96,266 thousand, respectively, to the GSA for rent. In addition, during the years ended September 30, 2018 and 2017, the USPTO paid \$995 thousand and \$967 thousand, respectively, to the City of San Jose for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2018 are as follows:

(Dollars in Thousands)

Fiscal Year	GSA Real Property	Non-Federal Real Property	Total Real Property
2019	\$ 59,825	\$ 1,026	\$ 60,851
2020	57,173	1,056	58,229
2021	56,822	-	56,822
2022	56,724	-	56,724
2023	56,536	-	56,536
Thereafter	53,118	-	53,118
Total Future Minimum Lease Payments	<u>\$ 340,198</u>	<u>\$ 2,082</u>	<u>\$ 342,280</u>

The commitments shown above relate primarily to the operating lease for the USPTO headquarters and regional offices.

Lease Location	Lease Initiation	Lease Expiration
Shirlington, Virginia	FY 2009	FY 2019
San Jose, California	FY 2015	FY 2020
Detroit, Michigan	FY 2012	FY 2022
Alexandria, Virginia	FY 2004	FY 2024
Denver, Colorado	FY 2014	FY 2024
Dallas, Texas	FY 2016	FY 2026

NOTE 12. Commitments and Contingencies

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

As of September 30, 2018, management expects it is reasonably possible that approximately \$1,200 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2017, management expects it is reasonably possible that approximately \$1,500 thousand may be owed for awards or damages involving labor relations claims.

As of September 30, 2018 and 2017, the USPTO was subject to a suit where an adverse outcome was probable and the claim was \$300 thousand for both years.

For the years ended September 30, 2018 and 2017, there were no payments made on behalf of the USPTO from the Judgment Fund. However, the USPTO was required to make one payment totaling \$3 thousand to the Judgment Fund for the year ended September 30, 2018.

As of September 30, 2018 and 2017, the USPTO did not have any major long-term commitments.

NOTE 13. Post-Employment Benefits

For the years ended September 30, 2018 and 2017, the post-employment benefit expenses were as follows:

(Dollars in Thousands)	2018			2017		
	Funded	Imputed	Total	Funded	Imputed	Total
CSRS	\$ 6,877	\$ 2,402	\$ 9,279	\$ 8,039	\$ 1,190	\$ 9,229
FERS	196,902	23,000	219,902	192,266	1,270	193,536
FEHB	63,258	15,976	79,234	60,842	-	60,842
FEGLI	252	-	252	243	-	243
FICA	109,272	-	109,272	105,791	-	105,791
Total Cost	\$ 376,561	\$ 41,378	\$ 417,939	\$ 367,181	\$ 2,460	\$ 369,641

NOTE 14. Funds from Dedicated Collections

Funds from dedicated collections 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, funds from dedicated collections include the salaries and expenses fund, the fee reserve fund, and the special fund receipts. There were no funds deposited in the fee reserve fund as of September 30, 2018 and 2017, respectively. Non-entity funds, as disclosed in Note 7, are not funds from dedicated collections and are therefore excluded from the below amounts.

As of September 30, 2018, the salaries and expenses fund includes the Patent operating reserve of \$311,539 thousand and the Trademark operating reserve of \$135,296 thousand. As of September 30, 2017, the salaries and expenses fund includes the Patent operating reserve of \$252,920 thousand and the Trademark operating reserve of \$120,655 thousand.

<i>(Dollars in Thousands)</i>	Salaries and Expenses Fund	Fee Reserve Fund	Surcharge Fund	Total Funds from Dedicated Collections
Balance Sheet as of September 30, 2018				
Fund Balance with Treasury	\$ 2,009,431	\$ -	\$ 233,529	\$ 2,242,960
Undeposited Collections	6,835	-	-	6,835
Accounts Receivable, Net	402	-	-	402
Other Assets	544,514	-	-	544,514
Total Assets	<u>\$ 2,561,182</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,794,711</u>
Total Liabilities	<u>\$ 1,361,134</u>	<u>\$ -</u>	<u>\$ -</u>	<u>1,361,134</u>
Cumulative Results of Operations	<u>1,200,048</u>	<u>-</u>	<u>233,529</u>	<u>1,433,577</u>
Total Liabilities and Net Position	<u>\$ 2,561,182</u>	<u>\$ -</u>	<u>\$233,529</u>	<u>\$ 2,794,711</u>
Statement of Net Cost For the Year Ended September 30, 2018				
Total Program Cost	\$ 3,321,475	\$ -	\$ -	\$ 3,321,475
Less Program Earned Revenue	(3,309,388)	-	-	(3,309,388)
Net Cost of Operations	<u>\$ 12,087</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 12,087</u>
Statement of Changes in Net Position For the Year Ended September 30, 2018				
Net Position, Beginning of Year	\$ 1,144,023	\$ -	\$ 233,529	\$ 1,377,552
Budgetary Financing Sources:				
Transfers Out Without Reimbursement	(1,000)	-	-	(1,000)
Other Financing Sources:				
Imputed Financing	69,112	-	-	69,112
Net Cost of Operations	<u>(12,087)</u>	<u>-</u>	<u>-</u>	<u>(12,087)</u>
Change in Net Position	<u>56,025</u>	<u>-</u>	<u>-</u>	<u>56,025</u>
Net Position, End of Year	<u>\$ 1,200,048</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,433,577</u>

NOTE 14. Funds from Dedicated Collections *(continued)**(Dollars in Thousands)*

	Salaries and Expenses Fund	Fee Reserve Fund	Surcharge Fund	Total Funds from Dedicated Collections
Balance Sheet as of September 30, 2017				
Fund Balance with Treasury	\$ 1,892,478	\$ -	\$ 233,529	\$ 2,126,007
Undeposited Collections	4,039	-	-	4,039
Accounts Receivable, Net	334	-	-	334
Other Assets	551,583	-	-	551,583
Total Assets	<u>\$ 2,448,434</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,681,963</u>
Total Liabilities	\$ 1,304,411	\$ -	\$ -	\$ 1,304,411
Cumulative Results of Operations	1,144,023	-	233,529	1,377,552
Total Liabilities and Net Position	<u>\$ 2,448,434</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,681,963</u>
Statement of Net Cost For the Year Ended September 30, 2017				
Total Program Cost	\$ 3,193,411	\$ -	\$ -	\$ 3,193,411
Less Program Earned Revenue	(3,105,346)	-	-	(3,105,346)
Net Cost of Operations	<u>\$ 88,065</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 88,065</u>
Statement of Changes in Net Position For the Year Ended September 30, 2017				
Net Position, Beginning of Year	\$ 1,213,993	\$ -	\$ 233,529	\$ 1,447,522
Budgetary Financing Sources:				
Transfers Out Without Reimbursement	(2,000)	-	-	(2,000)
Other Financing Sources:				
Imputed Financing	20,095	-	-	20,095
Net Cost of Operations	(88,065)	-	-	(88,065)
Change in Net Position	(69,970)	-	-	(69,970)
Net Position, End of Year	<u>\$ 1,144,023</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,377,552</u>

NOTE 14. Funds from Dedicated Collections *(continued)*

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 goals—granting patents, registering trademarks, and intellectual property policy, protection, and enforcement—that promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks. The USPTO may use moneys from this account only as authorized by Congress via appropriations.

The **Patent and Trademark Fee Reserve Fund** was created through the Leahy-Smith America Invents Act legislation enacted on September 16, 2011 (Pub. L. No. 112-29) modifying 35 U.S.C. §42(c). This established a statutory provision allowing the USPTO to collect and deposit in this fund fees collected in excess of the appropriated levels for each fiscal year. Annual appropriations provide further the authorization for the USPTO to spend those fees and are available without fiscal limitation until expended.

The **Surcharge Fund** was created through the Patent and Trademark Office Surcharge provision in the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Section 10101, Pub. L. No. 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 Treasury. Due to a lack of Congressional reauthorization, this surcharge expired at the end of FY 1998. 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 15. 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, 2018 and 2017 by cost category were as follows:

<i>(Dollars in Thousands)</i>	2018		
	Direct	Allocated	Total
Personnel Services and Benefits	\$ 2,063,855	\$ 170,551	\$ 2,234,406
Travel and Transportation	2,931	863	3,794
Rent, Communications, and Utilities	89,788	43,618	133,406
Printing and Reproduction	143,563	413	143,976
Contractual Services	198,351	270,374	468,725
Training	2,660	2,698	5,358
Maintenance and Repairs	3,625	41,380	45,005
Supplies and Materials	41,029	1,067	42,096
Equipment not Capitalized	6,438	19,280	25,718
Insurance Claims and Indemnities	6	41	47
Depreciation, Amortization, and Loss on Asset Dispositions	150,366	68,578	218,944
Total Program Costs	<u>\$ 2,702,612</u>	<u>\$ 618,863</u>	<u>\$ 3,321,475</u>

<i>(Dollars in Thousands)</i>	2017		
	Direct	Allocated	Total
Personnel Services and Benefits	\$ 1,994,928	\$ 160,095	\$ 2,155,023
Travel and Transportation	3,430	533	3,963
Rent, Communications, and Utilities	91,689	35,323	127,012
Printing and Reproduction	139,976	201	140,177
Contractual Services	196,597	251,544	448,141
Training	2,506	1,985	4,491
Maintenance and Repairs	3,060	65,652	68,712
Supplies and Materials	39,371	1,012	40,383
Equipment not Capitalized	5,718	16,615	22,333
Insurance Claims and Indemnities	167	274	441
Depreciation, Amortization, and Loss on Asset Dispositions	122,637	60,098	182,735
Total Program Costs	<u>\$ 2,600,079</u>	<u>\$ 593,332</u>	<u>\$ 3,193,411</u>

NOTE 16. Program Costs by Category and Responsibility Segment

The program costs for the years ended September 30, 2018 and 2017 by cost category and business line were as follows:

	2018			
	Patent	Trademark	Intellectual Property Protection	Total
<i>(Dollars in Thousands)</i>				
Direct Costs				
Personnel Services and Benefits	\$ 1,866,221	\$ 172,641	\$ 24,993	\$ 2,063,855
Travel and Transportation	1,661	173	1,097	2,931
Rent, Communications, and Utilities	78,639	8,200	2,949	89,788
Printing and Reproduction	143,484	61	18	143,563
Contractual Services	169,730	15,608	13,013	198,351
Training	2,413	205	42	2,660
Maintenance and Repairs	2,816	569	240	3,625
Supplies and Materials	38,976	1,599	454	41,029
Equipment not Capitalized	5,676	629	133	6,438
Insurance Claims and Indemnities	6	-	-	6
Depreciation, Amortization, and Loss on Asset Dispositions	121,901	28,032	433	150,366
Subtotal Direct Costs	\$ 2,431,523	\$ 227,717	\$ 43,372	\$ 2,702,612
Allocated Costs				
Automation	\$ 269,167	\$ 35,149	\$ 2,793	\$ 307,109
Resource Management	261,544	44,389	5,821	311,754
Subtotal Allocated Costs	\$ 530,711	\$ 79,538	\$ 8,614	\$ 618,863
Total Program Costs	\$ 2,962,234	\$ 307,255	\$ 51,986	\$ 3,321,475

NOTE 16. Program Costs by Category and Responsibility Segment *(continued)*

	2017			
	Patent	Trademark	Intellectual Property Protection	Total
<i>(Dollars in Thousands)</i>				
Direct Costs				
Personnel Services and Benefits	\$ 1,809,088	\$ 161,002	\$ 24,838	\$ 1,994,928
Travel and Transportation	1,780	156	1,494	3,430
Rent, Communications, and Utilities	81,016	7,819	2,854	91,689
Printing and Reproduction	139,925	49	2	139,976
Contractual Services	173,743	10,500	12,354	196,597
Training	2,220	197	89	2,506
Maintenance and Repairs	2,783	209	68	3,060
Supplies and Materials	37,097	1,423	851	39,371
Equipment not Capitalized	4,515	1,056	147	5,718
Insurance Claims and Indemnities	167	-	-	167
Depreciation, Amortization, and Loss on Asset Dispositions	95,157	27,249	231	122,637
Subtotal Direct Costs	<u>\$ 2,347,491</u>	<u>\$ 209,660</u>	<u>\$ 42,928</u>	<u>\$ 2,600,079</u>
Allocated Costs				
Automation	\$ 271,909	\$ 37,574	\$ 2,921	\$ 312,404
Resource Management	237,305	37,928	5,695	280,928
Subtotal Allocated Costs	<u>\$ 509,214</u>	<u>\$ 75,502</u>	<u>\$ 8,616</u>	<u>\$ 593,332</u>
Total Program Costs	<u><u>\$ 2,856,705</u></u>	<u><u>\$ 285,162</u></u>	<u><u>\$ 51,544</u></u>	<u><u>\$ 3,193,411</u></u>

NOTE 17. Budgetary Resources

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment. For FY 2018, the USPTO was appropriated up to \$3,500,000 thousand for fees collected during the fiscal year. For FY 2017, the USPTO was appropriated up to \$3,230,000 thousand for fees collected during the fiscal year. For the year ended September 30, 2018, the USPTO collected \$164,760 thousand less than the amount apportioned through September 30, 2018 (under-collections of fees of \$161,555 thousand and under-collections of other budgetary resources of \$3,205 thousand). For the year ended September 30, 2017, the USPTO collected \$149,918 thousand less than the amount apportioned through September 30, 2017 (under-collections of fees of \$149,113 thousand and under-collections of other budgetary resources of \$805 thousand).

Total budgetary resources also include carryover of prior year budgetary resources (operating reserve). Carryover is derived from year-end budgetary resources that have not been obligated. Usage of the fees in the following fiscal year is for compensation and operational requirements on a first-in, first-out basis. For FY 2018, the carryover amount that was brought into the fiscal year from FY 2017 was \$373,575 thousand. For FY 2017, the carryover amount that was brought into the fiscal year from FY 2016 was \$461,238 thousand.

As of September 30, 2018 and 2017, reimbursable obligations incurred were \$3,304,480 thousand and \$3,203,995 thousand, respectively.

Funding Limitations

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

Pursuant to the Leahy-Smith America Invents Act (35 U.S.C. § 42(c)), all fees available to the Director under sections 41, 42, and 376 of 35 U.S.C. are used only for the processing of patent applications and for other activities, services, and materials relating to patents, as well as to cover a proportionate share of the administrative costs of the USPTO.

Since FY 1992, the USPTO has not always been appropriated all of the fees that have been collected. The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2018 are \$1,171,347 thousand. Of this amount, certain USPTO collections of \$233,529 thousand were withheld in accordance with the OBRA of 1990, and deposited in a special fund receipt account at Treasury.

Pursuant to the *Consolidated and Further Continuing Appropriations Act, 2013* (Pub. L. No. 113-6), the USPTO has sequestered funds of \$147,733 thousand (8.6 percent of fees collected starting March 1, 2013 through the end of the fiscal year). The sequestered funds, while included in the USPTO Salaries and Expenses Fund, are not available for spending without further Congressional action.

NOTE 17. Budgetary Resources *(continued)***Undelivered Orders**

In addition to the future lease commitments discussed in Note 11, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received.

As of September 30, 2018, reimbursable undelivered orders consisted of the following:

<i>(Dollars in Thousands)</i>	2018		
	Unpaid	Paid	Total
Intragovernmental	\$ 31,805	\$ 2,193	\$ 33,998
With the Public	400,421	15,240	415,661
Total Undelivered Orders	<u>\$ 432,226</u>	<u>\$ 17,433</u>	<u>\$ 449,659</u>

As of September 30, 2017, reimbursable undelivered orders consisted of the following:

<i>(Dollars in Thousands)</i>	2017		
	Unpaid	Paid	Total
Intragovernmental	\$ 33,052	\$ 11,173	\$ 44,225
With the Public	368,597	16,567	385,164
Total Undelivered Orders	<u>\$ 401,649</u>	<u>\$ 27,740</u>	<u>\$ 429,389</u>

NOTE 18. Incidental Custodial Collections

Custodial collections represent miscellaneous general fund receipts, such as non-electronic patent filing fees, gains on foreign exchange rates, and employee debt finance charges. Custodial collection activities are considered immaterial and incidental to the mission of the USPTO.

(Dollars in Thousands)

	2018	2017
Revenue Activity:		
Sources of Collections:		
Miscellaneous	\$ 791	\$ 394
Total Cash Collections	791	394
Accrual Adjustments	-	-
Total Custodial Revenue	791	394
Disposition of Collections:		
Transferred to Others:		
Treasury	(791)	(394)
(Increase)/Decrease in Amounts Yet to be Transferred	-	-
Net Custodial Activity	\$ -	\$ -

NOTE 19. Fiduciary Activities

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

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

(Dollars in Thousands)	2018		
	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds
Schedule of Fiduciary Activity For the Year Ended September 30, 2018			
Fiduciary Net Assets, Beginning of Year	\$ 13,831	\$ 542	\$ 14,373
Contributions	154,525	27,043	181,568
Disbursements to and on Behalf of Beneficiaries	(154,494)	(26,881)	(181,375)
Increase in Fiduciary Net Assets	31	162	193
Fiduciary Net Assets, End of Year	\$ 13,862	\$ 704	\$ 14,566

(Dollars in Thousands)	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds
Fiduciary Net Assets As of September 30, 2018			
Cash and Cash Equivalents	\$ 13,862	\$ 704	\$ 14,566
Total Fiduciary Net Assets	\$ 13,862	\$ 704	\$ 14,566

NOTE 19. Fiduciary Activities *(continued)*

	2017		
	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds
<i>(Dollars in Thousands)</i>			
Schedule of Fiduciary Activity For the Year Ended September 30, 2017			
Fiduciary Net Assets, Beginning of Year	\$ 14,459	\$ 451	\$ 14,910
Contributions	151,264	22,812	174,076
Disbursements to and on Behalf of Beneficiaries	(151,892)	(22,721)	(174,613)
(Decrease)/Increase in Fiduciary Net Assets	(628)	91	(537)
Fiduciary Net Assets, End of Year	<u>\$ 13,831</u>	<u>\$ 542</u>	<u>\$ 14,373</u>

	Patent Cooperation Treaty	Madrid Protocol	Total Fiduciary Funds
<i>(Dollars in Thousands)</i>			
Fiduciary Net Assets As of September 30, 2017			
Cash and Cash Equivalents	\$ 13,831	\$ 542	\$ 14,373
Total Fiduciary Net Assets	<u>\$ 13,831</u>	<u>\$ 542</u>	<u>\$ 14,373</u>

NOTE 20. Reconciliation of Net Cost of Operations to Budget

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

The reconciliation of net cost of operations to budget for the years ended September 30, 2018 and 2017 is as follows:

(Dollars in Thousands)

	2018	2017
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated:		
New Obligations	\$ 3,304,480	\$ 3,203,995
Spending Authority from Offsetting Collections and Recoveries	(3,377,740)	(3,116,332)
Net Obligations	(73,259)	87,663
Other Resources		
Imputed Financing from Cost Absorbed by Others	69,112	20,095
Total Resources Generated to Finance Activities	(4,147)	107,758
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	(20,270)	16,403
Resources that Fund Costs Recognized in Prior Periods	(249)	(148)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	30,237	(25,771)
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(222,183)	(202,552)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	(212,465)	(212,068)
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	9,810	9,554
Net (Decrease)/Increase in Revenue Receivables not Generating Resources until Collected	(5)	13
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	9,805	9,567
Components not Requiring or Generating Resources:		
Depreciation, Amortization, and Loss on Asset Dispositions	218,944	182,735
Other Costs that will not Require Resources	(49)	73
Total Components of Net Cost of Operations that will not Require or Generate Resources	218,894	182,808
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	228,699	192,375
Net Cost of Operations	\$ 12,087	\$ 88,065

REQUIRED SUPPLEMENTARY INFORMATION

DEFERRED MAINTENANCE AND REPAIRS

Deferred maintenance and repairs (DM&R) are maintenance and repairs that were not performed when they should have been, that were scheduled and not performed, or that were delayed for a future period. Maintenance and repairs are activities directed towards keeping Property, Plant, and Equipment (PP&E) in acceptable operating condition. These activities include preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve the asset so that it can deliver acceptable performance and achieve its expected life. Maintenance and repairs exclude activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from, or significantly greater, than those originally intended.

PP&E at the USPTO consist of furniture and fixtures, information technology equipment, office and telecommunication equipment, leasehold improvements, and software. It is entity policy to ensure that all PP&E, regardless of recorded value, is maintained, preserved, and managed in a safe and effective manner. The USPTO conducts periodic user feedback meetings to evaluate the effectiveness of training, operations, maintenance, facilities, continuity of operations, and supporting documentation of automated systems. The USPTO prioritizes maintenance and repair projects to sustain its PP&E in good operating condition, including maintaining warranties. Funds are used to replace equipment on a regular cycle in order to keep operations and maintenance costs stable and low. Accordingly, DM&R do not arise for PP&E at the USPTO and no periodic assessment is performed.

INDEPENDENT AUDITORS' REPORT





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

November 14, 2018

MEMORANDUM FOR: Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office

FROM: Peggy E. Gustafson *Peggy E. Gustafson*
Inspector General

SUBJECT: *U.S. Patent and Trademark Office FY 2018 Financial Statements,*
Final Report No. OIG-19-003-A

I am pleased to provide you with the attached audit report, which presents an unmodified opinion on the U.S. Patent and Trademark Office's fiscal year 2018 financial statements. KPMG LLP (KPMG), an independent public accounting firm, performed the audit in accordance with U.S. generally accepted auditing standards, standards applicable to financial audits contained in *Government Auditing Standards*, and Office of Management and Budget Bulletin No. 19-01, *Audit Requirements for Federal Financial Statements*.

In its audit of USPTO, KPMG:

- determined that the financial statements were fairly presented, in all material respects, and in conformity with U.S. generally accepted accounting principles;
- identified a significant deficiency in internal control over financial reporting related to information technology general controls in the area of access administration controls and configuration management change controls; and
- identified no instances of reportable noncompliance with applicable laws, regulations, contracts, and grant agreements.

My office oversaw the audit performance. We reviewed KPMG's report and related documentation, and made inquiries of its representatives. Our review disclosed no instances where KPMG did not comply, in all material respects, with generally accepted government auditing standards. However, our review, as differentiated from an audit in accordance with these standards, 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 control over financial reporting, or conclusions on compliance with applicable laws, regulations, and contracts. KPMG is solely responsible for the attached audit report and the conclusions expressed in it.

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

Attachment



KPMG LLP
Suite 12000
1801 K Street, NW
Washington, DC 20006

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:

Report on the Financial Statements

We have audited the accompanying consolidated financial statements of the United States Patent and Trademark Office (USPTO), which comprise the consolidated balance sheets as of September 30, 2018 and 2017, and the related consolidated statements of net cost, changes in net position, and cash flows, and combined statements of budgetary resources for the years then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, in accordance with the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and in accordance with Office of Management and Budget (OMB) Bulletin No. 19-01, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-01 require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the United States Patent and Trademark Office as of September 30, 2018 and 2017,



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and its net costs, changes in net position, cash flows, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

Other Matters

Interactive Data

Management has elected to reference to information on websites or other forms of interactive data outside the Performance and Accountability Report to provide additional information for the users of its financial statements. Such information is not a required part of the basic consolidated financial statements or supplementary information required by the Federal Accounting Standards Advisory Board. The information on these websites or the other interactive data has not been subjected to any of our auditing procedures, and accordingly we do not express an opinion or provide any assurance on it.

Required Supplementary Information

U.S. generally accepted accounting principles require that the information in the Management's Discussion and Analysis and Required Supplementary Information sections be presented to supplement the basic consolidated financial statements. Such information, although not a part of the basic consolidated financial statements, is required by the Federal Accounting Standards Advisory Board who considers it to be an essential part of financial reporting for placing the basic consolidated financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic consolidated financial statements, and other knowledge we obtained during our audits of the basic consolidated financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audits were conducted for the purpose of forming an opinion on the basic consolidated financial statements as a whole. The Message, Introduction, Performance Information, Message from the Acting Chief Financial Officer, Other Information, Glossary of Acronyms and Abbreviations, and Index of URLs, as listed in the Table of Contents, are presented for purposes of additional analysis and is not a required part of the basic consolidated financial statements. Such information has not been subjected to the auditing procedures applied in the audits of the basic consolidated financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Other Reporting Required by Government Auditing Standards

Internal Control over Financial Reporting

In planning and performing our audit of the consolidated financial statements as of and for the year ended September 30, 2018, we considered the USPTO's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct,



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misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in Exhibit I, that we consider to be a significant deficiency.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the USPTO's consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 19-01.

USPTO's Response to Findings

The USPTO's response to the finding identified in our audit is described in Exhibit I. The USPTO's response was not subjected to the auditing procedures applied in the audit of the consolidated financial statements and, accordingly, we express no opinion on the response.

Purpose of the Other Reporting Required by Government Auditing Standards

The purpose of the communication described in the Other Reporting Required by *Government Auditing Standards* section is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the USPTO's internal control or compliance. Accordingly, this communication is not suitable for any other purpose.

KPMG LLP

Washington, DC
November 9, 2018

Exhibit I – Significant Deficiency

Information Technology General Controls

During fiscal year (FY) 2018, USPTO management made noteworthy progress in addressing deficiencies surrounding information technology (IT) general controls associated with the USPTO's financial management systems and supporting infrastructure however, certain conditions exist that we considered collectively to be a significant deficiency under the standards issued by the American Institute of Certified Public Accountants. Specifically, the deficiencies are as follows:

- Access controls: The objectives of limiting access are to ensure that users have only the access needed to perform their duties; that access to sensitive resources, such as security software programs, is limited to few individuals; access is appropriately reviewed and monitored, and that employees are restricted from performing incompatible functions or duties beyond their responsibility. The area of deficiency is in access administration controls.
- Configuration management: The objectives of configuration management are to ensure that hardware, software and firmware programs, and program modifications are properly authorized, tested, and approved; that access to and distribution of programs is carefully controlled; and that integrity of the application controls is maintained. The area of deficiency is in configuration management change controls.

The relevant criteria is DOC and USPTO policies and various Federal standards and guidance such as (1) The U.S. Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government*, dated September 2014, (2) GAO's *Federal Information System Controls Audit Manual*, dated February 2009, and (3) NIST SP 800-53 Rev. 4, *Security and Privacy Controls for Federal Information Systems and Organizations*.

Recommendations

Due to the nature of IT general controls, certain information has been omitted from this report. We provided the USPTO management with a separate limited use report that includes specific information about the control deficiencies, our understanding of the cause of the control deficiencies, and our recommendations.

Management's Response

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

OTHER INFORMATION

Unaudited. Please see the accompanying auditors' report.



SUMMARY OF FINANCIAL STATEMENT AUDIT AND MANAGEMENT ASSURANCES

TABLE 1. SUMMARY OF FINANCIAL STATEMENT AUDIT

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

TABLE 2. SUMMARY OF MANAGEMENT ASSURANCES

Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Conformance with Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0
Compliance with Federal Financial Management Improvement Act (FFMIA)						
	Agency			Auditor		
1. System Requirements	No lack of compliance noted			No lack of compliance noted		
2. Accounting Standards	No lack of compliance noted			No lack of compliance noted		
3. USSGL at Transaction Level	No lack of compliance noted			No lack of compliance noted		

INSPECTOR GENERAL'S TOP MANAGEMENT CHALLENGES FACING THE USPTO



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

OIG's Top Management and Performance Challenges Facing the U.S. Patent and Trademark Office in FY 2019

The Office of Inspector General is required by statute¹ to report annually the most serious management and performance challenges facing the Department of Commerce. Below is a summary of the Department's top management and performance challenges related to the U.S. Patent and Trademark Office (USPTO) for fiscal year (FY) 2019. (The full report can be found at www.oig.doc.gov.)

4. Ensuring USPTO Provides High-Quality Intellectual Property Rights

USPTO faces the challenge of issuing reliable patents. Innovators and creators must have confidence that their patents will withstand scrutiny and litigation; in light of this challenge, USPTO's Director has indicated a need to increase the reliability of patents. As noted by stakeholders, patentability concerns will deteriorate innovators' confidence in the U.S. patent system, stifle innovation, and weaken the value of U.S. intellectual property rights.²

OIG's FY 2019 top management and performance challenges with respect to USPTO include these priority areas:

- Ensuring that the Patent Trial and Appeal Board operates fairly and effectively
- Ensuring that examiners perform thorough patent application reviews
- Improving the management of IT acquisitions and operations

Progress made/challenges remaining since the FY 2018 TMC: Over the previous 2 years, OIG has identified the modernization of USPTO's legacy IT systems as a top management and performance challenge. Although USPTO identified interim accomplishments such as trademark document migration into the Trademark Next Generation (TMNG) application, OIG remains concerned about USPTO's progress in this area.

USPTO relies upon mission-critical IT systems in every aspect of its operation for examination, rights management, and revenue collection associated with patents and trademarks. To help meet its strategic goals and mission, USPTO aggressively pursues modernization of its IT systems for core applications, such as Patent End to End, TMNG, and Fee Processing Next Generation. However, as noted in the FY 2018 *Top Management and Performance Challenges*, several major systems are still behind their original implementation schedule and over estimated costs.

¹ 31 U.S.C. § 3516(d).

² George Mason University Antonin Scalia Law School Center for the Protection of Intellectual Property, April 28, 2017. An Ever-Weakening Patent System is Threatening the Future of American Innovation [online]. <https://cpip.gmu.edu/2017/04/28/an-ever-weakening-patent-system-is-threatening-the-future-of-american-innovation/> (accessed August 30, 2018).

5. Continuing to Improve the Department's Cybersecurity Posture

In recent years, strengthening the cybersecurity of federal government networks and critical infrastructure has increasingly become a high priority. To meet this priority, the Department has actively participated in a government-wide effort to deploy cybersecurity capabilities that provide a dynamic approach to fortifying the cybersecurity of government networks and systems. Although the Department has made progress in this area, it continues to face significant challenges to improving its enterprise cybersecurity posture. In addition, the Department is increasingly relying on cloud technology services to support its business operations, including the 2020 decennial census. While cloud technologies can bring great benefits, they unavoidably introduce new security challenges. The Department must provide adequate security to support the 2020 decennial census as well as other critical mission functions, fully implement the enterprise cybersecurity capabilities, and ensure it has a sustainable cyber workforce to meet its cybersecurity needs. As security threats become increasingly sophisticated and more numerous, the Department faces the challenge of reevaluating and expanding its approaches to securing information technology (IT) systems. The Department must work to fulfill existing requirements, while also implementing new strategies, to meet the additional security demands of cloud-based computing, as well as other technological developments.

OIG's FY 2019 top management and performance challenges with respect to the Department's cybersecurity posture include this USPTO-related challenge:

- Securing cloud-based systems and assets

Progress made/challenges remaining since the FY 2018 TMC: As the Department continues to move toward cloud computing technology, securing its information systems from cyberattacks will pose significant challenges. In recent years, the Department's operating units have leveraged commercial cloud-based services to support their mission critical information systems. When doing so, operating units cannot solely rely on the responsible cloud service providers to implement security measures that protect the Department's cloud-based information systems.

The Department and its operating units need a clear awareness of security responsibilities when using commercial cloud-based services. In a previous audit,³ OIG found that USPTO misunderstood this responsibility and did not properly implement security measures when deploying a cloud-based system. This lapse occurred because USPTO incorrectly relied on the cloud service provider to implement security. As of March 2018, USPTO had implemented most of OIG's report recommendations.

³ U.S. Department of Commerce Office of Inspector General, March 24, 2017, *Inadequate Security Practices, Including Impaired Security of Cloud Services, Undermine USPTO's IT Security Posture*, OIG-17-021-A. Washington, DC: DOC OIG.

OTHER ADMINISTRATIVE UPDATES

ENERGY EFFICIENCY AND ENVIRONMENTAL STEWARDSHIP

The USPTO's Alexandria campus was recognized by the Environmental Protection Agency as being among the top 25 percent of comparable energy-efficient office buildings, earning the prestigious Energy Star certification again for the sixth consecutive year in 2017. Energy Star buildings have met rigorous building performance standards set by the Environmental Protection Agency, use 35 percent less energy, and generate 35 percent fewer greenhouse gas emissions than do similar buildings nationwide. The USPTO met the federal government's 2.5 percent annual energy reduction goal in 2017, saved the government \$256,000 in utility costs, and avoided the use of 1,800 megawatt hours (MWH). This is particularly noteworthy following the USPTO's achievement of 4.8-percent energy reduction in FY 2016, equivalent to 3,500 MWH and \$398,000 utility cost savings.

In compliance with federal statutory requirements for renewable energy, the USPTO exceeded the minimum requirement that 10 percent of the agency's total energy consumption shall be from renewable energy sources or from the purchase of RECs (renewable energy credits). The USPTO purchased RECs for 12,000 MWH of wind energy generated on the grid in support of the clean energy goal in 2017.

The USPTO also surpassed the Department's goal in 2017 for Greenhouse Gases Scope 1 and 2 (direct combustion and purchased electricity) emissions reduction and was 33 percent below the annual target. Greenhouse Gases Scope 3 emissions are from business air and business ground travel, employee commuting, and non-hazardous solid waste. Employee commuting is by far the largest source of Scope 3 emissions. The USPTO's telework employees contribute significantly to reducing Scope 3 emissions, saving fuel, and reducing local road congestion. In 2017, 88 percent of eligible employees were teleworking between 1 and 5 days per week.

The USPTO Office of Administrative Services (OAS) installed new waste/recycling stations in the employee cafeteria to help users properly dispose of waste. The new bins helped the agency to recycle or divert 61 percent (892 tons) of non-hazardous solid waste in 2017, exceeding the annual 50-percent minimum waste diversion goal again as it has each year since 2011. In addition, OAS transferred 160 tons in surplus property to the General Services Administration (GSA)—furniture, electronic equipment, and metal shelving for reuse. The USPTO's remaining non-hazardous solid waste is transferred to the Eisenhower Avenue energy-from-waste facility, where it is combusted to create renewable energy. No waste is sent to landfill.

Water bottle refill stations have been installed on each office floor of the USPTO Alexandria campus, which are expected to help reduce the proliferation of plastic bottles. The Office Supply Exchange store also supports repurposing of office supplies, reducing unnecessary expense to the agency.

The USPTO OAS Space and Facilities Management Division remains dedicated to improving efficiency of building operations. In May 2018, the north and south entrances of the Madison building were modified with new air-locked entry vestibules and fully-automated revolving doors. The new vestibules help to maintain building temperature, save utilities and energy costs, and provide a comfortable environment for employees and visitors. Over the past few

years, OAS completed numerous energy-efficient lighting upgrades in offices, corridors, conference rooms, and garages. LED (light-emitting diode) lighting was installed in the Madison Atrium, stairwells in eight office buildings and two garages, and at six loading docks in 2017. Additional LED lighting upgrades are planned in the main building corridors, offices, pantries, and restrooms for installation by December 2018.

The USPTO believes that a well-informed workforce plays a vital role in meeting the agency's sustainability goals. As part of its employee education campaign, the USPTO hosted its 10th annual Green Fair to showcase some of the newest technologies, such as hydrogen fuel-cell electric vehicles, home energy and lighting systems, commuter transportation services, and other sustainable practices.

The Department of Commerce recognized the USPTO again for its FY 2017 achievements in energy efficiency at the 2018 Energy and Environmental Stewardship Awards.

USPTO FACILITY AND LEASE ENHANCEMENTS

At present, the USPTO has multiple, on-going renovation projects to provide employees a safe and energy-efficient workspace with enhanced facility systems.

The USPTO is currently three-quarters of the way through a multi-year renovation project enhancing the heating, cooling, fire suppression, and electrical systems serving and protecting the data center. The improvements have included an independent chiller system, backup generator, redesign and reconfiguration of the data centers server configuration, conversion to a pre-action, dry-fire suppression system, as well as all the necessary infrastructure that serve as independent systems separate from the current base building systems. These systems are designed and will operate in the event of a catastrophic building system failure, protecting the USPTO's Data Center and information stored within. The current and final phase of this project is dedicated to enhancing the efficiency of the airflow in order to maintain a constant temperature throughout the data center.

In conjunction with the atrium vestibule project, the USPTO enhanced the storefront of the National Inventors Hall of Fame museum, housed in its Alexandria campus. This renovation enlarged the museum store footprint, allowing more museum products to be sold. The project included the addition of metal-framed glass walls to close off this area from the open atrium space and to install a second set of lockable doors to create a semi-enclosed space.

In an effort to create an ergonomic work environment, the USPTO is offering personnel the choice of a height adjustable table (HAT) or Varidesk, in addition to pedestals and task lamps. This project launched in early 2018 with Phase A and targeted exterior offices. Phase B, interior offices, is now underway with a projected completion date of September 2019. Upon the project completion date, 9,896 HATs and Varidesks will be installed, in addition to 625 workstations with HATs.

To create spaces that allow for innovative thinking and collaboration, the USPTO is redesigning the lower atrium within the Madison Building of its Alexandria campus with a more modern layout. The design features the replacement of the café style seating in the Madison concourse lower atrium. The project is in the final stages of development and is scheduled for completion in the fall of 2018. In addition, in July 2018, the USPTO completed one collaboration lab in MDE 5C70. The success of this lab has prompted the USPTO to plan for the creation of 20 more collaboration labs across campus.

The USPTO is currently working with GSA to finalize the lease award to the Apparent Successful Offer for the Randolph Square location, which houses 604 employees and contractors in Arlington, Va., which is set to expire in March 2019. The lease will consist of approximately 159,000 usable and 191,000 rentable square feet of office space. The new lease will represent a zero-net increase to the USPTO's real property footprint. To date, the USPTO and GSA have completed the review of each proposal, including the technical review and evaluation of each property presented. GSA is in the final stages of the lease award and announcement of the successful offer and is currently finalizing all the lease documents and plans to award first quarter of FY 2019.

Alexandria Campus Lease (Expires 2024)

The USPTO is beginning to study the requirements for proposals for its lease at the Alexandria campus, which expires in 2024. GSA has 5- and 10-year options under the current lease. If options are not exercised, a full solicitation will be conducted. The USPTO is working with GSA for GSA to contract a space-requirements study for the USPTO campus. This is a long, multi-year process that serves only as the beginning. The initial housing plan was submitted to GSA in July 2018. The housing plan encompasses current headcount of federal and contractor staff, including full time teleworkers and projected hiring data from the USPTO's Office of Planning and Budget for the out years FY 2019-FY 2023. GSA expects to award a scope of work that will help create the Program of Requirements necessary for the lease prospectus by the end of September 2018. In August 2018, USPTO and GSA executives met to discuss goals, options, objectives, and next steps for this project. GSA's next steps are to contact the current lessor to discuss the best options available to the government.

SAFE, SECURE, AND WELL-MAINTAINED WORKPLACE

The Office of Security has initiated several projects that will further improve agency responses to potential security threats. This includes technological enhancements, such as upgrading the emergency radio communication system with modern equipment that will extend coverage to all the regional offices. Enhanced emergency call boxes were installed in the parking garages, allowing for two-way communication between employees using the call box and the security control center; available cameras also film the area from which the call was initiated.

Planning and design work has started for the addition of K4 anti-ram barriers at the main pedestrian entrances and the retrofitting of security desks with ballistic resistant fiberglass panels. In addition, the Office of Security continues to support initiatives by the National Background Investigations Bureau regarding re-investigation of employees by completing 144 re-investigation actions during the current fiscal year. The Office of Security also achieved a 96.3 percent acceptance rate on all of its background investigation packages, exceeding OPM's goal of 95 percent.

The USPTO Safety Division continued to improve the safe and healthful working environment for its workforce. The Safety Division refreshed and redeployed all automated external defibrillators (AEDs). This involved removing outdated AEDs and replacing them with a newer and more user-friendly model. The Safety Division also added AEDs on each floor of every building where USPTO personnel are permanently assigned, increasing the number of AEDs by 265 percent.

The Safety Division continued the implementation of a comprehensive Injury and Illness Prevention Program throughout the agency, which included safety and occupational health training, job and agency orientation safety training, mishap reporting/prevention, inspection and hazard abatement, and evaluation and analysis. The Safety Division conducted a multitude of assessments for the evaluation of work spaces for potential hazards, and coordinates monthly blood donations through INOVA Blood Services. The USPTO celebrated a five-year partnership with INOVA and collected nearly 10,000 units of blood over this period.

EMPLOYEE AND OFFICE SERVICES

The USPTO's Asset Management Inventory team is responsible for the tracking of more than 130,000 assets, including desktop and audio/visual equipment, photocopiers, switches, iPads, printers, routers, servers, and televisions. Major improvements were instituted to improve the quarterly process of verifying each trackable asset, including radio frequency identification (RFID), system center configuration management, and enterprise cybersecurity monitoring operation tool interfaces.

OAS evaluated and assessed the asset management tracking processes to determine whether the USPTO can remove the property custodian role given existing asset tracking automation. Eliminating or reducing the number of property custodians could provide cost avoidance by putting time used verifying asset inventory to better use. The certification work is performed by property accountability officers and property custodians, including senior-level executives and GS 14- and 15-level employees. These employees spend a combined total of approximately 8,700 hours a year managing assets rather than reviewing patent and trademark applications or performing other work throughout the agency.

Because of several technical enhancements and process changes, the personal computer workload has been reduced by over 75 percent, resulting in approximately \$1.1 million in annual savings. Examples of these improvements include (1) implementation of new process-architecture-optimization/personal computer reports by using RFID and other automated tools, (2) implementation of RFID handheld scanning process, and (3) reducing the inventory numbers on campus (plus regional offices and the Boyers data center).

FRANCONIA FILE REPOSITORY

The USPTO has completed a two-year initiative to review, process, dispose, or transfer approximately 10 million Patent and Trademark files stored at the Franconia File Repository in order to ensure proper and compliant management of record holdings and to reduce leased space. Select files were transferred to a records storage location compliant with the National Archives and Records Administration storage regulations. The transfer began mid-summer FY 2017 with completion of the close-out of the Franconia File Repository in September 2018. These transition actions will yield \$2.3 million in rent savings annually starting in FY 2019 and will save nearly \$1 million in file storage and services annually.

PAYMENT INTEGRITY

The IPIA of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, requires agencies to periodically review all programs and activities and identify those that may be susceptible to significant improper payments, take multiple actions when programs and activities are identified as susceptible to significant improper payments, and annually report information on their improper payments monitoring and minimization efforts. OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*, provides guidance to agencies to comply with IPIA, as amended, and for agency improper payments efforts. The USPTO has not identified any programs or activities susceptible to significant improper payments or any significant problems with improper payments.

The USPTO recognizes the importance of maintaining adequate internal controls to ensure the accuracy and integrity of payments made by the agency, and the USPTO maintains a strong commitment to continuous improvement in the overall disbursement management process. For FY 2018 and beyond, the USPTO will continue its efforts to ensure the integrity of its disbursements.

RISK ASSESSMENT

A review of all programs and activities that the USPTO administers is performed annually to assist in identifying, reporting, and/or preventing erroneous or improper payments. This review was completed in FY 2018.

The USPTO annually conducts an assessment of the effectiveness of internal control over financial reporting, in compliance with OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. Furthermore, every three years, the assessment includes a review of internal controls over disbursement processes. The most recent review performed in FY 2016 indicated that current internal controls over disbursement processes were sound.

The USPTO completes an annual improper payments risk assessment covering all of its programs/activities as required by OMB Circular A-123, Appendix C. These improper payments risk assessments of the entity's programs/activities also include assessments of the control and procurement environment. The improper payments program/activity risk assessment has revealed no risk-susceptible programs.

The results of the USPTO assessments revealed no risk-susceptible programs, and demonstrated that, overall, the USPTO has strong internal controls over disbursement processes, the amount of improper payments by the USPTO is immaterial, and the risk of improper payments is low.

STATISTICAL SAMPLING

As the USPTO does not have any programs or activities that are susceptible to significant improper payments, a statistical sampling process has not been conducted to estimate the improper payment rate for USPTO programs and activities.

IMPROPER PAYMENTS REPORTING, ROOT CAUSES, AND CORRECTIVE ACTIONS

During FY 2018, the improper payments for all USPTO programs and activities amounted to \$0.5 million, or 0.02 percent of total outlays. As the USPTO does not have any programs or activities that are susceptible to significant improper payments, an improper payment reduction outlook, root cause analyses, and corrective actions are not presented for USPTO programs and activities.

ACCOUNTABILITY

The USPTO has not identified any significant problems with improper payments. During FY 2018, the improper payments for all USPTO programs and activities did not exceed the statutory thresholds for increased reporting. The USPTO recognizes the importance of maintaining adequate internal controls to ensure proper payments, and its commitment to continuous improvement in disbursement management processes remains very strong. The USPTO's CFO has responsibility for establishing policies and procedures for assessing USPTO and program risks of improper payments, taking actions to reduce improper payments, and reporting the results of the actions to management for oversight and other actions as deemed appropriate. The CFO has designated the Deputy CFO to oversee initiatives related to reducing improper payments within the USPTO.

RECAPTURES OF IMPROPER PAYMENTS

Payment Recapture Audits

The USPTO does not currently conduct recapture audits, as prior recapture audit activity did not yield any meaningful results. As recapture audits were deemed not cost effective for the USPTO, payment recapture rates, disposition of recaptured funds, and aging of outstanding overpayments are not presented for USPTO programs and activities.

Overpayments Recaptured Outside of Payment Recapture Audits

The following table summarizes the USPTO's overpayments identified, and overpayments verified as recaptured through sources other than payment recapture audits that are reportable in the current fiscal year and that was reported in prior fiscal years. Prior fiscal years' amounts represent amounts reported for FY 2011 through FY 2017, as FY 2011 was the first fiscal year for this reporting requirement. Amounts recaptured for current year reporting includes payment recaptures during FY 2018 of both improper payments reported in FY 2018 and improper payments previously reported in prior fiscal years.

Overpayments Recaptured Outside of Recapture Audits (<i>Dollars in Millions</i>)						
Source of Overpayments	Current Year (CY)		Prior Years (PY)		Cumulative (CY + PY)	
	Amounts Identified for Payment Recapture	Amounts Recaptured	Amounts Identified for Payment Recapture	Amounts Recaptured	Cumulative Amounts Identified for Recapture	Cumulative Amounts Recaptured
Post-payment reviews	\$ 0.04	\$ 0.05	\$ 1.88	\$ 1.76	\$ 1.92	\$ 1.81
Audits and other reviews	0.03	0.03	0.03	-	0.06	0.03
Reported by recipients	0.22	0.22	4.78	4.77	5.00	4.99
Total	\$ 0.29	\$ 0.30	\$ 6.69	\$ 6.53	\$ 6.98	\$ 6.83

The USPTO continues to enhance its processes by identifying and implementing additional procedures to prevent and detect improper payments. In FY 2018, the USPTO continued its reporting procedures to senior management and to the Department of Commerce on improper payments and payment recaptures data, identifying the nature and magnitude of any improper payments, along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified. The USPTO's analysis of the data reported reflects that improper payments were below one-fifth of one percent in FY 2018 and FY 2017. The USPTO has additionally reviewed all financial statement audit comments and results of other payment reviews for indications of breaches of disbursement controls. None of these audit comments or reviews have uncovered any significant problems with improper payments or the internal controls applied to disbursements.

The USPTO has improper payments monitoring and minimization efforts in place, including the identification of improper payments through post-payment reviews and contract closeout reviews. The USPTO seeks to identify overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions. The USPTO also inquires monthly with business units if they, through the contract oversight process, identified any improper payments that occurred. In addition, the USPTO has implemented process improvements to minimize erroneous payments resulting from vendor payment assignments, which has historically been the source of the larger improper payments. A master file is now being kept for all assignments, which is available to all payment technicians and approvers. Technicians and approvers are also reminded periodically to monitor assignments.

AGENCY REDUCTION OF IMPROPER PAYMENTS WITH THE DO NOT PAY INITIATIVE

During FY 2013, the USPTO implemented a periodic vendor record eligibility validation process using Do Not Pay Initiative databases to prevent improper payments. This process is ongoing with no significant impact. In addition, the USPTO has incorporated the following IPERIA listed Do Not Pay databases into existing business processes and programs:

1. The Death Master File of the Social Security Administration, and
2. GSA's Excluded Parties List System/System for Award Management.

The USPTO has implemented a monthly batch process post-payment screening of an applicable subset of payments to identify any improper payments and to take any appropriate recovery or corrective and preventative actions. The USPTO has also implemented continuous monitoring of an applicable subset of active vendor records to ensure that vendors are not subject to payment and procurement restrictions. Results are used to better maintain our vendor records to reduce or prevent improper payments and awards. During FY 2018, the validation processes using the Do Not Pay Initiative databases have not resulted in the identification or reduction of any improper payments or awards.

Results of the Do Not Pay Initiative in Preventing Improper Payments (*Dollars in Millions*)

	Number (#) of payments reviewed for possible improper payments	Dollars (\$) of payments reviewed for possible improper payments	Number (#) of payments stopped	Dollars (\$) of payments stopped	Number (#) of potential improper payments reviewed and determined accurate	Dollars (\$) of potential improper payments reviewed and determined accurate
Reviews with the IPERIA specified databases	22,332	\$882	0	\$0	0	\$0
Reviews with databases not listed in IPERIA	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

FRAUD REDUCTION REPORT

The Fraud Reduction and Data Analytics Act of 2015 (Pub. L. No.114-186) was enacted to improve Federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve Federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments.

The USPTO considers the risk of fraudulent financial reporting and misappropriation of assets via internal controls and subsequent reviews. Procedures are in place to monitor internal controls on a consistent basis, including approvals, authorizations, verifications, reconciliations, performance reviews, security activities, and the production of records and documentation. Account access and restricted access to financial management systems and account access rights help to reduce the opportunity for fraudulent financial activities. In addition, segregation of duties ensure that roles are separated appropriately to prevent the likelihood waste, abuse, fraudulent financial reporting and misappropriation of assets.

Control activities occur at all levels of the organization and are reviewed annually to assess the risk of errors or irregularities due to fraud. The reviews performed for OMB Circular A-123 Appendix A tests internal controls over financial reporting related to the reliability of financial statements, including a risk assessment performed at the beginning of the review and the use of a risk-based approach to test financial controls. Throughout the year, variance analyses are performed to identify trends and possible discrepancies that could indicate fraud or waste in order to investigate and correct the identified controls before the potential errors are included in the financial statements.

Within the Federal government, payroll, large contracts, and purchase and travel cards have been identified as having an increased risk and vulnerability of fraud. Whistleblower and fraud, waste, and abuse complaints are received and reviewed by the OIG.

The USPTO does not tolerate time and attendance abuse or other types of misconduct and will continue to take appropriate steps to avoid and address any such misconduct. Valuable suggestions received from inside and outside the USPTO have been used to develop new policies and strengthen existing policies to increase time and attendance accountability. The USPTO has recently invested significant time and effort to improve the already extensive workforce measures aimed at preventing time and attendance abuse and to continue the USPTO's focus on accountability. During FY 2017, all USPTO employees received training on time and attendance requirements, as well as work schedules and leave policies, and will continue to receive similar training on an on-going basis. The USPTO launched a new policy on time and attendance tools, communication, and collaboration. It gives employees clear guidance on time and attendance policies and automated tools that provide transparency to both managers and employees. During FY 2018, all USPTO employees eligible for telework were required to take telework recertification training. While the OIG has previously highlighted the need for improved controls surrounding the time and attendance process, the OIG is no longer reporting this as a USPTO-specific concern.

The USPTO has the authority to use any contract type that it deems to be in the best interest of meeting the agency's mission. Although the USPTO is not statutorily required to provide a written justification when using high risk contract types, as a matter of good business practice, the USPTO Office of Procurement (OP) has established the requirement for Contracting Officers (COs) to provide a rationale in the Acquisition File Documentation when a high risk contract type has been selected. As part of the rationale, COs must establish why it is in the best interest of the USPTO to use the high risk contract type, the planned risk mitigation for using a high risk contract vehicle, and what steps are being taken to avoid use of high risk contract types in the future. The risk mitigation included for in the contract includes various mechanisms for frequent contract surveillance.

The USPTO OP continuously monitors and updates internal control measures and processes to manage the USPTO's Purchase Card Program, as does the Office of Finance for the USPTO Travel Card Program. This includes certifying that the appropriate policies and controls are in place and corrective actions have been taken to mitigate the risk of fraud and inappropriate charge card practices. In addition, the Office of Finance collaborated with the OHR Employee Relations Division to establish new monthly procedures to monitor, report, and manage travel card delinquencies and potential card misuse.

REDUCE THE FOOTPRINT

The USPTO has worked to reduce the real property footprint and employee counts have remained relatively constant since the FY 2015 baseline. However, the FY 2019 employee count is estimated to be over 13,000. The USPTO is in the process of restacking and reconfiguring spaces within the existing square footage to accommodate employees. Further, the Leahy-Smith America Invents Act (AIA), signed on September 16, 2011, required the USPTO to establish at least three satellite offices. The first permanent office opened in Detroit in FY 2012. The second permanent office opened in Denver in FY 2014. The permanent California and Texas offices opened in FY 2016. In FY 2016, the USPTO was able to release two independent leases in Virginia, resulting in a reduction of office space by 64,560 square feet. The USPTO worked with the National Archives and Records Administration (NARA) to relocate or eliminate the files stored at the Springfield, Virginia warehouse facility. The consolidation and relocation efforts were completed in September 2018 with the USPTO projecting to release 270,695 square feet of office and warehouse space effective FY 2019. The USPTO and GSA have started the prospectus planning for the lease renewal of the main campus in Alexandria, VA. The lease renewal is scheduled for completion in 2024 and strong considerations are being taken to best utilize the existing real property footprint and reducing if operations and space utilization allow.

Reduce the Footprint Policy Baseline Comparison			
	FY 2015 Baseline	FY 2017 (Change from FY 2015 Baseline)	FY 2018 (Change from FY 2015 Baseline)
(Square footage (SF) in millions)	3.1	3.3 (0.2 RSF increase from FY 2015)	3.3 (0.2 RSF increase from FY 2015)

Reporting of Operations and Maintenance Costs — Direct Lease Buildings			
	FY 2015 Reported Cost	FY 2017 (Change from FY 2015 Baseline)	FY 2018 (Change from FY 2015 Baseline)
Operation and Maintenance Costs (dollars in millions)	\$1.9	\$1.9 (\$0.0 million increase from FY 2015)	\$2.0 (\$0.1 million increase from FY 2015)

CIVIL MONETARY PENALTY ADJUSTMENT FOR INFLATION

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires agencies to make regular and consistent inflationary adjustments of civil monetary penalties to maintain their deterrent effect. There were no civil monetary penalties assessed by the USPTO during FY 2018.

BIENNIAL REVIEW OF USER FEES

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

Consistent with the provisions of the CFO Act, the USPTO will continue to assess fees on at least a biennial basis. On October 21, 2016, the USPTO issued a final rule to set or increase certain trademark fees, as authorized by the AIA, and issued a final rule to set or increase certain patent fees as authorized by the AIA on November 14, 2017. The final fee schedules are responsive to stakeholder concerns as expressed during the public comment periods, while still allowing the Office to recover the aggregate estimated cost of patent and trademark operations and USPTO administrative services that support those operations.

The USPTO completed the FY 2017 comprehensive fee review, which incorporated a thorough evaluation of the existing fee schedule, as well as significant research and analysis on potential revisions to the schedule. As a result of the review, the USPTO developed an initial patent fee proposal intended to promote efficiency of operations, better align fees with cost, and ensure adequate revenue to deliver on our goals. The proposal was shared with the Patent Public Advisory Committee (PPAC), and on September 6, 2018, a public hearing was conducted to present the proposal and gather public comments. The USPTO is currently reviewing comments from the intellectual property stakeholder community to ensure we move forward with a proposal that best serves our nation's IP system. It is anticipated that the USPTO will publish a Notice of Proposed Rulemaking (NPRM) in the late summer of 2019.

THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS AND ATTORNEYS

Achieving organizational excellence demands a high-performing 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 IT systems training in FY 2018. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, with a well-established curriculum that includes initial legal training, systems training, and training in examination practice and procedure. Systems training is provided to all examiners as new IT systems are deployed and existing systems are enhanced. New technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focused on practices particular to a technology or was developed to address training needs identified through patent and trademark examination reviews, focus group feedback, or staff requests.

The USPTO training staff works with the Patent and Trademark organizations to address specific training concerns and to 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 that it is up-to-date and that coursework reflects developments and changes that have taken place in the industry.

PATENT EXAMINER TRAINING

<p>U.S. Patent Training Academy</p> <ul style="list-style-type: none"> - Mandatory for first year patent examiners 	<ul style="list-style-type: none"> ▪ Entry Level Two-Phased 12-Month New Examiner Training Curriculum The legal and procedural training of this curriculum includes enhanced instruction in areas such as: USPC and CPC Classification Systems, Searching (classification, text), Claim Interpretation, Advanced Text Searching, Writing an Effective Examiner's Answer, Appeal Procedure, and Practice (Appeal Conference and Pre-Conference; Prevent Administrative Remand). Technical training includes introduction to examining applications in specific areas of technology, the current state of specific technologies, ongoing technology topics, etc. Automation training includes classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly-used office applications. Life skills training includes time management, ethics training, stress management, balancing quality and production, professionalism, benefits and financial planning basics, balancing work and personal life, diversity training, and negotiating conflict.
<p>Programs for All Patent Examiners</p>	<p>Legal Practice and Procedure Training</p> <ul style="list-style-type: none"> ▪ Patent Examiner Refresher Training This optional program is for examiners with at least one year of patent examining experience. The courses are designed to maintain a patent examiners' knowledge and skills related to procedural and legal topics including AIA-FITF, Claim Interpretation, 35 U.S.C. 102, 35 U.S.C. 103, 35 U.S.C. 112(a), Restriction Practice, etc. ▪ Master Class Patent Examiner Training This optional program is for examiners with at least one year of patent examining experience who want to delve deeper into specific topics covered in the Patent Examiner Refresher Training program.

PATENT EXAMINER TRAINING

Patent Quality Chats for Patent Examiners

- This optional training series provides information on procedural and legal topics relating to patent examination. The chats are conducted as webinars that include a brief presentation (approximately 30 minutes) followed by Q&A. Each presentation targets a component(s) of a larger procedural or legal concept.

▪ Patent Corps Examination Training

Patent Corps Examination Training is designed to bring consistency to the application of patent examination policy, practice, and procedures across technologies.

▪ In-House Patent Law and Evidence Course

Training for patent examiners on authoritative court decisions on statutory issues under 35 U.S.C. §§ 101, 102, 103, and 112 and the handling of evidence during the examination of applications.

▪ Patent Examiner Technical Training Program (PETTP)

PETTP is one of seven executive actions and is aimed at encouraging innovation and strengthening the quality and accessibility of the patent system. Scientists, engineers, professors, industrial designers, and other technology experts volunteer to share their expertise with patent examiners within a learning environment. Presentations discuss advances in state of the art, emerging trends, and recent innovations in their fields. Courses offered in the past by participants from companies and institutions such as Oracle, Kansas University, and Microsoft have covered topics such as cloud computing, 3D printing, and AI. Technology experts from outside the USPTO, who have value-added expertise, teach these courses.

▪ Site Experience Education (SEE) Program

Experience technology at its source. This unique program provides opportunities for groups of examiners to visit sites of innovation within the continental United States to get updates on current and emerging technologies and to see technology first-hand. Past visits have included Bloom Energy, Goodyear, Intuit, Mattel, NOAA, Tesla, University of Arizona, and Zillow. Visits are bundled so examiners can compare and contrast experiences at multiple sites.

TRADEMARK EXAMINING ATTORNEY TRAINING

Trademarks trains newly hired examining attorneys in a classroom setting during their first seven to eight weeks at the USPTO. The classroom trainers are from the USPTO's Office of Trademark Quality Review and Training. At the end of classroom training, each examining attorney is integrated into their assigned law office where s/he is mentored by the senior attorney of that law office who also has other management responsibilities, or is paired with an experienced examining attorney. Each law office typically receives one to three new attorneys at a time. Law offices consist of about 25 attorneys at various grade levels (GS 11-14) with the majority of the GS-13 and GS-14 attorneys working full-time at home and all of the GS-11s and GS-12s working the majority of time at headquarters. In the past fiscal year, a total of 61 examining attorneys were hired in three groups with the first and third groups assigned to a new law office made up of all new hires and the second group assigned to several existing law offices.

In FY 2018, the Trademark organization prepared, using data gathered from the results of quality reviews that were analyzed, the content of online e-learning training materials for trademark examining attorneys. Live and webcast training sessions and modules were developed and released covering the following list of topics:

- How to Search in Lexis Advance
- INTA—Coffee Industry: Overview and Issues Related to Trademark Examination
- INTA—Chocolate Industry: Overview and Issues Related to Trademark Examination
- Training Unit New Examining Attorney Training
- Nice 11th Edition Training
- Identifications/Disclaimers Excellent Writing Training
- Artificial Intelligence: The Opportunity and Trademark Challenges
- TMEP Update Overview
- Form Paragraph Update Overview
- Identifications of Goods and Services Manual Update Overview
- Varietals Searches and Varietal Pre-Search Training

Two Examination Guides Released:

- Class Headings and Explanatory Notes of International Classes Under Nice Classification, 11th Edition
- Examination Guidance for Compliance with Section 2(a)'s Scandalousness Provision While Constitutionality Remains in Question During Period to Petition for Certiorari to U.S. Supreme Court

Three Examination Notes Released:

- Procedures for Specifying Filing Bases and Foreign Filing Information
- Examination of Voluntary Mark Descriptions in § 66(a) Applications
- Formatting Office Actions and Email Text to Comply with Section 508

One Examination Tip Released:

- Practice Tip—Section 2(d) and Foreign Entity Designations: When Different Entity Terminology Identifies the Same Owner

Four Issues of Reminders Examination Information Released

- October 2017: Useful Resources
- February 2018: Red Cross, Companion Applications and Application Dates for Section 44(d)
- June 2018: Searching of Previous Marks
- August 2018: Application Key Points and Letters of Protest

FY 2018 USPTO

WORKLOAD TABLES

This section is required by Title 35, Section 13, of the United States Code (U.S.C.).

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TABLE 1: Summary of Patent Examining Activities (FY 2014–FY 2018) *(Preliminary for FY 2018)¹*

Patent Examining Activity	2014	2015	2016	2017	2018
Applications filed, total^{1,2}	618,457	618,062	650,411	650,350	643,349
Utility ³	579,873	578,121	607,753	604,298	595,683
Reissue	1,207	1,087	1,072	1,049	983
Plant	1,123	1,119	1,180	1,071	1,058
Design	36,254	37,735	40,406	43,932	45,625
Provisional Applications Filed^{2,4}	169,173	170,676	167,390	166,885	168,902
First actions					
Design	28,341	33,549	36,550	40,415	41,587
Utility, Plant, and Reissue	578,352	632,337	609,612	611,280	597,509
PCT/Chapter	19,787	22,193	20,485	20,353	20,932
Patent application disposals, total	637,263	641,665	681,363	676,002	652,319
Allowed Patent Applications, total	346,909	353,700	363,022	373,093	368,877
Design	24,695	28,663	30,741	32,705	34,078
Utility, Plant, and Reissue	322,214	325,037	332,281	340,388	334,799
Abandoned, total	290,354	287,965	318,341	302,452	282,374
Design	2,828	3,725	4,715	5,894	6,197
Utility, Plant, and Reissue	287,526	284,240	313,626	296,558	276,177
Statutory invention registration disposals, total	-	-	-	-	-
PCT/Chapter II examinations completed	1,450	1,655	1,234	1,064	929
Applications Published⁵	382,056	362,536	397,190	373,153	371,502
Patents issued^{2,6}	329,612	322,448	334,107	347,243	338,072
Utility	303,930	295,459	304,568	315,366	306,909
Reissue	661	531	459	360	471
Plant	1,013	1,020	1,250	1,247	1,251
Design	24,008	25,438	27,830	30,270	29,441
Pendency time of average patent application ⁷	27.4	26.6	25.3	24.2	23.8
Reexamination certificates issued	790	764	499	513	1,314
PCT international applications received by USPTO as receiving office	62,697	56,480	56,339	56,840	55,849
National requirements received by USPTO as designated/elected office	78,213	85,387	85,988	90,577	94,359
Patents renewed under Public Law (Pub. L. No.) 102-204 ⁸	419,563	401,647	430,935	424,574	481,900
Patents expired under (Pub. L. No.) 102-204 ⁸	89,523	98,283	108,627	99,047	118,705

- Represents zero.

¹ FY 2018 filing data are preliminary and will be finalized in the FY 2019 PAR.

² FY 2017 application data have been updated with final end of year numbers.

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

⁴ Provisional applications provided for in (Pub. L. No.) 103-465.

⁵ Eighteen-month publication of patent applications provided for the American Inventors Protection Act of 1999, (Pub. L. No.) 106-113.

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

⁷ Average time (in months) between filing and issuance or abandonment of utility, plant, and reissue applications.

This average does not include design patents.

⁸ The provisions of (Pub. L. No.) 102-204 regarding the renewal of patents superceded (Pub. L. No.) 96-517 and (Pub. L. No.) 97-247.

TABLE 2: Patent Applications Filed (FY 1998–FY 2018) *(Preliminary for FY 2018)¹*

Year	Utility	Design	Plant	Reissue	Total
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004	353,319	23,457	1,212	996	378,984
2005	381,797	25,304	1,288	1,143	409,532
2006	417,453	25,853	1,204	1,103	445,613
2007	439,578	26,693	1,002	1,057	468,330
2008	466,258	28,217	1,331	1,080	496,886
2009	458,901	25,575	988	1,035	486,499
2010	479,332	28,577	1,013	1,138	510,060
2011	504,663	30,247	1,103	1,158	537,171
2012	530,915	32,258	1,181	1,212	565,566
2013	564,007	35,065	1,318	1,074	601,464
2014	579,873	36,254	1,123	1,207	618,457
2015	578,121	37,735	1,119	1,087	618,062
2016	607,753	40,406	1,180	1,072	650,411
2017 ²	604,298	43,932	1,071	1,049	650,350
2018	595,683	45,625	1,058	983	643,349

¹ FY 2018 data are preliminary and will be finalized in the FY 2019 PAR.² FY 2017 data have been updated.

TABLE 3: Patent Applications Pending Prior to Allowance (FY 1998–FY 2018)¹

Year	Awaiting Action by Examiner	Total Applications Pending ²
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
2007	760,924	1,112,517
2008	771,529	1,208,076
2009	735,961	1,207,794
2010	726,331	1,163,751
2011	690,967	1,168,928
2012	633,812	1,157,147
2013	616,409	1,148,823
2014	642,949	1,127,701
2015	592,417	1,099,468
2016	579,074	1,070,163
2017	569,088	1,082,661
2018	542,446	1,071,395

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

²Applications under examination, including those in preexamination processing.

TABLE 4: Patent Pendency Statistics (FY 2018)

UPR Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
Total UPR Pendency	15.8	23.8
Tech Center 1600—Biotechnology and Organic Chemistry	12.5	22.9
Tech Center 1700—Chemical and Materials Engineering	18.0	27.3
Tech Center 2100—Computer Architecture, Software, and Information Security	19.4	28.4
Tech Center 2400—Networks, Multiplexing, Cable, and Security	15.9	25.3
Tech Center 2600—Communications	11.0	19.9
Tech Center 2800—Semiconductor, Electrical, Optical Systems, and Components	12.7	21.6
Tech Center 3600—Transportation, Construction, Agriculture, and Electronic Commerce	18.2	25.8
Tech Center 3700—Mechanical Engineering, Manufacturing, and Products	19.0	28.4

TABLE 5: Summary of Total Pending Patent Applications (FY 2018)

Stage of Processing	Utility, Plant, and Reissue Applications	Design Applications	Total Patent Applications
Pending patent applications, total	1,071,395	68,566	1,034,316
In preexamination processing, total	103,340	2,305	
Under examination, total	858,918	56,088	915,006
Undocketed	40,646	6,109	
Awaiting first action by examiner	378,163	37,153	
<i>Subtotal applications awaiting first action by examiner³</i>	<i>522,149</i>	<i>45,567</i>	
RCE Awaiting First Action	20,297	-	
Rejected, awaiting response by applicant	317,218	10,073	
Amended, awaiting action by examiner	78,636	2,537	
In interference	41	-	
On appeal, and other ¹	23,917	216	
In postexamination processing, total	109,137	10,173	119,310
Awaiting issue fee	87,171	8,060	
Awaiting printing ²	18,511	2,107	
D-10s (secret cases in condition for allowance)	3,455	6	

- Represents zero.

¹ Includes cases on appeal and undergoing petitions.

² Includes withdrawn cases.

³ Subtotal is not included in pending patent applications total.

TABLE 6: Patents Issued (FY 1998-FY 2018)¹

Year	Utility ²	Design	Plant	Reissue	Total
1998	139,297	14,419	577	284	154,577
1999	142,852	15,480	436	393	159,161
2000	164,486	16,718	453	561	182,218
2001	169,571	17,179	563	504	187,817
2002	160,839	15,096	912	465	177,312
2003	171,493	16,525	1,178	394	189,590
2004	169,295	16,533	998	343	187,169
2005	151,077	13,395	816	195	165,483
2006	162,509	19,072	1,106	500	183,187
2007	160,306	22,543	979	548	184,376
2008	154,699	26,016	1,179	662	182,556
2009	165,213	23,415	1,096	398	190,122
2010	207,915	23,373	978	861	233,127
2011	221,350	21,295	816	969	244,430
2012	246,464	21,953	920	921	270,258
2013	265,979	22,453	842	809	290,083
2014	303,930	24,008	1,013	661	329,612
2015	295,460	25,438	1,020	531	322,449
2016	304,568	27,830	1,250	459	334,107
2017	315,366	30,270	1,247	360	347,243
2018	306,909	29,441	1,251	471	338,072

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

² Includes chemical, electrical, and mechanical applications.

TABLE 7: Patent Applications Filed by Residents of the United States (FY 2014-FY 2018)^{1,2}

State/Territory	2014	2015	2016	2017	2018 ³
Total	307,985	304,651	318,701	190,559	N/A
Alabama	1,089	1,042	1,026	1,061	N/A
Alaska	99	118	115	100	N/A
Arizona	5,039	5,047	5,134	5,330	N/A
Arkansas	601	596	750	959	N/A
California	87,709	83,861	90,050	87,203	N/A
Colorado	6,280	6,266	5,840	6,079	N/A
Connecticut	4,506	5,557	5,270	5,343	N/A
Delaware	833	727	836	686	N/A
District of Columbia	465	459	482	482	N/A
Florida	10,422	9,962	9,618	9,834	N/A
Georgia	6,066	5,870	5,879	6,066	N/A
Hawaii	344	328	265	312	N/A
Idaho	1,497	1,337	1,217	1,432	N/A
Illinois	11,540	11,218	12,136	10,748	N/A
Indiana	4,373	4,230	4,158	4,262	N/A
Iowa	1,771	1,870	1,722	1,923	N/A
Kansas	1,802	1,577	1,554	1,575	N/A
Kentucky	1,393	1,455	1,388	1,359	N/A
Louisiana	951	915	895	941	N/A
Maine	402	434	422	347	N/A
Maryland	4,108	4,218	4,278	4,325	N/A
Massachusetts	15,183	15,172	15,249	16,234	N/A
Michigan	10,295	10,481	11,363	11,970	N/A
Minnesota	8,317	8,382	8,686	8,417	N/A
Mississippi	337	366	337	378	N/A
Missouri	2,793	2,625	3,046	2,844	N/A
Montana	326	342	361	349	N/A
Nebraska	686	705	655	701	N/A

State/Territory	2014	2015	2016	2017	2018 ³
Nevada	1,868	1,669	1,818	1,699	N/A
New Hampshire	1,895	1,843	1,766	1,834	N/A
New Jersey	10,206	9,783	10,340	9,983	N/A
New Mexico	984	982	951	1,026	N/A
New York	17,564	17,984	19,559	18,602	N/A
North Carolina	7,550	7,472	8,099	7,224	N/A
North Dakota	186	213	217	233	N/A
Ohio	8,394	8,696	9,182	9,638	N/A
Oklahoma	1,173	1,210	1,121	1,178	N/A
Oregon	4,907	5,692	6,453	6,395	N/A
Pennsylvania	8,883	8,732	8,633	8,934	N/A
Rhode Island	770	834	686	846	N/A
South Carolina	2,004	2,026	2,098	2,328	N/A
South Dakota	304	293	313	303	N/A
Tennessee	2,396	2,291	2,433	2,459	N/A
Texas	20,088	20,198	21,671	21,844	N/A
Utah	3,409	3,333	3,379	3,822	N/A
Vermont	683	645	678	596	N/A
Virginia	4,545	4,518	4,446	4,646	N/A
Washington	15,716	15,870	17,044	16,432	N/A
West Virginia	247	286	238	235	N/A
Wisconsin	4,615	4,562	4,498	4,831	N/A
Wyoming	244	238	212	232	N/A
Puerto Rico	93	100	100	83	N/A
Virgin Islands	14	14	12	15	N/A
U.S. Pacific Islands ⁴	14	2	18	36	N/A
United States ⁵	6	5	4	4	N/A
Other ⁵	-	-	-	-	N/A

- Represents zero.

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

² Finalized data for FY 2014 to FY 2017 provided.

³ FY 2018 preliminary data should be available January 2019 at www.uspto.gov and finalized in the FY 2019 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 (FY 2017-FY 2018)^{1,4}

State/Territory	2017	2018	State/Territory	2017	2018
Total	167,367	161,970	Nebraska	382	305
Alabama	562	503	Nevada	881	779
Alaska	60	45	New Hampshire	1,060	1,053
Arizona	3,076	2,844	New Jersey	5,095	4,666
Arkansas	312	398	New Mexico	563	527
California	45,683	43,899	New York	10,387	9,896
Colorado	3,496	3,262	North Carolina	3,962	3,772
Connecticut	2,633	2,941	North Dakota	129	124
Delaware	342	287	Ohio	4,406	4,625
District of Columbia	199	219	Oklahoma	631	628
Florida	5,218	4,995	Oregon	3,926	3,664
Georgia	3,096	3,128	Pennsylvania	4,774	4,421
Hawaii	161	139	Rhode Island	412	413
Idaho	752	744	South Carolina	1,180	1,164
Illinois	6,010	5,742	South Dakota	156	135
Indiana	2,500	2,341	Tennessee	1,287	1,314
Iowa	1,121	1,123	Texas	11,351	11,210
Kansas	906	881	Utah	1,747	1,791
Kentucky	806	739	Vermont	449	417
Louisiana	522	490	Virginia	2,336	2,471
Maine	178	243	Washington	7,836	7,436
Maryland	2,148	2,082	West Virginia	130	137
Massachusetts	7,921	7,639	Wisconsin	2,703	2,682
Michigan	7,015	7,169	Wyoming	110	125
Minnesota	4,878	4,575	Puerto Rico	39	41
Mississippi	211	203	Virgin Islands	10	2
Missouri	1,428	1,343	U.S. Pacific Islands ²	13	18
Montana	175	180	United States ³	3	-

- Represents zero.

¹ Data include utility, design, plant, and reissue patents.

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

³ No State indicated in database.

⁴ Past years' data may have been revised from prior year reports.

TABLE 9: United States Patent Applications Filed by Residents of Foreign Countries (FY 2014–FY 2018)^{1,2}

Residence	2014	2015	2016	2017	2018 ³
Total	310,472	313,411	331,710	332,522	N/A
Afghanistan	-	-	1	-	N/A
Albania	1	1	2	-	N/A
Algeria	3	2	1	2	N/A
Andorra	11	1	4	4	N/A
Angola	1	1	2	1	N/A
Anguilla	-	1	1	1	N/A
Antigua and Barbuda	-	-	1	1	N/A
Argentina	149	154	177	200	N/A
Armenia	18	17	25	52	N/A
Aruba	1	-	-	2	N/A
Australia	4,029	3,909	4,013	4,254	N/A
Austria	2,586	2,502	2,771	2,707	N/A
Azerbaijan	2	-	5	3	N/A
Bahamas	26	10	14	9	N/A
Bahrain	7	4	9	6	N/A
Bangladesh	6	13	18	15	N/A
Barbados	6	7	9	7	N/A
Belarus	47	16	20	23	N/A
Belgium	2,660	2,456	2,614	2,750	N/A
Belize	-	1	1	2	N/A
Benin	-	-	-	-	N/A
Bermuda	3	9	16	7	N/A
Bolivia	1	3	3	4	N/A
Bonaire, Sint Eustatius, and Saba	1	-	-	-	N/A
Bosnia and Herzegovina	3	3	3	3	N/A
Botswana	-	-	-	-	N/A
Brazil	901	893	968	966	N/A
British Virgin Islands	6	4	22	15	N/A
Brunei Darussalam	6	-	3	7	N/A
Bulgaria	89	87	63	109	N/A
Burkina Faso	-	-	-	-	N/A
Burundi	-	-	-	-	N/A
Cambodia	1	-	2	-	N/A
Cameroon	9	1	1	3	N/A
Canada	14,074	13,877	14,328	14,167	N/A
Cayman Islands	24	26	59	25	N/A
Chad	1	-	1	-	N/A
Chile	156	125	130	129	N/A
China (Hong Kong)	1,500	1,453	1,325	2,001	N/A
China (Macau)	43	40	42	51	N/A
China (People's Republic)	19,006	22,374	27,935	32,127	N/A
Colombia	86	109	88	84	N/A
Costa Rica	44	39	36	39	N/A
Cote d'Ivoire	8	2	-	-	N/A
Croatia	38	32	36	34	N/A
Cuba	23	17	18	16	N/A

Residence	2014	2015	2016	2017	2018 ³
Curacao	-	-	1	-	N/A
Cyprus	17	22	45	26	N/A
Czech Republic	481	480	402	608	N/A
Denmark	2,443	2,383	2,505	2,419	N/A
Dominican Republic	7	4	6	9	N/A
Ecuador	5	9	4	8	N/A
Egypt	93	70	85	101	N/A
El Salvador	3	4	1	2	N/A
Eritrea ⁴	-	-	3	1	N/A
Estonia	70	61	78	81	N/A
Ethiopia	-	-	-	-	N/A
Faroe Islands	-	2	-	1	N/A
Fiji	-	-	-	-	N/A
Finland	3,167	3,325	3,358	3,081	N/A
French Polynesia	1	1	-	1	N/A
France	12,423	12,715	13,489	13,552	N/A
Gabon	-	1	2	1	N/A
Georgia	7	2	8	6	N/A
Germany	31,997	31,132	33,254	32,771	N/A
Ghana	2	2	1	2	N/A
Gibraltar	14	15	3	8	N/A
Greece	171	234	223	248	N/A
Greenland	-	-	-	-	N/A
Guadeloupe	2	-	1	-	N/A
Guatemala	2	5	-	9	N/A
Guernsey	1	4	4	-	N/A
Guinea	-	-	1	-	N/A
Guyana	-	1	-	-	N/A
Haiti	-	-	-	-	N/A
Honduras	2	2	-	-	N/A
Hungary	327	302	304	296	N/A
Iceland	105	103	88	93	N/A
India	7,082	7,835	7,676	9,115	N/A
Indonesia	41	49	35	38	N/A
Iran	58	64	78	157	N/A
Iraq	3	2	1	-	N/A
Ireland	1,087	1,245	1,408	1,487	N/A
Isle of Man	22	12	5	13	N/A
Israel	7,543	7,876	8,251	8,664	N/A
Italy	5,374	5,353	5,871	6,165	N/A
Jamaica	10	15	13	14	N/A
Japan	89,255	89,028	91,383	89,364	N/A
Jersey	11	11	9	33	N/A
Jordan	22	29	27	43	N/A
Kazakhstan	6	13	7	11	N/A
Kenya	6	16	31	33	N/A
Korea, Dem. Republic of	-	-	-	-	N/A
Korea, Republic of	39,535	39,941	41,823	38,026	N/A

TABLE 9: United States Patent Applications Filed by Residents of Foreign Countries (FY 2014–FY 2018)^{1,2} (continued)

Residence	2014	2015	2016	2017	2018 ³
Kuwait	89	71	105	46	N/A
Kyrgyzstan	-	-	-	-	N/A
Latvia	16	19	19	15	N/A
Lebanon	28	22	25	28	N/A
Lesotho	1	-	-	-	N/A
Liberia	2	-	1	-	N/A
Libya	-	1	-	-	N/A
Liechtenstein	59	46	75	54	N/A
Lithuania	30	43	40	32	N/A
Luxembourg	108	116	137	135	N/A
Madagascar	-	2	-	1	N/A
Macedonia	3	-	4	3	N/A
Malawi	-	-	-	-	N/A
Malaysia	545	514	462	521	N/A
Mali	-	1	1	-	N/A
Malta	25	20	30	17	N/A
Martinique	1	-	-	-	N/A
Mauritius	1	1	2	1	N/A
Mexico	494	613	686	727	N/A
Moldova	2	4	6	2	N/A
Monaco	44	27	39	50	N/A
Mongolia	-	1	3	3	N/A
Montenegro	3	-	1	1	N/A
Morocco	2	8	10	4	N/A
Namibia	4	4	3	-	N/A
Nepal	1	1	-	-	N/A
Netherlands	5,328	5,443	6,676	5,921	N/A
Netherlands Antilles	-	-	-	-	N/A
New Caledonia	1	-	1	-	N/A
New Zealand	744	771	759	843	N/A
Nicaragua	2	1	2	1	N/A
Niger	-	-	2	-	N/A
Nigeria	12	4	8	5	N/A
Norway	1,282	1,202	1,202	1,256	N/A
Oman	5	8	6	8	N/A
Pakistan	35	47	53	49	N/A
Panama	11	15	21	13	N/A
Paraguay	-	1	4	-	N/A
Peru	12	16	19	21	N/A
Philippines	120	116	119	165	N/A
Poland	481	535	570	608	N/A
Portugal	183	184	249	316	N/A
Qatar	36	57	52	42	N/A
Romania	140	166	139	143	N/A
Russian Federation	1,025	1,064	1,102	1,208	N/A
Saint Kitts and Nevis	-	-	-	-	N/A
Saint Lucia	-	1	-	-	N/A

Residence	2014	2015	2016	2017	2018 ³
Saint Vincent and The Grenadines ⁴	-	-	-	1	N/A
Samoa	-	1	3	5	N/A
San Marino	-	3	1	3	N/A
Saudi Arabia	622	747	1,029	1,093	N/A
Senegal	-	-	1	1	N/A
Serbia	33	44	40	51	N/A
Seychelles	8	4	10	7	N/A
Singapore	1,931	1,879	1,972	2,059	N/A
Sint Maartin	-	-	-	-	N/A
Slovakia	67	54	64	88	N/A
Slovenia	113	104	104	121	N/A
South Africa	416	385	382	409	N/A
Spain	1,765	1,840	1,902	2,138	N/A
Sri Lanka	16	16	17	26	N/A
Sudan	-	1	1	-	N/A
Swaziland	1	-	-	-	N/A
Sweden	5,170	5,510	5,699	5,404	N/A
Switzerland	5,362	5,315	5,862	5,938	N/A
Syria Arab Rep	1	3	3	1	N/A
Taiwan	21,915	20,561	20,875	19,911	N/A
Tajikistan	-	-	-	-	N/A
Tanzania	2	1	-	-	N/A
Thailand	172	193	148	187	N/A
Trinidad and Tobago	8	6	14	9	N/A
Tunisia	10	13	13	9	N/A
Turkey	317	315	396	500	N/A
Turkmenistan	1	-	1	-	N/A
Turks and Caicos Islands	2	1	2	-	N/A
Uganda	-	-	-	1	N/A
Ukraine	152	150	157	145	N/A
United Arab Emirates	151	172	215	170	N/A
United Kingdom	14,304	14,290	14,824	15,597	N/A
Uruguay	22	20	18	19	N/A
Uzbekistan	3	3	3	1	N/A
Vanuatu (New Hebrides)	1	-	1	-	N/A
Venezuela	33	33	31	20	N/A
Vietnam	24	42	36	53	N/A
West Bank/Gaza	3	2	1	-	N/A
Yemen	-	1	1	1	N/A
Zambia ⁴	-	-	-	1	N/A
Zimbabwe	1	-	-	1	N/A
Other ⁵	-	-	-	-	N/A

- Represents zero.

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

Data are subject to minor revisions.

² Finalized data for FY 2014 to FY 2017 provided.

³ FY 2018 preliminary data should be available January 2019 at www.uspto.gov and finalized in the FY 2019 PAR.

⁴ Countries/Territories not previously reported.

⁵ Country of origin information not available.

TABLE 10: Patents Issued by the United States to Residents of Foreign Countries^{1,3} (FY 2014-FY 2018) ²

Residence	2014	2015	2016	2017	2018	Residence	2014	2015	2016	2017	2018
Total	167,937	168,050	173,650	180,275	177,564	Dominican Republic	3	2	2	3	5
Afghanistan	1	-	-	-	-	Ecuador	4	1	3	3	3
Albania	-	-	-	1	-	Egypt	40	32	41	40	51
Algeria	-	1	-	-	2	El Salvador	-	1	2	1	1
Andorra	2	8	3	2	3	Eritrea ⁴	-	-	-	1	-
Angola	-	1	1	-	-	Estonia	38	37	51	29	44
Anguilla	-	-	-	1	-	Ethiopia	1	-	-	-	-
Antigua and Barbuda	1	-	1	-	-	Faroe Islands	-	1	1	1	-
Argentina	84	74	89	93	83	Finland	1,499	1,437	1,604	1,727	1,597
Armenia	5	8	5	15	8	France	7,144	7,034	6,907	7,365	6,988
Aruba	-	-	-	-	-	French Polynesia	-	1	-	-	-
Australia	2,062	1,937	1,888	1,964	1,965	Gabon	1	-	-	-	1
Austria	1,296	1,248	1,416	1,613	1,528	Georgia	5	2	2	2	-
Azerbaijan	2	1	1	2	1	Germany	17,926	17,485	17,568	17,998	17,433
Bahamas	4	15	6	5	4	Ghana	1	1	-	-	-
Bahrain	4	1	3	2	4	Gibraltar	2	2	1	8	2
Bangladesh	3	2	1	7	9	Greece	70	66	87	117	110
Barbados	3	5	2	3	4	Greenland	1	-	-	-	-
Belarus	7	16	30	16	9	Guadeloupe	-	-	1	-	-
Belgium	1,267	1,234	1,315	1,359	1,408	Guatemala	1	4	1	1	4
Belize	-	-	-	-	-	Guernsey	2	2	-	1	1
Bermuda	4	3	-	2	1	Guinea	1	-	-	-	-
Bolivia	3	-	2	2	1	Haiti	-	-	-	-	-
Bosnia and Herzegovina	-	-	2	2	3	Honduras	-	-	-	2	-
Brazil	352	372	399	396	442	Hungary	167	146	193	183	139
British Virgin Islands	1	3	1	5	6	Iceland	39	67	42	61	42
Brunei Darussalam	-	1	4	1	2	India	2,937	3,328	3,685	4,206	4,249
Bulgaria	52	37	52	42	42	Indonesia	10	25	24	21	9
Burkina Faso	-	-	-	-	-	Iran	33	26	32	33	55
Cambodia	-	-	1	-	1	Iraq	-	1	-	1	-
Cameroon	1	1	1	2	1	Ireland	486	523	570	612	628
Canada	7,922	7,487	7,258	7,532	7,226	Isle of Man	9	15	12	9	10
Cayman Islands	7	18	8	12	15	Israel	3,561	3,839	3,820	4,306	4,169
Chad	-	-	-	-	-	Italy	3,043	3,060	3,158	3,212	3,248
Chile	57	85	47	59	58	Jamaica	4	9	5	8	5
China (Hong Kong)	828	805	825	892	972	Japan	56,639	54,487	53,046	51,743	50,020
China (Macau)	14	15	26	31	45	Jersey	4	10	7	7	14
China (Mainland)	7,715	8,598	10,988	14,147	16,318	Jordan	8	9	7	11	16
Colombia	22	37	39	31	44	Kazakhstan	3	5	2	2	2
Costa Rica	17	17	27	12	20	Kenya	7	2	5	5	9
Cote d'Ivoire	-	-	10	-	-	Korea, Democratic People's Rep of	-	-	-	-	-
Croatia	30	16	14	20	23	Korea, Republic of	17,815	19,615	21,865	22,687	22,059
Cuba	19	11	9	12	3	Kuwait	97	78	54	48	27
Curacao	1	-	-	-	-	Kyrgyzstan	-	-	-	-	-
Cyprus	10	11	14	8	13	Latvia	6	9	8	7	8
Czech Republic	196	197	219	264	350	Lebanon	10	14	19	13	9
Denmark	1,309	1,186	1,221	1,248	1,270						

TABLE 10: Patents Issued by the United States to Residents of Foreign Countries^{1,3} (FY 2014-FY 2018)² (continued)

Residence	2014	2015	2016	2017	2018
Liechtenstein	36	37	27	30	36
Lithuania	7	10	20	22	18
Luxembourg	60	63	62	64	63
Macedonia	1	2	1	1	2
Madagascar	-	1	-	-	1
Malawi	-	1	-	-	-
Malaysia	242	266	301	270	239
Mali	-	-	1	-	-
Malta	8	17	13	14	7
Mauritius	-	-	1	1	2
Mexico	227	215	246	315	385
Moldova	1	-	1	1	2
Monaco	23	19	17	17	15
Mongolia	-	1	1	-	-
Montenegro	-	1	-	-	-
Morocco	1	3	1	2	3
Myanmar ⁴	-	-	-	-	1
Namibia	-	-	1	5	-
Nepal, Fed. Dem. Republic of	2	1	-	-	1
Netherlands	2,883	2,732	2,941	3,133	3,217
Netherlands Antilles	-	-	-	-	-
New Caledonia	-	-	1	-	2
New Zealand	308	342	349	374	376
Nicaragua	1	1	-	2	-
Nigeria	-	-	1	2	4
Norway	601	625	720	628	635
Oman	3	5	1	4	5
Pakistan	8	17	19	18	16
Panama	1	2	5	9	9
Paraguay	-	1	-	-	1
Peru	4	4	9	7	9
Philippines	45	43	46	66	82
Poland	172	201	265	281	291
Portugal	52	68	83	115	110
Qatar	7	8	9	20	28
Romania	68	72	82	110	96
Russian Federation	438	457	542	570	536
Saint Barthelemy	-	1	-	-	-
Saint Kitts and Nevis	1	-	1	-	-
Saint Lucia ⁴	-	-	-	-	1
Samoa	-	-	-	4	1
San Marino	1	-	-	2	1
Saudi Arabia	273	339	442	541	608
Senegal	1	-	-	-	-
Serbia	12	7	15	20	21
Seychelles	4	2	2	5	2
Singapore	963	1,074	1,018	1,043	1,071

Residence	2014	2015	2016	2017	2018
Sint Maarten	-	-	1	-	-
Slovakia	26	25	26	42	40
Slovenia	50	40	65	57	77
South Africa	179	198	208	216	190
Spain	862	857	940	927	964
Sri Lanka	6	6	6	6	7
Sudan ⁴	-	-	-	1	-
Sweden	2,905	2,828	3,044	3,328	3,165
Switzerland	2,660	2,745	2,905	3,022	2,893
Syrian Arab Rep.	1	2	-	-	2
Taiwan	12,271	12,317	12,738	12,540	11,424
Tanzania	-	-	1	1	-
Thailand	121	129	106	113	114
Trinidad and Tobago	7	6	7	2	3
Tunisia	8	4	3	4	2
Turkey	103	128	149	190	181
Turkmenistan	-	1	-	-	-
Turks and Caicos Islands	-	-	-	2	1
Ukraine	42	62	64	82	59
United Arab Emirates	53	57	60	95	100
United Kingdom	7,232	7,143	7,289	7,633	7,552
Uruguay	10	4	8	12	12
Uzbekistan	-	1	-	1	3
Vanuatu	-	-	-	-	1
Venezuela	21	24	15	7	9
Vietnam	8	6	18	21	24
West Bank/Gaza	-	1	-	-	-
Yemen ⁴	-	-	-	-	2
Zimbabwe	-	1	-	-	-

- Represents zero.

¹ Data include utility, design, plant, and reissue patents.

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

³ Each patent grant is listed under only one country of residence. Country listings include possessions and territories of that country unless separately listed in the table.

⁴ Countries/territories not previously reported.

TABLE 11: Utility Patents Issued to Small Entities (FY 2014–2018)

Fiscal Year of Grant	2014	2015	2016	2017	2018
Percentage Micro Entity*	1.54%	1.80%	2.16%	2.33%	2.48%
US origin**	2.82%	3.26%	3.81%	4.06%	4.34%
Foreign origin**	0.34%	0.49%	0.68%	0.77%	0.84%
Percentage Small Entity	19.47%	19.40%	19.24%	19.54%	19.86%
US origin**	25.84%	25.79%	25.45%	25.68%	25.91%
Foreign origin**	13.47%	13.66%	13.65%	14.02%	14.49%
Percentage Large Entity	78.99%	78.80%	78.60%	78.13%	77.66%
US origin**	71.37%	70.96%	70.74%	70.26%	69.75%
Foreign origin**	86.19%	85.85%	85.67%	85.21%	84.67%

*The Micro Entity Status category was introduced March 19, 2013.

**Patent origin is based on residence of the first-named inventor.

TABLE 12: United States Government Agency Patents¹ (FY 2014– FY 2018)³

Agency	2014	2015	2016	2017	2018	Total
Agriculture	66	59	43	53	49	324
Air Force	72	53	55	48	55	327
Army	166	161	144	139	150	915
Attorney General	–	–	–	–	–	–
Commerce	14	13	12	28	28	107
DHS	3	4	3	2	7	19
Energy	33	29	24	23	18	168
EPA	5	7	3	3	4	39
HEW/HHS	182	147	161	135	134	890
Interior	2	3	2	3	5	17
NASA	108	114	107	117	118	659
Navy	357	395	320	345	342	2,142
NSA	4	2	3	1	2	23
NSF	1	1	3	6	3	16
Postal Service	32	20	20	20	46	165
State Department	–	–	–	–	–	–
Transportation	1	–	1	–	–	2
TVA	–	–	–	1	–	1
USA ²	5	3	2	3	3	23
VA	7	18	13	13	18	77
Total	1,058	1,029	916	940	982	4,925

– Represents zero.

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

² United States of America—no agency indicated in database.

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

TABLE 13A: Ex Parte Reexamination (FY 2014–FY 2018)

	2014	2015	2016	2017	2018
Requests filed, total	356	243	219	188	178
By patent owner	23	14	8	25	21
By third party	324	229	211	163	157
Commissioner ordered	9	-	-	-	-
Determinations on requests, total	344	245	218	203	185
Requests granted:					
By examiner	322	230	201	188	173
By petition	3	2	4	4	2
Requests denied	19	13	13	11	10
Requests known to have related litigation*	183	135	116	92	76
Filings by discipline, total	355	243	223	191	178
Chemical	77	55	40	38	34
Electrical	169	105	101	63	66
Mechanical	96	80	78	75	71
Design	13	3	4	15	7

- Represents zero.

*Litigation search numbers were updated to include old pending reexams that ultimately requires new litigation.

**Filings were updated to include reexams that hadn't been granted a filing date or had a filing date vacated in FY18.

TABLE 13B: Supplemental Examination (SE) (FY 2014–FY 2018)

	2014	2015	2016	2017	2018
SEs filed, total**	43	53	44	60	31
SEs granted a filing date, total**	33	37	46	61	31
Determinations on SE granted a filing date, total	33	38	46	61	35
SNQ found:	22	26	31	46	22
SNQ not found:	11	12	15	15	13
Requests known to have related litigation*	3	2	3	5	2
Filings by discipline, total**	44	53	45	59	30
Chemical**	13	7	14	16	16
Electrical**	22	34	18	33	9
Mechanical**	7	12	13	8	5
Design	2	-	-	2	-

- Represents zero.

Late-filed requests may not have had a determination by the end of the fiscal year. Numbers will be revised in the following year's PAR, where necessary. While the transition to Inter Partes Reexams began in FY 2011, no measureable caseload activity began until FY 2013. FY 2013 is the earliest date of activity for this Workload Table.

*Litigation search numbers were updated to include old pending reexams that ultimately requires new litigation.

**Filings were updated to include SE that hadn't been granted a filing date or had a filing date vacated in FY18.

TABLE 14: Summary of Contested Patent Cases (Within the USPTO, as of September 30, 2018)

Item	Total
Ex Parte cases	
Appeals	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	12,973
Cases filed during FY 2018	9,181
Disposals during FY 2018, total	
Decided	11,178
Cases pending as of 9/30/18	10,976
Rehearings	
Cases pending as of 9/30/18	49
Interference cases	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	22
Cases declared during FY 2018	14
Interference cases, FY 2018 total	36
Cases terminated during FY 2018	20
Cases pending as of 9/30/18	16
Ex Parte Reexamination Appeal cases**	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	23
Cases filed during FY 2018	39
Ex Parte Reexamination cases, FY 2018 total	62
Cases terminated during FY 2018	49
Cases pending as of 9/30/18	13
Inter Partes Reexamination Appeal cases**	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	29
Cases filed during FY 2018	37
Inter Partes Reexamination cases, FY 2018 total	66
Cases terminated during FY 2018	53
Cases pending as of 9/30/18	13
Supplemental Examination cases**	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	1
Cases filed during FY 2018	3
Supplemental Examination cases, FY 2018 total	4
Cases terminated during FY 2018	2
Cases pending as of 9/30/18	2
Reissue Appeals cases**	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	18
Cases filed during FY 2018	24
Reissue Appeals cases, FY 2018 total	42
Cases terminated during FY 2018	25
Cases pending as of 9/30/18	17
Inter Partes Review cases	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	1,678
Cases filed during FY 2018	1,521
Cases reinstituted during FY 2018	6
Inter Partes Review cases, FY 2018 total	3,205
Cases not instituted, terminated, decided during FY 2018	1,635
Cases pending as of 9/30/18	1,570

TABLE 14: Summary of Contested Patent Cases (Within the USPTO, as of September 30, 2018) *(continued)*

Item	Total
Transitional Program for Covered Business Method cases	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	37
Cases filed during FY 2018	36
Cases reinstituted during FY 2018	-
Transitional Program for Covered Business Method cases, FY 2018 Total	73
Cases not instituted, terminated, decided during FY 2018	49
Cases pending as of 9/30/18	24
Post Grant Review cases	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)	37
Cases filed during FY 2018	56
Cases reinstituted during FY 2018	-
Post Grant Review cases, FY 2018 total	93
Cases not instituted, terminated, decided during FY 2018	44
Cases pending as of 9/30/18	49
Derivation Proceeding cases	
Cases pending as of 9/30/17 (as audited by PTAB during FY 2018)*	23
Cases filed during FY 2018	13
Cases reinstituted during FY 2018	-
Derivation Proceeding cases, FY 2018 total	36
Cases not instituted, terminated, decided during FY 2018	4
Cases pending as of 9/30/18	32

- Represents zero.

* Changes in end-of-year data for FY 2017 due to internal end-of-year audits utilizing improved methodologies to obtain more accurate results.

** New measures added to include appeals arising from the Central Reexamination Unit (CRU).

TABLE 15: Summary of Trademark Examining Activities (FY 2014–FY 2018)

Item	2014	2015	2016	2017	2018
Applications for Registration					
Applications Including Additional Classes	455,017	503,889	530,270	594,107	638,847
Applications Filed	336,275	369,877	391,837	435,384	468,926
Disposal of Trademark Applications					
Registrations Including Additional Classes	279,282	282,091	309,188	327,314	367,382
Abandonments Including Additional Classes	150,587	156,929	170,469	187,693	273,808
Trademark First Actions Including Additional Classes	458,162	500,368	536,830	596,678	613,555
Applications Approved for Publication Including Additional Classes	374,870	403,750	432,454	464,806	489,918
Certificates of Registration Issued¹					
1946 Act Principal Register	123,086	126,359	142,300	153,195	179,179
Principal Register					
ITU-Statements of Use Registered	73,914	72,594	74,796	79,276	83,606
1946 Act Supplemental Register	9,555	9,707	10,311	10,238	11,023
Total Certificates of Registration	206,555	208,660	227,407	242,709	273,808
Renewal of Registration*					
Section 9 Applications Filed	67,865	63,981	72,744	79,557	85,563
Section 8 Applications Filed**	67,869	64,010	72,708	79,580	85,571
Registrations Renewed	56,166	58,284	62,604	84,727	90,192
Affidavits, Sec. 8/15:					
Affidavits Filed	107,823	88,486	87,447	92,138	96,091
Affidavits Disposed	93,711	80,593	77,105	95,613	97,296
Amendments to Allege Use Filed	7,927	8,241	8,167	8,113	8,089
Statements of Use Filed	71,685	75,461	76,943	83,394	84,939
Notice of Allowance Issued	192,609	198,349	215,764	215,944	232,910
Total Active Certificates of Registration	2,013,462	2,074,702	2,138,546	2,202,390	2,415,550
Pendency—Average Months:					
Between Filing and Examiner's First Action	3.0	2.9	3.1	2.7	3.4
Between Filing, Registration (Use Applications) Abandonments, and NOAs—including Suspended and Inter Partes Proceedings	11.5	11.5	11.3	10.9	10.9
Between Filing, Registration (Use Applications) Abandonments, and NOAs—excluding Suspended and Inter Partes Proceedings	9.8	10.1	9.8	9.5	9.6

¹ With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes. "Applications filed" refers simply to the number of individual trademark applications received by the USPTO. There are, however, 47 different classes of items in which a trademark may be registered. An application must request registration in at least one class, but may request registration in multiple classes. Each class application must be individually researched for registerability. "Applications filed, including additional classes" reflects this fact, and therefore more accurately reflects the Trademark business workload. With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

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

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

TABLE 16: Trademark Applications Filed for Registration and Renewal and Trademark Affidavits Filed (FY 1998–FY 2018)

Year	For Registration	For Renewal ¹	Section 8 Affidavit
1998	232,384	7,413	33,231
1999	295,165	7,944	33,104
2000	375,428	24,435	28,920
2001	296,388	24,174	33,547
2002	258,873	34,325	39,484
2003	267,218	35,210	43,151
2004	298,489	32,352	41,157
2005	323,501	39,354	47,752
2006	354,775	36,939	48,444
2007	394,368	40,786	49,241
2008	401,392	42,388	68,470
2009	352,051	43,953	65,322
2010	368,939	48,214	61,499
2011	398,667	49,000	65,771
2012	415,026	63,636	76,646
2013	433,654	74,280	93,174
2014	455,017	67,865	107,823
2015	503,889	63,981	88,486
2016	530,270	72,744	87,447
2017	594,107	79,557	92,138
2018	638,847	85,563	96,091

¹ Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub. L. No. 100-667) beginning November 16, 1989 (FY 1990).

TABLE 17: Summary of Pending Trademark Applications (FY 2018)

Stage of processing	Application Files	Classes
Pending Applications, total	606,182	873,270
In Preexamination processing	119,446	154,632
Under Examination, total	371,563	559,120
Applications Under Initial examination	130,993	198,294
Amended, awaiting action by Examiner	120,501	184,296
Awaiting first action by Examiner	10,492	13,998
Intent-to-Use applications pending Use	193,073	273,333
Applications under second examination	12,943	18,399
Administrative processing of Statements of Use	53	69
Undergoing second examination	4,268	5,815
Amended, awaiting action by Examiner	8,622	12,515
Other pending applications¹	34,554	69,094
In postexamination processing (Includes all applications in all phases of publication and issue and registration)	115,173	159,518

¹ Includes applications pending before the Trademark Trial and Appeal Board and suspended cases.

TABLE 18: Trademarks Registered, Renewed, and Published Under Section 12(C)¹ (FY 1998–FY 2018)

Year	Certificates of Registration Issued	Renewed ²	Registrations (Including Classes)
1998	89,634	6,504	106,279
1999	87,774	6,280	104,324
2000	106,383	8,821	127,794
2001	102,314	31,477	124,502
2002	133,225	29,957	164,457
2003	143,424	34,370	185,182
2004	120,056	34,735	155,991
2005	112,495	32,279	143,396
2006	147,118	37,305	188,899
2007	150,064	47,336	194,327
2008	209,904	42,159	274,250
2009	180,520	42,282	241,637
2010	164,330	46,734	221,090
2011	177,661	44,873	237,586
2012	182,761	59,871	243,459
2013	193,121	63,709	259,681
2014	206,555	56,166	279,282
2015	208,660	58,284	282,091
2016	227,407	62,604	309,188
2017	242,709	84,727	327,314
2018	273,808	90,192	367,382

¹ Includes withdrawn numbers.

² Includes renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub. L. No. 100–667) beginning November 16, 1989 (FY 1990).

TABLE 19: Trademark Applications Filed by Residents of the United States (FY 2018)

State/Territory	2018	State/Territory	2018	State/Territory	2018
Total	445,941	Kentucky	2,432	Oklahoma	2,214
		Louisiana	2,473	Oregon	5,122
Alabama	2,739	Maine	1,091	Pennsylvania	11,973
Alaska	373	Maryland	7,051	Rhode Island	1,065
Arizona	9,552	Massachusetts	11,127	South Carolina	3,579
Arkansas	1,740	Michigan	9,106	South Dakota	545
California	96,132	Minnesota	7,756	Tennessee	6,348
Colorado	10,589	Mississippi	1,051	Texas	30,028
Connecticut	5,202	Missouri	5,289	Utah	6,042
Delaware	5,434	Montana	969	Vermont	827
District of Columbia	3,568	Nebraska	1,503	Virginia	9,317
Florida	34,156	Nevada	7,525	Washington	10,204
Georgia	12,949	New Hampshire	1,335	West Virginia	489
Hawaii	1,499	New Jersey	15,494	Wisconsin	5,182
Idaho	1,366	New Mexico	1,130	Wyoming	1,617
Illinois	16,623	New York	43,663	Puerto Rico	706
Indiana	5,012	North Carolina	10,035	Virgin Islands	87
Iowa	1,855	North Dakota	406	U.S. Pacific Islands ¹	51
Kansas	2,084	Ohio	10,039	United States ²	197

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

² No State indicated in database, includes Army Post Office filings.

TABLE 20: Trademarks Registered to Residents of the United States¹ (FY 2018)

State/Territory	2018	State/Territory	2018	State/Territory	2018
Total	188,626	Kentucky	1,104	Oklahoma	1,039
		Louisiana	1,100	Oregon	2,315
Alabama	1,067	Maine	545	Pennsylvania	5,437
Alaska	185	Maryland	3,007	Rhode Island	658
Arizona	3,676	Massachusetts	4,528	South Carolina	1,579
Arkansas	770	Michigan	4,005	South Dakota	260
California	38,608	Minnesota	3,449	Tennessee	2,979
Colorado	4,628	Mississippi	437	Texas	12,819
Connecticut	2,249	Missouri	2,483	Utah	2,640
Delaware	1,654	Montana	490	Vermont	358
District of Columbia	1,505	Nebraska	708	Virginia	4,302
Florida	14,269	Nevada	3,061	Washington	4,190
Georgia	5,582	New Hampshire	597	West Virginia	201
Hawaii	585	New Jersey	6,339	Wisconsin	2,664
Idaho	654	New Mexico	501	Wyoming	553
Illinois	7,160	New York	18,013	Puerto Rico	248
Indiana	2,181	North Carolina	4,198	Virgin Islands	21
Iowa	928	North Dakota	191	U.S. Pacific Islands ²	16
Kansas	888	Ohio	4,912	United States ³	90

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

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

³ No State indicated in database, includes APO filings.

TABLE 21: Trademark Applications Filed by Residents of Foreign Countries (FY 2014–FY 2018)

Residence	2014	2015	2016	2017	2018
Total	99,913	125,461	141,249	180,487	192,906
Afghanistan	6	4	1	1	3
Albania	5	6	8	2	4
Algeria	1	1	-	2	-
Andorra	13	3	17	17	2
Angola	4	4	9	-	1
Anguilla	22	4	7	14	5
Antarctica	-	-	-	-	-
Antigua and Barbuda	2	2	2	7	13
Argentina	217	280	263	277	243
Armenia	47	25	19	38	46
Aruba	5	18	9	18	3
Australia	4,011	5,144	5,482	6,600	7,275
Austria	1,281	1,328	1,351	1,495	1,719
Azerbaijan	4	6	17	1	13
Bahamas	138	132	146	149	163
Bahrain	9	12	9	11	12
Bangladesh	3	1	6	10	32
Barbados	162	122	105	110	138
Belarus	20	29	71	70	41
Belgium	976	944	1,063	2,069	1,340
Belize	47	34	40	54	79
Benin	-	-	-	-	2
Bermuda	353	245	278	199	201
Bolivia	2	6	12	7	15
Bosnia and Herzegovina	5	5	5	1	5
Botswana	7	-	-	-	135
Brazil	779	856	870	864	791
British Virgin Islands	985	908	886	899	888
Brunei Darussalam	1	3	11	6	5
Bulgaria	218	150	163	297	277
Burkina Faso	-	-	-	-	-
Cambodia	2	2	4	1	3
Cameroon	-	-	-	4	3
Canada	10,268	11,585	12,431	13,855	15,470
Cayman Islands	504	836	920	1,008	1,068
Channel Islands	-	-	-	-	-
Chile	205	300	312	288	211
China (Hong Kong)	2,430	2,926	3,463	4,123	4,563
China (Macau)	23	-	-	-	-
China (mainland)	6,323	14,144	28,770	50,942	57,879
Colombia	272	344	256	316	297
Cook Islands	5	-	11	8	3
Costa Rica	36	31	52	95	62
Cote d'Ivoire	11	-	2	3	-
Croatia	62	65	75	72	71
Cuba	2	15	28	18	10
Curacao	63	170	74	89	23
Cyprus	375	393	354	480	494
Czech Republic	274	315	332	413	411
Denmark	1,095	1,387	1,399	1,510	1,533
Dominica	12	1	3	1	4
Dominican Republic	86	84	113	104	91
Ecuador	36	36	56	57	88
Egypt	32	33	31	15	45
El Salvador	34	44	68	48	57
Estonia	114	73	142	144	226
Ethiopia	5	1	2	-	4
Faroe Islands	3	-	-	3	-
Fiji	2	7	9	10	3
Finland	797	959	1,191	1,468	1,253
France	5,959	6,983	7,157	7,953	7,642
French Polynesia	7	2	9	6	12
Gabon	-	-	1	-	-
Georgia	25	24	26	32	31
Germany	10,042	12,310	12,792	14,617	15,095
Ghana	13	2	1	-	2
Gibraltar	89	57	41	45	65
Greece	173	188	166	252	234
Grenada	-	-	4	-	2
Guadeloupe	2	-	-	-	1
Guatemala	31	55	43	53	83
Guernsey	51	67	40	33	43
Guinea	-	-	-	-	-
Guyana	5	10	4	4	1
Haiti	2	-	2	-	-
Honduras	9	7	8	13	19
Hungary	147	112	114	178	269
Iceland	84	156	98	92	157
India	824	963	983	1,100	1,238
Indonesia	99	65	80	90	96
Iran	69	41	59	41	35
Iraq	1	12	4	-	1
Ireland	1,036	1,117	942	1,141	1,247
Isle of Man	53	79	75	54	157
Israel	1,133	1,287	1,231	1,698	2,082
Italy	4,502	5,200	4,764	5,759	5,705
Jamaica	27	43	43	32	41
Japan	5,786	6,521	6,199	7,340	7,883
Jordan	42	89	77	35	33
Kazakhstan	10	49	15	39	15
Kenya	8	18	5	7	7
Korea, Dem. Republic of	-	1	1	-	5
Korea, Republic of	2,729	4,111	4,462	4,529	5,011
Kuwait	32	23	49	37	79
Kyrgyzstan	2	1	-	2	-

TABLE 21: Trademark Applications Filed by Residents of Foreign Countries (FY 2014–FY 2018) *(continued)*

Residence	2014	2015	2016	2017	2018
Lao, People's Dem. Republic of	1	-	-	-	-
Latvia	33	72	86	81	148
Lebanon	57	84	89	63	87
Liberia	2	21	3	1	-
Liechtenstein	106	178	105	129	129
Lithuania	51	65	76	131	150
Luxembourg	887	945	1,168	1,374	1,094
Macao	-	66	32	21	58
Macedonia	14	9	18	34	17
Madagascar	-	2	-	4	-
Malaysia	148	201	183	195	208
Malta	519	283	308	311	353
Marshall Island	3	21	8	31	35
Martinique	1	-	-	-	-
Mauritania	3	-	-	2	-
Mauritius	45	46	58	78	80
Mexico	2,124	2,285	2,437	2,014	2,260
Micronesia	-	-	-	-	2
Monaco	178	283	94	208	187
Mongolia	11	6	4	6	7
Montserrat	-	2	2	-	2
Morocco	66	74	52	93	66
Myanmar	-	-	2	-	1
Namibia	-	5	48	272	131
N. Marianas Island	5	-	-	-	-
Nepal	5	1	-	1	2
Netherlands	2,418	2,851	2,823	3,320	3,539
Netherlands Antilles	1	-	-	-	-
New Zealand	674	733	922	1,016	1,064
Nicaragua	8	13	20	11	6
Nigeria	4	6	22	8	20
Norway	629	733	568	815	1,048
Oman	8	-	9	3	9
Pakistan	79	87	36	58	42
Palau	1	-	1	-	4
Panama	193	261	222	156	175
Papua New Guinea	-	-	-	-	-
Paraguay	14	11	5	7	46
Peru	42	92	78	86	134
Philippines	85	78	80	111	155
Poland	354	563	463	723	659
Portugal	384	373	369	428	436
Qatar	89	77	73	24	36
Republic Moldova	24	36	19	25	27
Romania	73	129	153	290	440
Russian Federation	799	850	674	1,020	1,369
Rwanda	-	-	1	-	1
Saint Kitts and Nevis	30	15	17	8	53
Saint Lucia	26	48	28	25	14
Saint Marten	3	-	-	4	28

Residence	2014	2015	2016	2017	2018
Saint Vincent/Grenadines	5	1	2	6	4
Samoa	17	21	35	28	33
San Marino	2	18	26	14	11
Sao Tome/Principe	-	-	-	-	-
Saudi Arabia	141	109	105	104	122
Scotland	48	76	45	41	90
Senegal, Republic of	-	3	-	-	3
Serbia/Montenegro	40	58	55	105	76
Seychelles	72	77	60	44	99
Singapore	769	1,132	1,077	1,442	1,640
Slovakia	227	115	117	148	121
Slovenia	68	123	101	148	189
South Africa	278	268	243	218	308
Spain	2,133	2,326	2,276	2,723	2,462
Sri Lanka	45	44	40	29	61
Suriname	1	-	1	1	5
Swaziland	-	1	-	2	-
Sweden	1,760	2,168	2,073	2,694	2,466
Switzerland	4,836	5,561	5,285	5,741	6,433
Syria	2	1	5	45	9
Taiwan	1,673	1,782	1,610	1,734	1,965
Tanzania	-	-	2	4	6
Thailand	134	146	147	238	321
Timor-Leste	-	-	-	-	-
Togo	2	-	-	-	-
Trinidad and Tobago	23	64	49	32	21
Tunisia	1	19	3	26	12
Turkey	570	1,052	967	1,059	1,283
Turkmenistan	-	-	-	-	-
Turks and Caicos Islands	24	23	29	40	15
Uganda	1	-	9	-	3
Ukraine	171	194	147	376	450
United Arab Emirates	254	517	422	461	414
United Kingdom	10,779	14,061	14,249	15,953	14,925
Uruguay	59	38	72	58	62
Uzbekistan	1	4	-	-	-
Vanuatu (New Hebrides)	1	-	-	2	-
Venezuela	94	100	64	59	38
Vietnam	98	126	124	220	254
West Bank/Gaza	-	-	2	-	-
Yemen	1	-	-	2	4
Yugoslavia	-	-	-	-	-
Zambia	-	3	-	-	-
Zimbabwe	-	-	1	2	-
Other ¹	-	9	7	26	65

- 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 2014-FY 2018)

Residence	2014	2015	2016	2017	2018
Total	38,498	40,864	50,980	65,636	85,182
Afghanistan	3	-	1	1	1
Albania	3	1	3	2	6
Algeria	2	-	1	-	-
Andorra	-	-	4	9	-
Angola, Republic of	-	1	1	-	-
Anguilla	8	16	1	5	2
Antigua and Barbuda	1	-	1	1	-
Argentina	126	140	135	101	159
Armenia	20	1	7	13	17
Aruba	1	-	5	2	1
Australia	1,564	1,445	1,940	2,016	2,388
Austria	369	305	406	467	454
Azerbaijan	1	-	-	3	1
Bahamas	56	63	56	51	36
Bahrain	4	10	6	7	2
Bangladesh	1	3	1	2	13
Barbados	51	82	48	38	44
Belarus	15	3	12	13	18
Belgium	408	161	372	398	567
Belize	16	20	16	18	23
Benelux Convention	-	-	-	-	-
Benin	-	-	-	-	-
Bermuda	171	194	76	100	70
Bhutan	-	-	-	-	-
Bolivia	4	1	1	2	2
Bosnia and Herzegovina	-	1	2	3	1
Botswana	2	2	-	-	-
Brazil	236	346	257	301	333
British Virgin Islands	295	445	286	426	280
Brunei Darussalam	3	5	2	5	6
Bulgaria	59	23	67	55	109
Burkina Faso	-	-	-	-	-
Burundi	-	-	-	-	-
Cambodia	2	1	2	1	-
Cameroon	-	-	-	-	2
Canada	4,010	6,420	4,288	4,739	4,827
Cape Verde	-	-	-	-	-
Cayman Islands	123	250	169	202	224
Channel Islands	-	-	-	-	-
Chile	92	128	111	109	131
China (Hong Kong)	883	1,472	1,268	1,504	1,859
China (Macau)	9	2	6	-	-
China (mainland)	2,901	4,016	10,582	23,893	38,399
Colombia	94	118	128	142	147
Congo	-	-	-	-	-
Cook Islands	-	-	1	1	2
Costa Rica	16	36	21	22	31
Cote D'Ivoire	-	2	1	3	-
Croatia	11	4	18	17	20
Cuba	1	2	11	11	5
Curacao	8	56	28	16	30

Residence	2014	2015	2016	2017	2018
Cyprus	159	67	117	114	186
Czech Republic	80	85	115	129	142
Denmark	393	275	472	442	523
Djibouti	-	-	-	-	-
Dominica	2	3	3	2	-
Dominican Republic	26	29	44	56	44
East Timor	-	-	-	-	-
Ecuador	23	20	16	17	30
Egypt	12	14	18	6	6
El Salvador	26	20	28	30	30
Estonia	28	30	36	40	61
Ethiopia	1	-	-	-	2
Faroe Islands	-	3	-	-	-
Fiji	4	1	1	3	3
Finland	263	190	292	330	423
France	2,338	1,488	2,358	2,455	2,697
French Guiana	-	-	-	-	-
French Polynesia	-	4	3	2	3
Gabon	-	-	-	-	-
Georgia	10	9	17	9	14
Germany	3,702	2,478	3,875	3,978	4,312
Ghana	4	3	-	-	1
Gibraltar	45	39	33	28	44
Greece	55	63	79	54	83
Greenland	-	-	-	-	1
Grenada	-	4	1	-	-
Guatemala	-	-	-	15	-
Guernsey	12	23	13	13	7
Guinea	-	-	-	-	-
Guinea (Equitorial)	-	-	-	-	-
Guinea-Bissau	-	-	-	-	-
Guyana	4	3	4	1	3
Haiti	3	-	3	1	-
Honduras	1	8	5	3	2
Hungary	42	50	41	41	63
Iceland	26	9	36	29	33
India	249	364	315	386	480
Indonesia	40	37	28	28	20
Iran	1	-	9	13	15
Iraq	-	-	5	-	3
Ireland	275	464	365	346	444
Isle of Man	31	58	-	17	35
Israel	443	470	596	574	879
Italy	1,843	730	1,994	1,928	2,309
Jamaica	19	12	24	21	17
Japan	2,770	2,433	2,982	2,763	2,929
Jordan	21	20	41	25	26
Kazakhstan	1	-	4	8	5
Kenya	5	-	11	7	1
Korea, Dem. Republic of	-	6	-	-	2
Korea, Republic of	1,272	1,997	1,724	2,316	2,289
Kuwait	12	5	12	6	11

TABLE 22: Trademarks Registered to Residents of Foreign Countries (FY 2013-FY 2017) *(continued)*

Residence	2014	2015	2016	2017	2018
Kyrgyzstan	-	-	2	-	1
Laos	-	1	-	-	-
Latvia	20	8	20	26	44
Lebanon	17	33	40	29	27
Liberia	-	1	4	1	-
Liechtenstein	60	23	68	35	41
Lithuania	25	2	28	38	46
Luxembourg	312	343	375	388	369
Macao	-	-	-	14	31
Macedonia	8	-	1	4	7
Madagascar	-	-	-	-	-
Malawi	-	-	-	-	-
Malaysia	60	53	54	61	100
Mali	-	-	-	-	102
Malta	55	368	122	107	-
Martinique	-	1	-	-	-
Marshall Islands	10	2	12	6	12
Mauritius	31	26	20	20	19
Mexico	921	1,123	1,005	982	1,020
Micronesia	-	-	-	-	-
Monaco	37	14	55	33	38
Mongolia	-	1	-	1	2
Montenegro	16	43	19	1	21
Montserrat	-	-	-	-	-
Morocco	4	3	12	13	44
Mozambique	-	-	-	-	1
Myanmar	-	-	-	-	-
N. Mariana Island	1	2	-	-	-
Namibia	1	-	1	1	-
Nauru	-	-	-	-	-
Nepal	1	3	-	-	1
Netherlands	891	582	1,017	951	1,207
Netherlands Antilles	1	-	-	-	-
New Zealand	283	299	375	353	434
Nicaragua	4	8	5	15	8
Nigeria	5	2	3	3	8
Niue	-	-	-	-	-
Norway	197	122	217	182	249
Oman	-	2	1	1	5
Pakistan	4	31	24	20	24
Palestinian Authority	-	-	-	-	-
Panama	79	107	82	66	68
Papua New Guinea	1	-	-	-	-
Paraguay	3	5	1	2	2
Peru	33	37	32	33	33
Philippines	54	51	43	47	61
Poland	124	100	150	167	206
Portugal	135	136	194	172	189
Qatar	10	36	19	23	8
Republic Moldova	3	3	7	7	9
Romania	35	23	45	64	179
Rwanda	-	-	-	-	-
Russian Federation	246	122	251	215	322

Residence	2014	2015	2016	2017	2018
Saint Kitts and Nevis	15	16	12	8	8
Saint Lucia	9	16	9	29	9
Saint Martin	1	-	1	-	5
Saint Vincent/ Grenadines	4	1	-	2	2
San Marino	6	-	8	12	6
Saudi Arabia	23	58	46	31	40
Scotland	19	23	-	-	27
Senegal	-	6	-	-	-
Serbia	6	6	10	7	22
Serbia/Montenegro	-	-	-	-	-
Seychelles	14	31	17	23	19
Sierra Leone	-	-	-	-	-
Singapore	277	311	385	431	524
Slovakia	29	6	33	45	46
Slovenia	18	11	32	38	60
South Africa	119	189	94	97	89
Spain	914	786	1,151	1,086	1,140
Sri Lanka	8	33	14	7	26
Sudan	-	-	-	-	-
Swaziland	-	-	1	-	1
Sweden	636	604	744	749	845
Switzerland	1,735	1,268	2,060	1,775	1,961
Syria	1	1	-	5	7
Taiwan	926	1,172	902	921	1,002
Tajikistan	-	-	-	-	-
Tanzania	3	-	-	-	-
Thailand	91	92	70	73	101
Timor-Leste	-	-	-	-	-
Togo	-	11	-	-	-
Trinidad and Tobago	2	12	5	8	7
Tunisia	3	-	4	2	9
Turkey	294	99	369	350	360
Turks and Caicos Islands	20	15	17	21	16
Uganda	-	2	-	-	2
Ukraine	46	12	80	70	200
United Arab Emirates	75	121	137	134	128
United Kingdom	3,607	4,836	4,299	4,552	4,993
Uruguay	22	22	13	25	20
Uzbekistan	-	-	1	-	-
Vanuatu (New Hebrides)	1	-	-	-	1
Vatican City	-	3	-	-	3
Venezuela	19	51	26	41	33
Vietnam	49	23	60	68	117
Western Samoa/Samoa	7	17	13	8	-
Yemen	1	-	-	-	-
Yugoslavia	-	-	-	-	-
Zambia	-	1	-	-	-
Zimbabwe	-	-	-	1	2
Other ¹	1	4	2	1	25

- Represents zero.

¹ Country of Origin information not available.

TABLE 23: Summary of Contested Trademark Cases (Within the USPTO, as of September 30, 2018)

Activity	Ex Parte	Opposition	Cancellations	Concurrent Use	Interference	Total
Cases pending as of 9/30/17, total	1,292	5,403	1,855	42	-	8,592
Cases filed during FY 2018	3,223	6,496	2,253	24	-	11,996
Disposals during FY 2018, total	3,012	6,934	2,544	46	-	12,536
Before oral hearing or briefing	2,571	6,839	2,495	46	-	11,951
After briefing (no oral hearing)	395	70	42	-	-	507
After oral hearing	46	25	7	-	-	78
Cases pending as of 9/30/18, total	1,503	4,965	1,564	20	-	8,052
Awaiting decision	74	33	21	2	-	130
In process before hearing or final briefing ¹	1,429	4,932	1,543	18	-	7,922
Requests for extension of time to oppose FY 2018	-	19,208	-	-	-	-

- Represents zero.

¹ Includes suspended cases.

TABLE 24: Actions on Petitions to the Director of the U.S. Patent and Trademark Office (FY 2014–FY 2018)

Nature of Petition	2014	2015	2016	2017	2018
Patent Matters					
Actions on patent petitions, total	48,204	45,381	49,467	47,678	47,648
Acceptance of:					
Late assignments	698	631	846	735	580
Late issue fees	1,500	1,498	2,242	2,702	2,543
Late priority papers	74	75	289	371	242
Access	1	1	12	4	3
Certificates of correction	25,088	26,443	26,319	22,765	25,948
Deferment of issue	8	13	14	20	18
Entity Status Change	2,831	2,425	2,813	2,542	2,657
Filing date	276	104	222	117	66
Maintenance fees	2,154	1,976	2,359	2,343	2,374
Revivals	6,701	5,330	7,621	7,811	6,249
Rule 47 (37 CFR 1.47)	977	354	131	94	45
Supervisory authority	404	708	360	440	362
Suspend rules	214	126	117	146	3
Withdrawal from issue	4,417	4,859	4,783	5,605	5,225
Withdrawals of holding of aband.	2,861	838	1,339	1,983	1,333
Late Claim for Priority	1,755	2,139	4,051	5,095	3,326
Withdraw as Attorney	5,344	2,390	3,440	3,286	2,196
Matters Not Provided For (37 CFR 1.182)	1,100	1,012	1,601	2,376	1,768
To Make Special	20,283	19,026	23,672	20,906	21,257
Patent Term Adjustment/Extension	9,957	4,900	688	507	390
Trademark Matters					
Actions on trademark petitions, total	26,686	26,768	28,194	31,277	37,740
Filing date restorations ¹	4	3	4	6	10
Inadvertently issued registrations	192	76	54	96	117
Letters of Protest	1,776	2,161	2,258	2,726	3,385
Madrid Petitions	79	87	68	88	80
Make special	371	343	391	539	817
Reinstatements ²	366	150	564	215	167
Revive (reviewed on paper)	623	713	629	881	1,415
Revive (granted electronically) ³	19,900	19,857	20,432	22,610	26,108
Waive fees/refunds	8	15	13	14	13
Miscellaneous Petitions to the Director	1,208	1,271	1,143	1,335	1,371
Board Matters	51	37	27	24	31
Post Registration Matters	309	145	270	315	698
Post Publication Amendments ⁴	1,799	1,910	2,341	2,428	3,528
Petitions awaiting action as of 9/30					
Trademark petitions awaiting response	41	36	46	42	35
Trademark petitions to revive ⁵	–	8	–	49	350
Trademark pending filing date issues	–	–	–	–	–

– 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 was not separated into two categories (paper versus electronic) in previous years.

⁴ These are new data for FY 2016 with prior year data added.

⁵ Prior to 2018, labeled as Trademark petitions awaiting action.

TABLE 25: Cases in Litigation (Selected Courts of the United States, as of September 30, 2018)

	Patents	Trademarks	OED	Total
United States District Courts				
Civil actions pending as of 9/30/17, total	48	2	-	50
Filed during FY 2018	7	1	8	16
Disposals, total	8	3	4	15
Affirmed	1	-	-	1
Reversed	-	-	-	-
Remanded	-	2	-	2
Dismissed	4	1	4	9
SJ Granted—USPTO	2	-	-	2
SJ Granted—Opposing Party	1	-	-	1
Transfer	-	-	-	-
Civil actions pending as of 9/30/18, total	47	-	4	51
United States Courts of Appeals¹				
Ex parte cases				
Cases pending as of 9/30/17	69	14	5	88
Cases filed during FY 2018	66	14	2	82
Disposals, total	87	13	6	106
USPTO Affirmed	45	8	1	54
Affirmed-In-Part	2	-	-	2
District Court Affirmed	3	-	1	4
Reversed	3	1	-	4
Reversed-in-Part	1	-	-	1
Remanded	10	1	-	11
Dismissed	19	3	3	25
Transfer	1	-	1	2
Mandamus Denied	3	-	-	3
Mandamus Granted	-	-	-	-
Total ex parte cases pending as of 9/30/18	48	15	1	64
United States Courts of Appeals				
Inter partes cases Intervened				
Cases pending as of 9/30/17	35	1	-	36
Cases filed during FY 2018	59	-	-	59
Disposals, total²	43	1	-	44
USPTO Affirmed	22	-	-	22
Affirmed-in-Part	4	-	-	4
Reversed	-	-	-	-
Reversed-in-Part	1	-	-	1
Remanded	11	1	-	12
Dismissed	4	-	-	4
Withdrawn	1	-	-	1
Total inter partes cases intervened pending as of 9/30/18	51	-	-	51
Inter partes cases				
Cases pending as of 9/30/17	423	4	-	427
Cases filed during FY 2018	502	11	-	513
Disposals, total³	446	7	-	453
Total inter partes cases pending as of 9/30/17	479	8	-	487
Total United States Courts of Appeals cases pending as of 9/30/18	578	23	1	602
Supreme Court				
Ex parte cases				
Cases pending as of 9/30/17	6	-	-	6
Cases filed during FY 2018	13	1	-	14
Disposals, total	14	-	-	14
Cases pending as of 9/30/18, total	5	1	-	6

- Represents zero.

¹ Includes Federal Circuit and Other Appellate Courts.² Includes Consolidated Cases.³ Breakouts Not Shown—Incompatible Reporting Methods.

TABLE 26: Patent Classification Activity (FY 2014–FY 2018)

Activity	2014	2015	2016	2017	2018
Subgroups established in CPC	-	1,297	1,883	1,336	2,438
Subclasses established in USPC	137	-	-	-	-
Reclassification of CPF families	-	67,947	58,357	68,579	11,821
Reclassification of USPC documents	10,812	-	-	-	-

- Represents zero.

TABLE 27: Scientific and Technical Information Center Activity (FY 2018)

Activity	Quantity
Prior Art Search Services Provided	
Genetic Sequence Searches Requested	6,049
Number of Genetic Sequence IDs Completed	28,809
CRF Submissions Reviewed	21,154
PLUS Searches Completed	35,223
Foreign Patent Searches Completed	4,185
Commercial Database Searches Completed	24,435
Document Delivery Services Provided	
Document Delivery/Interlibrary Loan Requests Processed	11,758
Copies of Foreign Patents Provided	9,107
Information Assistance and Automation Services	
One-on-One Examiner Information Assistance	27,693
One-on-One Examiner Automation Assistance	40,985
Patents Employee Attendance at Automation Classes	26,275
Patents Employee Attendance for PTA Classes and Customized Training Classes Coordinated via STIC	45,273
Patent Employee Attendance for Examiner Training on STIC Information Sources and Services	9,879
Foreign Patents Assistance for Examiners and Public	5,649
Translation Services Provided for Examiners	
Written Translations of Documents	1,621
Documents Orally Translated*	5,089
Machine Translations	5,661
Number of Words Translated (Written)	9,302,268
Total Number of Examiner Service Contacts	282,815
Collection Usage and Growth	
Print/Electronic (NPL) Collection Usage	2,617,119
Print Books/Subscriptions Purchased	245
Full Text Electronic Journal Titles Available	75,680
Full Text Electronic Book Titles Available	430,228
NPL Databases Available for Searching (est.)	1,581

* Includes orally translated requests for Trademarks.

TABLE 28: End of Year Personnel¹ (FY 2014–FY 2018)

Activity	2014	2015	2016	2017	2018
Patent Business Line	11,484	11,855	11,654	11,453	11,256
Trademark Business Line	966	812	1,071	1,135	1,323
Total USPTO	12,450	12,667	12,725	12,588	12,579
Examination Staff					
Patent Examiners					
UPR Examiners	8,466	8,255	8,160	7,961	8,007
Design Examiners	145	171	191	186	178
Total UPR and Design Examiners	8,611	8,426	8,351	8,147	8,185
Patent Examiner Attrition Rate	3.40%	4.32%	3.02%	3.00%	2.77%
Trademark Examining Attorneys	429	456	505	549	579
Trademark Examining Attorneys Attrition Rate	2.40%	3.51%	2.10%	3.98%	4.91%

¹ Number of positions.

TABLE 29A: Top 50 Trademark Applicants (FY 2018)

Name of Applicant	Classes ¹
Target Brands, Inc.	645
Aristocrat Technologies Australia Pty Ltd.	580
Amazon Technologies, Inc.	510
Lidl Stiftung & Co. KG	324
Samsung Electronics Co., Ltd.	300
Novartis AG	294
Walmart Apollo, LLC	291
ALDI, Inc.	266
MIPH, LLC	264
BRANDSTER BRANDING LTD.	255
Home Depot Product Authority, LLC	252
Johnson & Johnson	251
Daimler AG	237
GXI, LLC	235
Eli Lilly and Company	228
BALLY GAMING, INC.	213
Wayfair LLC	195
LG ELECTRONICS INC.	193
Twentieth Century Fox Film Corporation	193
Warner Bros. Entertainment Inc.	192
E. & J. Gallo Winery	185
BAIDU ONLINE NETWORK TECHNOLOGY (BEIJING)	182
Merck KGaA	176
MATTEL, INC.	173
Ainsworth Game Technology Limited	169
AGS LLC	166
Epic Games, Inc.	166
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BALLY GAMING, INC.	118
Glaxo Group Limited	117
Huawei Technologies Co., Ltd.	116
IGT	102
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L'Oreal	91
Playtika Ltd.	91
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Daimler AG	70
World Wrestling Entertainment, Inc.	70
Amazon Technologies, Inc.	67
PHANTOM I.P., LLC	67
Warner Bros. Entertainment Inc.	66
Johnson & Johnson	64
Konami Gaming, Inc.	62
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U.S. Marine Corps, a component of the U.S. Navy	60
Universal City Studios LLC	60
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GLOSSARY OF ACRONYMS AND ABBREVIATIONS



For more information about these acronyms and abbreviations, please consult the agency's limited glossary containing some USPTO-specific definitions: <https://www.uspto.gov/learning-and-resources/glossary>.

ABC	Activity Based Costing
ACR	Accelerated Case Resolution
AED	Automated External Defibrillator
AFCP 2.0	After Final Consideration Program 2.0
AFF	Analytics and Financial Forecasting
AGA	Association of Government Accountants
AI	Artificial Intelligence
AIA	Leahy-Smith America Invents Act
AIPA	American Inventors Protection Act
APEX	Administrative Professionals Excellence (Program)
API	Application Programming Interface
AWE	After Work Education (Program)
BDR	Big Data Reservoir
BFS	Bureau of the Fiscal Service
CEO	Career Enhancement Opportunities
CFO	Chief Financial Officer
CFS	Consolidated Financial System
CIO	Chief Information Officer
CMS	Content Management System
CO	Contracting Officer
COTS	Commercial-Off-the-Shelf
CPC	Cooperative Patent Classification
CSP	Collaborative Search Pilot
CSRS	Civil Service Retirement System
DATA	Digital Accountability and Transparency Act
DAV	Docket and Application Viewer
DM&R	Deferred Maintenance and Repairs
DOC	U.S. Department of Commerce
DOL	U.S. Department of Labor
DSBD	Digital Service and Big Data
E2E	End-to-End
EBT	Enterprise Budget Tool

eDAN	Electronic Desktop Application Navigator
EDW	Enterprise Data Warehouse
eFOIA	Electronic Freedom of Information Act
EIP	Enterprise Information Portal
eOG	Electronic Official Gazette
EPO	European Patent Office
ESSTA	Electronic System for Trademark Trial and Appeals
EUIPO	European Union Intellectual Property Office
FECA	Federal Employees' Compensation Act
FEGLI	Federal Employees Group Life Insurance Program
FEHB	Federal Employees Health Benefit Program
FERS	Federal Employees Retirement System
FEVS	Federal Employee Viewpoint Survey
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contributions Act
FIRST®	Foundation for Inspiration and Recognition of Science and Technology
FISMA	Federal Information Security Management Act
FITF	First Inventor to File
FLL	First Lego League
FMFIA	Federal Managers' Financial Integrity Act
FPNG	Fee-Processing Next Generation
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GAO	U.S. Government Accountability Office
GI	Geographical Indication
GIPA	Global Intellectual Property Academy
GOTS	Government-Off-the-Shelf
GPRA	Government Performance and Results Act
GSA	General Services Administration
GUI	Graphical User Interface
HAT	Height Adjustable Table
ID	Identification
ID5	Industrial Design Five (Five Largest Design Patent Offices Worldwide)

IDM	Identification Manual	OCCO	Office of the Chief Communications Officer
IG	Inspector General	OCE	Office of Chief Economist
INTA	International Trademark Association	OCFO	Office of the Chief Financial Officer
IP	Intellectual Property	OCIO	Office of the Chief Information Officer
IP5	Five Largest Intellectual Property Offices Worldwide	OECD	Organization for Economic Cooperation and Development
IPEAs	International Preliminary Examination Authorities	OEEOD	Office of Equal Employment Opportunity and Diversity
IPERA	Improper Payments Elimination and Recovery Act	OEO	Office of Education and Outreach
IPERIA	Improper Payments Elimination and Recovery Improvement Act	OGC	Office of the General Counsel
IPIA	Improper Payments Information Act	OHR	Office of Human Resources
IPTF	Internet Policy Task Force	OIG	Office of Inspector General
ISA	International Searching Authorities	OMB	Office of Management and Budget
IT	Information Technology	OP	Office of Procurement
ITP	Individual Training Plan	OPIA	Office of Policy and International Affairs
ITPGRFA	International Treaty for Plant Genetic Resources for Food and Agriculture	OPM	Office of Personnel Management
JPO	Japan Patent Office	OPQA	Office of Patent Quality Assurance
KIPO	Korean Intellectual Property Office	PALM	Patent Application Location Monitoring
LDP	Leadership Development Program	PAR	Performance and Accountability Report
LED	Light-Emitting Diode	PaTH	Patents Training at Headquarters
MWH	Megawatt Hours	PCT	Patent Cooperation Treaty
NAFTA	North American Free Trade Agreement	PE2E	Patent End-to-End
NARA	National Archives and Records Administration	PETTP	Patent Examiner Technical Training Program
NDAA	National Defense Authorization Act	POA&M	Plan of Actions and Milestones
NIHF	National Inventors Hall of Fame	PP&E	Property, Plant, and Equipment
NMTI	National Medal of Technology and Innovation	PPAC	Patent Public Advisory Committee
NPRM	Notice of Proposed Rulemaking	PPH	Patent Prosecution Highway
NSTI	National Summer Teacher Institute	PRPS	Patent Review Processing System
NTIA	National Telecommunications and Information Administration	PTA	Patent Term Adjustment
OACS	Office of Action Correspondence System	PTAB	Patent Trial and Appeal Board
OAS	Office of Administrative Services	PTFRF	Patent and Trademark Fee Reserve Fund
OBRA	Omnibus Budget Reconciliation Act	PTRC	Patent and Trademark Resource Centers
OC	Office Correspondence	Q&A	Question and Answer
OCAO	Office of the Chief Administrative Officer	QPIDS	Quick Path Information Disclosure Statement
		RAM	Revenue Accounting and Management
		RCE	Request for Continued Examination
		REC	Renewable Energy Credit
		RFID	Radio Frequency Identification

SAIC	State Administration for Industry and Commerce of the People's Republic of China	UPOV	Union for the Protection of New Varieties of Plants
SBIR	Small Business Innovation Research	USPC	U.S. Patent Classification
SCP	Supervisor Certificate Program	USPTO	U.S. Patent and Trademark Office
SEE	Site Experience Education	USSGL	United States Standard General Ledger
SES	Senior Executive Service	USTR	Office of the United States Trade Representative
SIPO	State Intellectual Property Office of the People's Republic of China	VHP	Veteran Hiring Program
SMEs	Small- and Medium-Sized Enterprises	vILT	Virtual Instructor-Led Training
SPE	Supervisory Patent Examiners	WIPO	World Intellectual Property Organization
STEM	Science, Technology, Engineering, and Mathematics	WTO	World Trade Organization
STEPP	Stakeholder Training on Examination Practice and Procedure	XML	Extensible Markup Language
STTR	Small Business Technology Transfer		
TB	Terabyte		
TBMP	Trademark Board Manual of Procedure		
TC	Technology Center		
TEAPP	Telework Enhancement Act Pilot Program		
TEAS	Trademark Electronic Application System		
TEASi	Trademark Electronic Application System International		
TESS	Trademark Electronic Search System		
TM5	Five Largest Trademark Offices Worldwide		
TMEP	Trademark Manual of Examining Procedure		
TMNG	Trademark Next Generation		
TNC	Treasury's Yield Curve for Treasury Nominal Coupon		
TORCH	Trademark Organization Reconnect and Collaboration Home		
TPAC	Trademark Public Advisory Committee		
TQR	Trademark Quality Review		
TSDR	Trademark Status and Document Retrieval		
TTAB	Trademark Trial and Appeal Board		
TTABIS	Trademark Trial and Appeal Board Information System		
U.S.C.	United States Code		
UMP	Upward Mobility Program		

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