

UNITED STATES  
PATENT AND TRADEMARK OFFICE

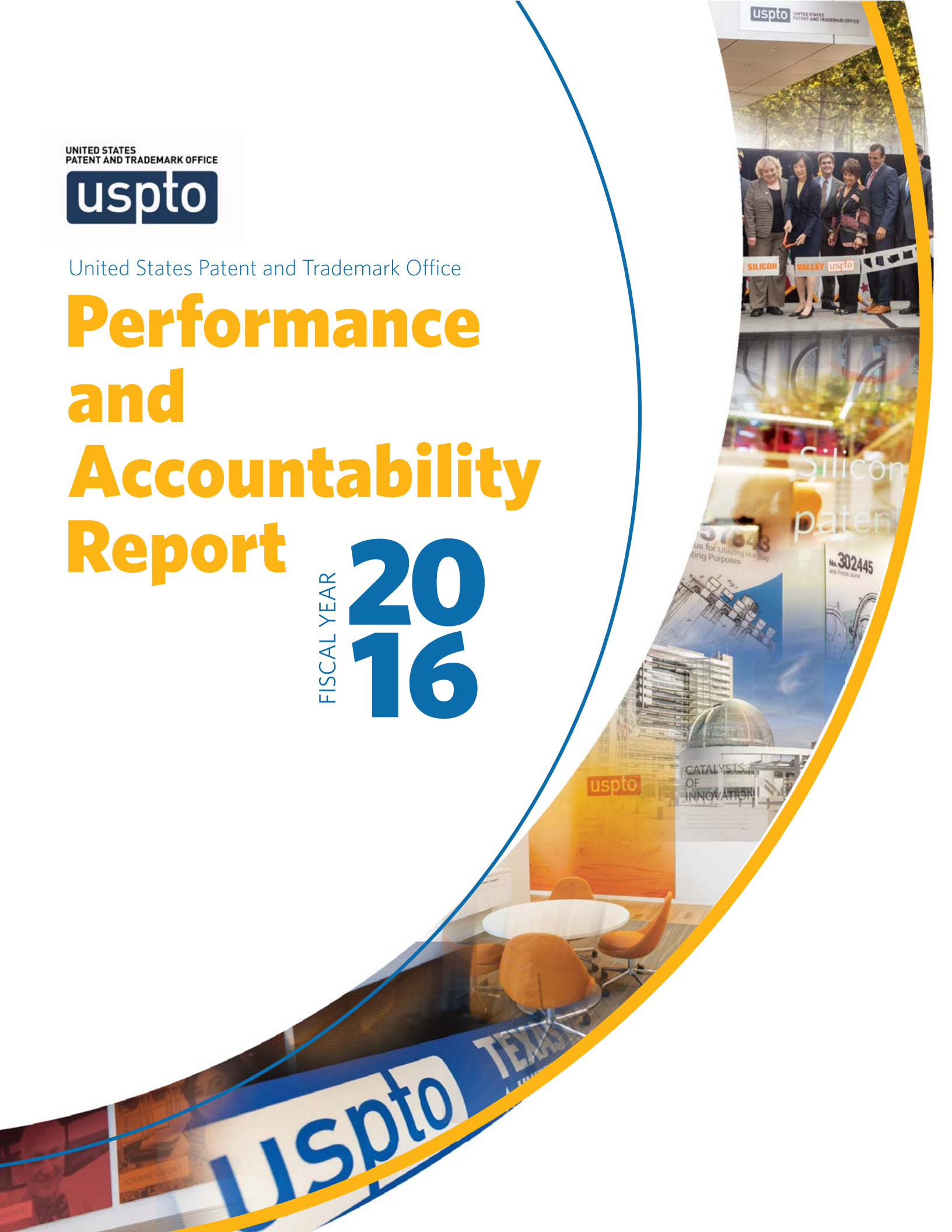


United States Patent and Trademark Office

# Performance and Accountability Report

FISCAL YEAR

# 20 16



## FINANCIAL AND RELATED HIGHLIGHTS

(Dollars In Thousands)	% Change 2016 over 2015	For the year ended September 30, 2016	For the year ended September 30, 2015
Fund Balance with Treasury	(5.5%)	\$ 2,358,227	\$ 2,494,267
Property, Plant, and Equipment, Net	24.2%	504,025	405,740
Other Assets	30.5%	31,212	23,916
Total Assets	(1.0%)	<u>\$ 2,893,464</u>	<u>\$ 2,923,923</u>
Deferred Revenue	(6.5%)	\$ 960,398	\$ 1,027,460
Accounts Payable	(19.6%)	93,461	116,211
Accrued Payroll, Benefits, and Leave	10.8%	241,147	217,666
Other Liabilities	(6.5%)	150,936	161,429
Total Liabilities	(5.0%)	\$ 1,445,942	\$ 1,522,766
Net Position	3.3%	1,447,522	1,401,157
Total Liabilities and Net Position	(1.0%)	<u>\$ 2,893,464</u>	<u>\$ 2,923,923</u>
Total Earned Revenue	1.9%	\$ 3,133,370	\$ 3,074,001
Total Program Cost	3.5%	(3,119,584)	(3,012,833)
Net Income from Operations	(77.5%)	\$ 13,786	\$ 61,168
Budgetary Resources Available for Spending	(2.0%)	\$ 3,607,845	\$ 3,680,438
Net Outlays	428.3%	\$ 122,253	\$ 23,140
Federal Personnel	0.5%	12,725	12,667
On-Time Payments to Vendors	2.1%	99%	97%

## PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2016 Target	FY 2016 Actual	Performance Results*
Patent Average First Action Pendency (months)	14.8	16.2	Not Met
Patent Average Total Pendency (months)	25.4	25.3	Met
Trademark Average First Action Pendency (months)	2.5-3.5	3.1	Met
Trademark Average Total Pendency (months)	12.0	9.8	Met
Trademark First Action Compliance Rate	95.5%	97.1%	Met
Trademark Final Compliance Rate	97.0%	97.8%	Met
Exceptional Office Action	40.0%	45.4%	Met
Trademark Applications Processed Electronically	82.0%	84.8%	Met
<i>Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions:</i>			
<ul style="list-style-type: none"> <li>▪ Institutional improvements of intellectual property (IP) office administration for advancing IP rights,</li> <li>▪ Institutional improvements of IP enforcement entities,</li> <li>▪ Improvements in IP laws and regulations, and</li> <li>▪ Establishment of government-to-government cooperative mechanisms.</li> </ul>	75%	100%	Met
Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce IP	5,000	4,975	Slightly Below

\* 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).

# TABLE OF CONTENTS

<b>MESSAGE</b>	<b>1</b>
From the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office	
<b>INTRODUCTION</b>	<b>9</b>
<b>About This Report</b>	<b>10</b>
<b>Your Guide to Using This Report</b>	<b>11</b>
<b>MANAGEMENT'S DISCUSSION AND ANALYSIS</b>	<b>12</b>
<b>Mission and Organization of the USPTO</b>	<b>13</b>
Our Organization	13
Patent Organization	14
Trademark Organization	15
Policy and International Affairs	15
Our People	15
<b>Regional Office Updates</b>	<b>17</b>
<b>Open Data and Big Data</b>	<b>18</b>
<b>Significant Case Law Developments</b>	<b>20</b>
Recent Decisions	20
<b>Performance Highlights</b>	<b>22</b>
Introduction to Performance	22
Strategic Performance Framework	22
Summary of Strategic Goal Results	25
<b>Management Challenges and What's Ahead</b>	<b>27</b>
Sustainable Funding	27
Enhanced Patent Quality Initiative	27
Administering AIA Patent Dispute Resolution Provisions	28
Reliance on Information Technology	28
Legal Challenges	28
<b>Systems and Controls</b>	<b>30</b>
Management Assurances	30
Other Compliance with Laws and Regulations	31
Other Systems and Control Considerations	33
<b>Financial Discussion and Analysis</b>	<b>34</b>
Financial Highlights	34
<b>PERFORMANCE INFORMATION</b>	<b>52</b>
<b>Introduction to the USPTO's Performance Goals and Results</b>	<b>53</b>
Performance Audits and Evaluations	54
Performance Data Verification and Validation	56
Commissioners' Performance for FY 2016	57

<b>Patents: Strategic Goal I</b>	<b>58</b>
Strategic Goal I: Optimize Patent Quality and Timeliness	60
<b>Trademarks: Strategic Goal II</b>	<b>73</b>
Strategic Goal II: Optimize Trademark Quality and Timeliness	75
<b>Intellectual Property: Strategic Goal III</b>	<b>84</b>
Strategic Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide	86
<b>Management Goal</b>	<b>97</b>
Management Goal: Achieve Organizational Excellence	98
<b>FINANCIAL SECTION</b>	<b>117</b>
<b>Message</b>	<b>118</b>
From the Chief Financial Officer	
<b>Principal Financial Statements and Related Notes</b>	<b>120</b>
<b>Required Supplementary Information</b>	<b>152</b>
<b>Independent Auditors' Report</b>	<b>153</b>
<b>OTHER INFORMATION</b>	<b>160</b>
<b>Combined Schedule of Spending</b>	<b>161</b>
<b>Inspector General's Top Management Challenges Facing the USPTO</b>	<b>162</b>
<b>Summary of Financial Statement Audit &amp; Management Assurances</b>	<b>164</b>
<b>Improper Payments Information Act (IPIA) of 2002, as Amended</b>	<b>165</b>
<b>Freeze the Footprint</b>	<b>168</b>
<b>Federal Civil Penalties Inflation Adjustment Act of 1990</b>	
(formerly known as the Civil Monetary Penalties Act)	<b>169</b>
<b>FY 2016 Other Administrative Updates</b>	<b>170</b>
<b>The Nature of the Training Provided to USPTO Examiners</b>	<b>172</b>
<b>FY 2016 USPTO Workload Tables</b>	<b>177</b>
<b>GLOSSARY OF ACRONYMS AND ABBREVIATIONS</b>	<b>207</b>
<b>INDEX OF URLs</b>	<b>211</b>

The image features a minimalist design on a white background. It consists of several overlapping circles. A large, light gray circle is centered in the frame. Overlapping its top and bottom edges are two thinner circles: one in a light blue color and one in a light orange color. The word "MESSAGE" is printed in a clean, gray, sans-serif font, centered within the gray circle.

MESSAGE



Michelle K. Lee

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

This past fiscal year at the United States Patent and Trademark Office (USPTO) provided several unique opportunities to reflect on the history and impact of our intellectual property (IP) system, including two recent celebrations: one marking the 70th anniversary of the Lanham Act and the other marking the 5th anniversary of the America Invents Act (AIA).

President Truman signed the Lanham Act into law on July 6, 1946, which served as a visionary, far-reaching piece of legislation that established the modern trademark system as we know it. President Truman also signed into law the Patent Act of 1952, one of the most ambitious overhauls to our nation's patent system until President Barack Obama signed the AIA on September 16, 2011.

The AIA went considerably further than did the previous patent acts. Among other major changes, it harmonized U.S. patent law with the rest of the world's by switching to a first-inventor-to-file regime; created a new Patent Trial and Appeal Board (PTAB) with new post-grant proceedings, providing quicker and less expensive alternatives to district court litigation; and granted the USPTO fee-setting authority. It also called on the USPTO, for the first time in the agency's history, to establish regional offices in every continental time zone and pro bono patent assistance in every state.

Through tremendous work by our talented employees and our dedicated partners in the private and public sectors, we succeeded in meeting or exceeding every one of the AIA's goals—including the creation of four new regional offices with full-time directors and staff—in the heart of our nation's most innovative ecosystems. These offices in Dallas, Denver, Detroit, and the Silicon Valley powerfully expand our ability to educate regional innovators about intellectual property. They also help inventors and businesses of all sizes directly access a wider range of services offered by the USPTO—including PTAB trials and public patent quality events like those we have planned for November and December of the new fiscal year. Having had the opportunity to stand up and help define the vision of these offices, I am very proud of their work and the ways they will benefit our IP system for generations to come. I've always said that one day when my daughter is old enough, I can point to the Silicon Valley Regional Office in our hometown and say, "Your mom had a hand in opening that office."

These noteworthy accomplishments could not be more timely, as they come into effect at a time when intellectual property is key to our economy. According to our new [Intellectual Property and the U.S. Economy: 2016 Update](#), co-authored with the Economics & Statistics Administration:

- IP-intensive industries directly and indirectly supported 45.5 million jobs in 2014, *nearly one-third of all U.S. employment.*
- The share of total U.S. gross domestic product (GDP) attributable to IP-intensive industries increased from 34.8 percent in 2010 to 38.2 percent in 2014.
- In 2014, workers in IP-intensive industries earned an average weekly wage of \$1,312, 46 percent higher than the \$896 average weekly wages in non-IP-intensive industries in the private sector.

Altogether, the findings in the report strongly suggest that the IP initiatives of the Obama administration—building on those of the Truman administration and others—have benefited not only our nation’s innovators and entrepreneurs, but also the American public and economy at large. IP today touches every aspect of our lives, from the increasingly “smart” devices we use and the vehicles we drive to the clothes we wear and the entertainment we enjoy. It is also critical to the breathtaking advances in science and medicine that save lives and improve our standard of living on a wide variety of fronts.

Making smart investments in our IP system to foster more game-changing innovations and economic growth has been my top priority as head of America’s Innovation Agency since day one. That effort continued at full speed in fiscal year (FY) 2016, thanks in large part to the fee-setting authority granted by the AIA, a responsible operating reserve collected through those fees, and an expanding and highly talented nationwide workforce now totaling nearly 13,000.

We are confident that the USPTO’s financial and performance data are complete, reliable, accurate, and consistent as we improve our ability to measure progress toward our performance goals. For the 24th consecutive year, we earned an unmodified audit opinion on our annual financial statements. For FY 2016 financial reporting, the independent auditors did not identify any material weaknesses or instances of non-compliance with laws and regulations. As a result of our internal review processes, as well as input from the Government Accountability Office (GAO) and the Office of Inspector General (OIG), we continue to make efforts to improve our internal operations and controls.

## Patents

At the start of the Obama administration in 2009, our backlog of unexamined patent applications stood at 750,000. By FY 2016, we had reduced that number to about 540,000, a decline of more than 28 percent in spite of an annual increase in filings of almost 4 percent. We also reduced our first action pendency, by 37.5 percent, from 25.9 months in January 2009 to 16.2 months in September 2016, and the total pendency, by 25.1 percent, from 33.8 months in January 2009 to 25.3 months in September 2016—all of which means that deserving patented technology can reach consumers at home and around the world sooner than they would have in the past, further driving innovation and economic growth.

We continued to execute on our *Enhanced Patent Quality Initiative* (EPQI) started in FY 2015, which aims to improve patent quality by taking steps before, during, and after examination to ensure that the patents that we issue are clear, consistent, and accurate. We, again, collaborated with the public through a Patent Quality Community Symposium (similar to the Patent Quality Summit of 2015), with an extraordinary turnout at our headquarters, regional offices, and online. We also started several new quality projects in FY 2016, like the *Clarity of the Record Pilot* that concluded in August. The goal of this pilot was to identify and refine best practices for enhancing the clarity of the prosecution record with respect to claim interpretation, reasons for allowance, and interview summaries. It also encouraged examiners to initiate pre-search interviews as needed to gain a better understanding of the claimed invention.

We also initiated a *Clarity and Correctness Data Capture* program, with the goal of creating an improved data capture system that will enable reviewers of completed USPTO work products to consistently document and access, in one place, data from the reviews the agency already conducts. By entering the results of these reviews into a single database, the agency will ultimately capture much more data than it had in the past. By using this

---

**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.

data, we will be able to identify trends at a more granular level (eventually 3 to 5 times more data), and in doing so, will be poised to provide more targeted training to achieve greater accuracy, consistency, and clarity in prosecution. As part of this effort, the USPTO is standardizing reviews through the use of a single review form, called the *Master Review Form*, which places a much greater emphasis on assessing the clarity of an examiner's reasoning in a rejection compared with past review forms, while maintaining the agency's historic focus on addressing the correctness of an examiner's action.

Another quality initiative of note this year was our *Post Grant Outcomes Pilot*, which focuses on harnessing the art raised during PTAB AIA trials to enhance the examination of related applications. Also, by reviewing the results from the PTAB proceedings, we may be able to identify examination best practices or deficiencies in certain areas that we can propagate or correct through additional examiner training. We also plan to enhance our examiners' understanding about what happens to a patent *after* it leaves the USPTO, including how licensors, licensees, and litigants might take a patent and its prosecution history to argue infringement or invalidity and how courts have ruled on these issues.

### Trademarks

Meanwhile, our Trademarks team—in addition to meeting or exceeding targets for pendency and quality in spite of a 5.2-percent increase in new filings from FY 2015—has been updating its information technology (IT) systems, developing educational outreach programs, improving the accuracy and integrity of the trademark register, and ensuring that our trademark fees are fair and reflect the full cost of our services and products.

Trademarks recently established the Office of the Deputy Commissioner for Trademark Administration to support IT, finance, and strategic planning. The new deputy will be supported by two new senior-level positions: the Information Technology Administrator and the Information Technology Legal Administrator.

The Trademarks IT team is working with the Office of the Chief Information Officer (OCIO) on a multi-year Trademark Next Generation (TMNG) project for replacing legacy IT systems, with an expected deployment in FY 2017. In addition, they are working to increase the capability of those legacy systems needed for the foreseeable future, with a full suite of improvements anticipated before the end of calendar year 2016. Trademarks is working diligently with the OCIO to retire legacy systems as quickly as possible.

Trademarks is also actively engaged in developing educational outreach programs that offer the best possible IP guidance and training to all, including a series of videos on the trademark information network that cover an array of subjects, the most popular being "Basic Facts about Trademarks: What Every Small Business Should Know Now, Not Later." Trademarks will continue to provide this service and expand on it in the future in an effort to promote understanding of trademark basics, enforcement measures, and available tools for protecting and enforcing trademark rights.

Trademarks is continually taking strides to improve the accuracy and integrity of the trademark register, including a Notice of Proposed Rulemaking (NPRM) in the Federal Register to make our random audits of Section 8 or 71 Affidavits of Continued Use permanent. In addition, we are considering one or more new or revised procedures to cancel registrations for marks that are either no longer in use or have never been used. On April 28, the Trademark Public Advisory Committee convened an executive session to discuss the possibility of a new expungement procedure as well as several streamlined Trademark Trial and Appeal Board



(TTAB) cancellation procedures. We also discussed this idea with various stakeholder groups and will continue to obtain feedback to aid us in fully developing the concepts.

Finally, Trademarks published an NPRM to modify some of our fees. The purpose of this fee proposal is to further USPTO strategic objectives by (1) better aligning fees with the full cost of products and services, (2) protecting the integrity of the register by incentivizing more timely filing or examination of applications and other filings and more efficient resolution of appeals and trials, and (3) promoting the efficiency of the process, in large part through lower-cost electronic filing options than paper filing options. By modifying these fees, we hope to further incentivize electronic filing and easier communication.

### **Policy and International Affairs**

The agency has also been active on copyright policy. In January, the USPTO—as co-lead of the Commerce Department’s Internet Policy Task Force with the National Telecommunications and Information Administration—released the long-anticipated [\*White Paper on Remixes, First Sale, and Statutory Damages\*](#). The paper analyzed three important copyright topics: (1) the legal framework for the creation of remixes, (2) the relevance and scope of the first sale doctrine in the digital environment, and (3) the appropriate calibration of statutory damages in the contexts of individual file sharers and of secondary liability for non-willful, large-scale online infringement. Among other recommendations, the white paper supports amending the Copyright Act to provide more guidance and greater flexibility to courts in awarding statutory damages by incorporating a list of factors to consider when determining the amount of a statutory damages award.

On another important policy front, the USPTO held a symposium on trade secrets in January and provided technical assistance as Congress formulated and considered legislative proposals regarding trade secrets. Innovators of all types, from independent inventors to large corporations, rely on trade secrets to safeguard their creativity, gain competitive advantage, and further their business goals. This is why enactment of the Defend Trade Secrets Act in May 2016 was such a noteworthy achievement. It strengthens U.S. trade secret protection for U.S. companies and independent inventors, including manufacturers of all sizes, allowing them to have the same access to federal courts long enjoyed by holders of other types of intellectual property. I’m proud of the work the USPTO did to secure passage of this landmark legislation.

On the international front, the USPTO continued to promote and guide sound IP policy in several critical areas. This February, the USPTO—which led the U.S. negotiation of the *Beijing Treaty on Audiovisual Performances* in 2012 and the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled* in 2013—sent the administration’s implementation proposals for both treaties to Congress.

The Beijing Treaty will fill a gap in the international copyright system by extending to audiovisual performers the types of protections already provided to authors and to performers and producers of sound recordings. The Marrakesh Treaty will improve access to printed works for persons with visual disabilities. Together, they amount to a complementary and historic improvement in global copyright policy.

The USPTO also made significant progress in cooperative efforts related to harmonization of substantive patent law. For example, we continued to work with IP offices in other countries to develop an “objectives and principles” document that specifies the principles for an internationally harmonized patent system, as well as the goals that such a system should aim to achieve. In December 2015, we hosted the inaugural meeting of the ID5 (Industrial Design

Five) Forum, bringing together for the first time representatives of the world's five largest industrial design offices.<sup>1</sup> At the meeting, we discussed ways of improving consistency in industrial design registration policies, promoting interoperable procedural frameworks, and better protecting emerging designs, such as graphical user interfaces, animations, and other new technology designs. The five offices also signed the *Agreed Statement on Administering a New Industrial Design Framework*, which recognized the importance of promoting and further developing a user-friendly industrial design protection system and endeavored to establish a new industrial design framework comprised of the five offices.

The USPTO also continued working with its partners in the IP5, the forum of the five largest IP offices in the world,<sup>2</sup> including on a Patent Cooperation Treaty collaborative search and examination project. In the trademark area, the USPTO advanced several strategic cooperative projects through the TM5, a framework that consists of the five largest trademark offices in the world.<sup>3</sup> These projects help foster more efficient and user-friendly trademark systems.

In January, the USPTO and Brazil's National Institute of Industrial Property (INPI-BR) launched a Patent Prosecution Highway (PPH) pilot program, the USPTO's first-ever work sharing arrangement with INPI-BR and the culmination of several years of dialogue and cooperation. Under the PPH, an applicant who receives a favorable ruling on patentability from one office may request that the other participating office expedite the examination of a commonly filed application. By leveraging each office's work products, participating offices can accelerate processing and improve patent quality, which in turn allows applicants to obtain higher quality patents in multiple jurisdictions with significant savings in terms of time and money. The agreement with INPI-BR brings the total of PPH agreements that the United States has signed with other nations around the world to 22.

Finally, the USPTO supported the administration's efforts in negotiating outcomes for the G-20 meeting held in Hangzhou, China, September 4-5, by participating in Department of Commerce leadership for task forces dealing with the Digital Economy, Innovation, and the New Industrial Revolution. The action plans for all three contain positive references to IP, affirming "the importance of adequate and effective intellectual property protection and enforcement for innovation."

### **Investing in Our Future**

In FY 2016, the USPTO continued to invest in its employees and the tools they use to deliver timely and quality IP protections for the American people.

Working with experts from the private sector, the USPTO initiated an agency-wide Customer Experience Excellence Program to enhance the customer experience and to better serve our internal and external customers. The first phase, now complete, included baselining our performance; benchmarking USPTO customer experience performance against industry and government organizations; and creating a plan for improvement.

To better understand the drivers of employee engagement, and to pinpoint specific areas for improvement, we continued the administration of our own "People Survey," in addition to

---

<sup>1</sup> The USPTO, the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the European Union's Office for Harmonization in the Internal Market, and the State Intellectual Property Office of the People's Republic of China (SIPO).

<sup>2</sup> The USPTO, the European Patent Office, the JPO, the KIPO, and the SIPO.

<sup>3</sup> The USPTO, the European Union Intellectual Property Office, the JPO, the KIPO, and the Trademark Office of the State Administration for Industry and Commerce of the People's Republic of China.

the federally administered “Employee Viewpoint Survey.” Both surveys are critical tools in ensuring that the USPTO remains one of the best places to work in the federal government.

Another valuable tool is the USPTO Innovation Challenge, an agency-wide competition that encourages employees to submit, view, comment, and vote on ideas on how to improve USPTO. This year’s challenge topic was to identify new ways to communicate, connect, and engage at the USPTO. We received a lot of valuable and creative input, which was still being evaluated at the end of the fiscal year. The winner of this challenge will be announced on November 15.

Finally, the USPTO continued its improvement efforts to build a 21st century IT system for a 21st century innovation agency, not just with the latest hardware and software, but also with the latest thinking about how IT operates in a complex environment—including examination quality and reliability and enhancements to our telework program, a vital business strategy that saves the USPTO millions of dollars in facility costs each year and allows continued operations during shutdowns of the physical office. This past January, when the East Coast was hit by a monster blizzard and the federal government in the Washington, DC, area was officially shut down, 77 percent of the total USPTO workforce was able to telework at peak times of the day.

### **Cancer Moonshot and the Future**

Our employees and the work we do at the USPTO are more important than ever, because the power of American innovation and IP is being called upon once again to meet some of the most pressing challenges of our times.

In his final State of the Union address, President Obama challenged our nation to cure cancer once and for all, and during the subsequent White House Cancer Moonshot Summit, Vice President Joe Biden and the USPTO announced new actions aimed at answering the president’s call to action.

One of these actions is the “Patents 4 Patients” initiative, which establishes a fast track review for cancer-treatment-related patents. Launched in July, this free, accelerated initiative will cut in half the time it takes to review patent applications in cancer therapy, aiming to have final decisions made in 12 months or less. This “fast track” will be open to any applicant, including early stage bio-tech companies, universities, and large pharmaceutical firms.

In August, we launched a Cancer Moonshot Challenge on the USPTO Developer Hub, a new platform we created to leverage what very well may be the world’s largest repository of data on innovation and research and development technology trends. As part of this challenge, we released a curated data set consisting of 269,353 patent documents (published patent applications and granted patents), including our own cancer moonshot API (application programming interface). The data included detailed information on published patent applications and granted patents relevant to cancer research and development, such as drugs, diagnostics, surgical devices, data analytics, and genomic-based inventions. We challenged participants to use the IP data to reveal new insights on how we can leverage it in the fight against cancer.

In September we added a “Horizon Scanning Tool” to the USPTO Developer Hub, which will leverage patent data sets to reveal new insights into investments around cancer therapy research and treatments. This data will enable users to build rich visualizations of IP data, often an early indicator of meaningful research and development, and combine

them with other economic and funding data. The Horizon Scanning Tool ultimately will illuminate trend lines for new treatments and empower the federal government, as well as the medical, research, and data communities, to make more precise funding and policy decisions based on the commercialization lifecycle of the most promising treatments, thereby maximizing U.S. competitiveness in cancer investments.

Finding a cure for cancer requires the formation of new alliances between the public and private sectors, and the USPTO is proud to be a part of that team. We are also proud of our Patents for Humanity program, launched in 2012 as part of an Obama administration initiative promoting game-changing innovations to solve long-standing development challenges. Award recipients receive public recognition at an award ceremony arranged by the USPTO and a certificate to accelerate certain matters before the USPTO. This year's winning innovations included an improved meningitis vaccine production process that has been used to immunize 235 million people in high-risk African countries; a low-cost, accurate malaria detection device that uses magnets and lasers to allow better diagnosis and treatment; a quick, simple diagnostic test for preeclampsia, a potentially life-threatening pregnancy complication; and a passive cooler that can keep vaccines cold for over 30 days.

I have always believed that collectively we can make a real difference through the power of innovation and our IP system more broadly. It was this conviction that led me to accept my position at the USPTO, and everything I have experienced here since then has reinforced my faith in the importance of this agency's role in the IP system.

Thanks to the historic efforts of this administration and the exceptional manner in which USPTO employees rose to the challenge, this agency is poised for even greater achievements to come in the years ahead.



Michelle K. Lee

November 14, 2016

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



# INTRODUCTION

## ABOUT THIS REPORT

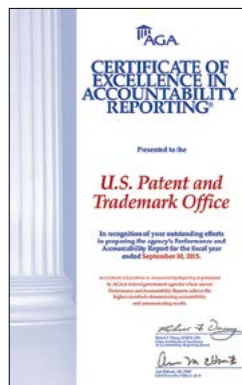
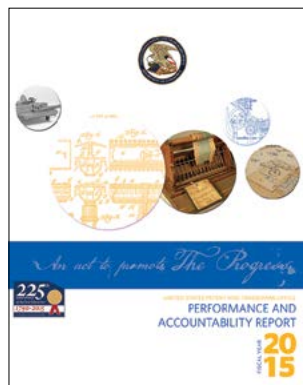
The U.S. Patent and Trademark Office (USPTO) Performance and Accountability Report (PAR) provides information on the USPTO's programs and the results of the agency's programmatic and financial performance for fiscal year (FY) 2016. This report demonstrates to Congress, the administration, and to the 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](http://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](http://www.uspto.gov/annualreport).

### CONTRIBUTORS

The financial and program performance information presented in this report is the joint effort of the Under Secretary's office, 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), and the Office of the Chief Financial Officer (OCFO).



Last year's PAR cover and AGA's Certificate of Excellence in Accountability Reporting

# 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. An update of the regional offices, an overview of the open data program, a summary of significant case law developments, and the agency's FY 2016 program and financial performance are all 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 auditors' report.

## OTHER INFORMATION SECTION

This section provides a Schedule of Spending, which ties back to the Statement of Budgetary Resources in the **Financial Section**, detailing resources available and how and where the money was spent. This section also 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 freeze 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 2016 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 can be found in the URL Index on page 211. It provides full Web addresses for all hyperlinks included in the Management's Discussion and Analysis narrative.

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



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 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 writing and discoveries," and the Commerce Clause of the Constitution (Article 1, Section 8, Clause 3) supporting the federal registration of trademarks.

In addition, the USPTO has a statutory mandate 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 under the legal framework that the USPTO leads.

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.

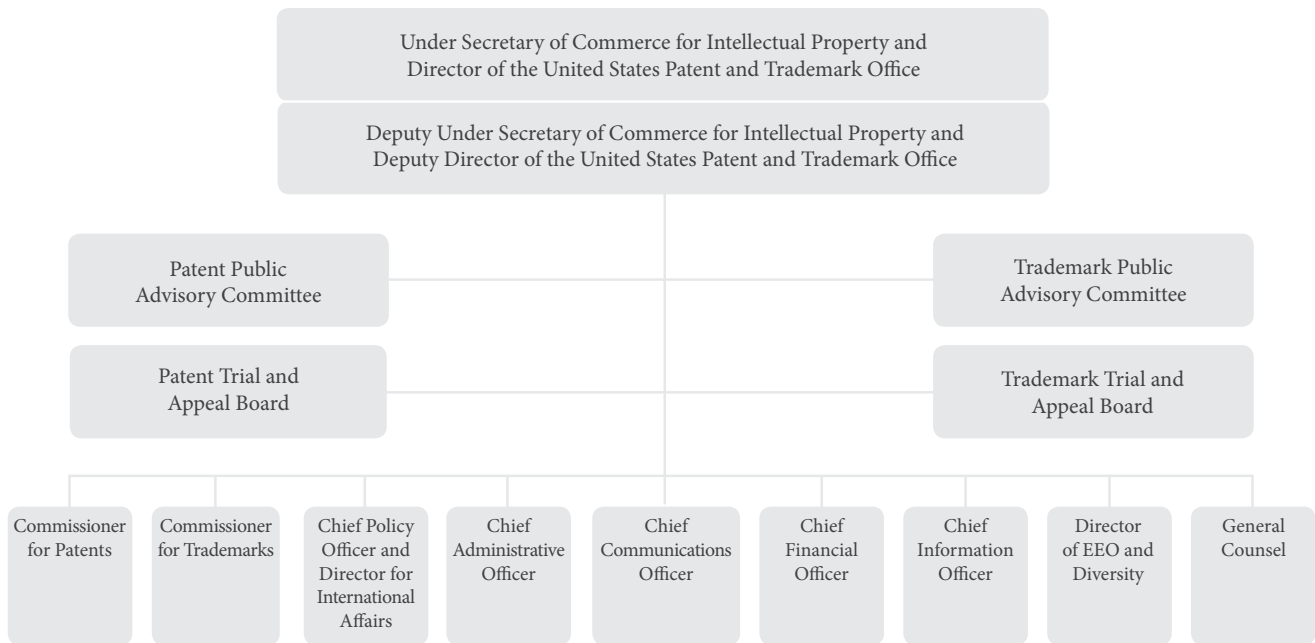
## OUR ORGANIZATION

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 conducted by OPIA, and the USPTO also has several other supporting units, as shown in the organization chart labeled Figure 1.

Headquartered in Alexandria, Va., the USPTO also has regional offices in Detroit, Mich.; Denver, Colo.; Silicon Valley, Calif.; and Dallas, TX. The USPTO has two storage facilities located in Virginia and 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, a clear mission statement, measurable services, a performance measurement system, and known sources of funding. In 2011, President Obama signed into law the AIA. The reforms enacted under the AIA help the USPTO to improve and clarify patent rights, reduce the application backlog, and offer effective alternatives to costly patent litigation. It also provides temporary fee-setting authority that is essential to the USPTO's sustainable funding model.

**Figure 1**  
**U.S. PATENT AND TRADEMARK OFFICE ORGANIZATIONAL CHART**



See [www.uspto.gov/about-us](http://www.uspto.gov/about-us) for more details about the USPTO organization.

As the clearinghouse for U.S. patent rights, the USPTO is an important catalyst for U.S. economic growth, because it plays a key role in fostering the innovation that drives job creation, investment in new technology, and economic recovery. Through the prompt granting of patents, the USPTO promotes the economic vitality of American business, paving the way for investment, research, scientific development, and the commercialization of new inventions. The USPTO also promotes economic vitality by ensuring that only valid patent applications are granted, thus providing certainty that enhances competition in the marketplace.

### **PATENT ORGANIZATION**

The Patent organization examines patent applications to determine whether the claimed invention is eligible for patent protection, useful, adequately disclosed, 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 (trademarks, service marks, certification marks, and collective membership marks) 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 process 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 the 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.

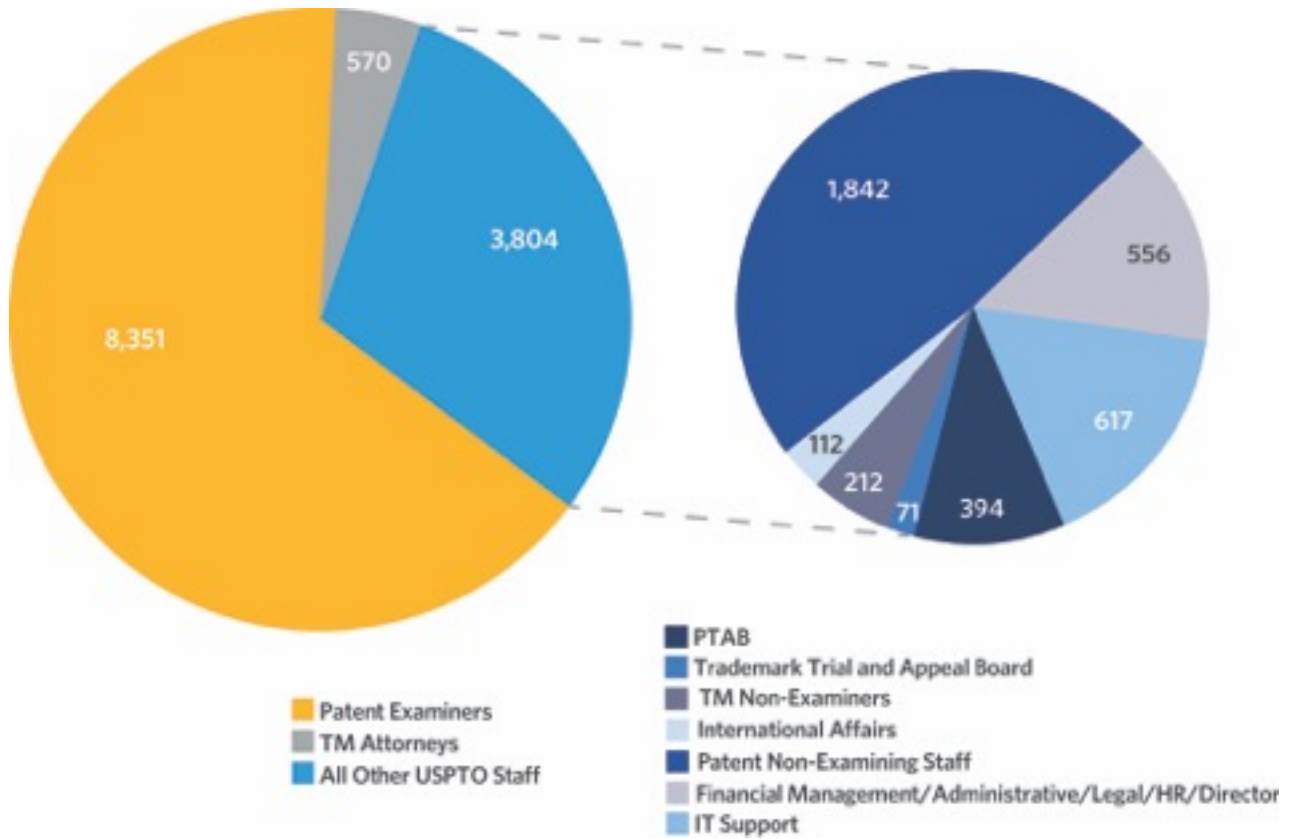
## **POLICY AND INTERNATIONAL AFFAIRS**

The OPIA supports the Under Secretary's Office in fulfilling the USPTO's statutory mandate to advise the president and all federal agencies (through the Secretary of Commerce) on all IP policy issues, to conduct programs and studies on IP, and to work with IP offices and intergovernmental organizations worldwide. In particular, the USPTO, through OPIA, advises the Secretary of Commerce and the administration on the full range of IP policy matters, provides educational programs on IP, leads negotiations on behalf of the United States at the World Intellectual Property Organization (WIPO), assists in negotiating the IP provisions of international trade agreements and advises on their implementation, and encourages and supports empirical studies of the economic impacts of IP and innovation.

## **OUR PEOPLE**

At the end of FY 2016, the USPTO workforce (Figure 2) was composed of 12,725 federal employees (including 8,351 patent examiners, 570 trademark examining attorneys, 3,804 other staff including, but not limited to, judges, international affair/congressional relations, IT support, financial management, administrative, legal, human resources, and the Under Secretary's office).

**Figure 2**  
USPTO STAFFING



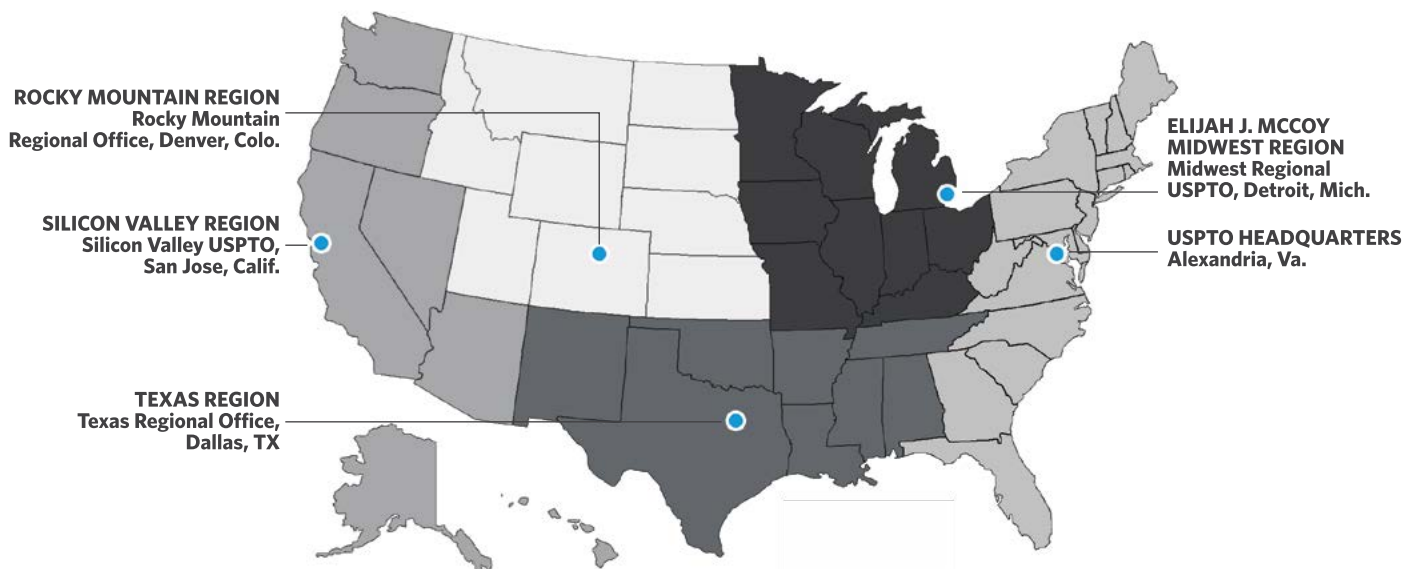
## REGIONAL OFFICE UPDATES

In early FY 2016, the USPTO opened its two newest regional offices in Silicon Valley (San Jose) and Dallas, joining two existing offices in Detroit and Denver (Figure 3). The opening of each of these offices was a momentous event, not only for the USPTO, but also for inventors, innovators, and entrepreneurs throughout the country. These “innovation embassies” serve as hubs of education, outreach, and innovation and go far beyond simply processing applications and PTAB cases; rather, they serve their region’s innovation and IP communities and put tools into the hands of those who need assistance at every step of the business lifecycle. Thanks to these offices, innovators can discuss the details of their applications via face-to-face or video conversations with their assigned patent examiners without having to travel to USPTO headquarters in Alexandria. In addition, innovators can walk into any of the four regional offices and learn about the basics of IP—including patents, copyrights, trademarks, and trade secrets—and use search terminals to determine whether their invention is truly novel or has already been created by others.

Perhaps most important, these offices support the USPTO’s core mission of fostering American innovation and competitiveness by offering services to entrepreneurs, inventors, and small businesses while effectively engaging communities and local industries. Indeed, the USPTO’s regional offices enable the USPTO to receive input from a greater cross-section of its stakeholder community. This is essential if the USPTO is to best serve its customers and promote American innovation across all geographic regions of the country. Today, all of USPTO’s regional offices have directors and regional outreach officers, making it well-positioned to fully advance its mission. Hiring has continued with new classes of examiners training in Detroit, Silicon Valley, and Dallas. The USPTO encourages its stakeholders to take advantage of the myriad resources its regional offices offer.

**In FY 2016, the USPTO celebrated the official opening of its third and fourth regional offices. This fulfilled a commitment dating to September 16, 2011, when President Obama signed into law the Leahy-Smith America Invents Act. Located in Silicon Valley, Calif., and Dallas, TX, respectively, these two new offices joined the USPTO’s Midwest Regional Office in Detroit, Mich., which opened in July 2012, and the Rocky Mountain Regional Office in Denver, Colo., which opened in June 2014.**

**Figure 3**  
MAP OF THE USPTO AND REGIONAL OFFICES



## OPEN DATA AND BIG DATA

### OPEN DATA

At the White House Open Data Innovation Summit held on September 28 in Washington, DC, the USPTO had the opportunity to showcase its open data program bringing together not only the missions of the Department of Commerce, but also the missions of the federal government.

The administration released a fact sheet of key accomplishments over the past eight years in opening government data to spur innovation, opportunity, and economic growth.

The fact sheet also included information about the USPTO Developer Hub.



The Obama administration challenged the federal government to “open” data, because it is often an underutilized national resource. Today, the USPTO has accrued a mountain of scientific knowledge via the millions of patent applications received. As part of the Progress Clause of the U.S. Constitution, by exchanging the disclosure of an invention to the public, the inventor obtains exclusive rights for a limited period of time. This ever-growing repository is a vast trove of unlocked data that goes back over 225 years. The USPTO took this call to action to open its data to heart.

Although knowledge disclosed in patents has always been public information, the USPTO was challenged to make complex information accessible so that it could be leveraged as a source of innovation, a cornerstone of economic opportunity for businesses and entrepreneurs, and a foundation of greater prosperity for millions. Historically speaking, patents were accessible by searching through extensive paper records organized in stacks called shoes. (According to lore, Thomas Jefferson used shoe boxes to store patent applications while serving as Secretary of State and the nation’s first patent examiner.)

To bring the USPTO into the 21st century, the agency has created a new IT portfolio called *Digital Service and Big Data* (DSBD). DSBD delivers on both the Open Data and Big Data Roadmaps to deliver several key products, capabilities, and a data governance board previously not available to the USPTO. The strategic vision of the DSBD portfolio is to unleash and unlock the value of the agency’s open data initiative and to harness the power of “big data,” enterprise-wide, as a data-driven program to leverage data for actionable intelligence, creating operational effectiveness.

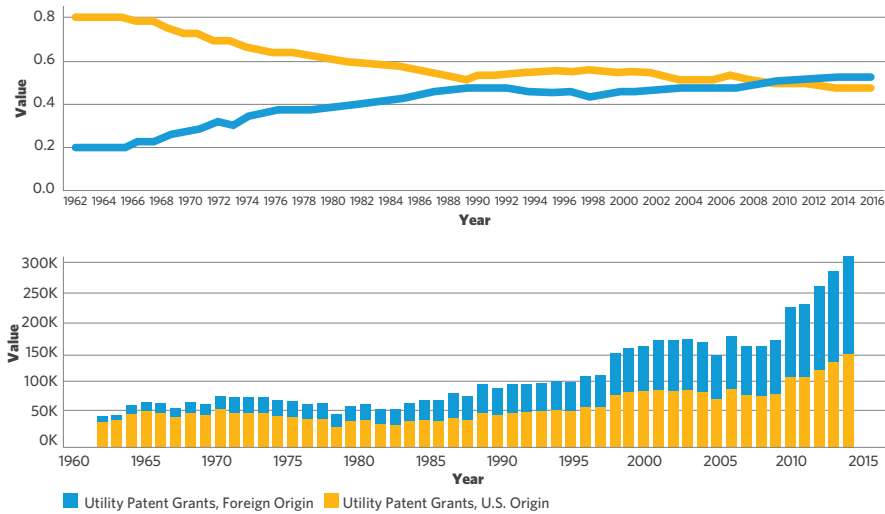
The USPTO’s open data initiative seeks to improve the discoverability, accessibility, and usability of this valuable public patent and trademark information through application programming interfaces (APIs). APIs power a majority of mobile applications, many IT programs, and also create a market for the private sector to develop value-added data-driven products and services. The USPTO currently makes its public patent and trademark data available in bulk form, which can be loaded into databases or onto other analytical tools for research and analysis.

The flagship deliverable of open data is the USPTO Developer Hub tool (<https://developer.uspto.gov>), which (a) provides APIs to the USPTO’s extensive data and repackage data sets to improve accessibility, (b) provides an open-source visualization tool as one means of exploring these data to tell stories with innovation data, and (c) creates an online community to share visualizations and insights.

The vision of the developer hub is to readily find patent and trademark data, to visualize the USPTO’s data in new ways, and to share with others so as to inspire new ideas and stories about innovation with IP data.

By placing innovation data into the hands of innovators and entrepreneurs, they are allowed to see what has come before them—what has worked commercially and what has not—which empowers a more innovative society to unlock new insights. The USPTO empowers the nation’s innovators—whether they be in school, starting up a business, or representing the world’s biggest companies—by opening up the vast reserves of scientific knowledge captured in patents. This can be accomplished by developing modern platforms/interfaces and by creating an online community dedicated to mining and

**Figure 4**  
PATENTS GRANTED FROM DOMESTIC FILERS VS. FOREIGN



mashing up these data. Innovators everywhere can now more easily leverage the scientific advances of humanity to ensure that the greatest achievements are yet to come.

Patent filings (data) provide early signs of meaningful research and development, which are leading indicators of innovation. Through an in-house “startup” team, the USPTO created tools on an accelerated timeframe with limited resources to enable precise and impactful funding and public policy efforts to improve the effectiveness of the understanding of the role of innovation data.

By using the Developer Hub, the USPTO can flex its “open data muscle” by challenging participants in the USPTO Cancer Moonshot Challenge (p. 64) to reveal new insights through linked data sets and interactive visualizations. The agency can demonstrate how IP data can be leveraged (a uniquely curated patent data set and API) to catalyze new innovations, allowing for the sharing of information to provide hope to those suffering from cancer. The Developer Hub offers new ways to explore and identify how IP data can be better leveraged and combined with other data sets to support cancer research and the development of new commercialized therapies.

The USPTO is internally harnessing big data for business intelligence to improve performance management. With big data capabilities, the USPTO will be able to institutionalize, measure, and continually refine the success of its patent quality initiatives, such as measuring training standards and providing risk management through machine learning, modeling work products to increase the level of quality. The USPTO has implemented its Big Data Roadmap (enterprise architecture), hired its first data scientist, and built a big data reservoir to prototype new tool(s) and to leverage data science modeling to solve problems agency-wide. Moving forward, big data will serve as a platform for advanced analytics and business intelligence to transition from an agency built on 20th century metrics to an agency that uses 21st century business acumen at every operational level. This will ensure that U.S. patents and trademarks are of the highest quality to improve organizational excellence.

In 2016, the Association of Public Data Users (APDU) announced their inaugural Data Viz Awards “Call for Visualizations,” soliciting creative and meaningful visuals that use publicly-available data to convey a compelling point. Figure 4 showcases the two graphic visualizations that the USPTO submitted for consideration to the APDU and which subsequently were selected as the winners of the Data Viz Award. Submissions were received nationwide from public agency and private sector staff, researchers, and students. Visualizations were developed by using various tools with a common purpose: to use public data to convey meaningful information in a compelling manner.

## 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 wide variety of subject matter, affecting both agency practice and substantive patent and trademark law and implicating a broad spectrum of legal issues.

In FY 2016, the USPTO prevailed a major victory in the first AIA-related case to reach the U.S. Supreme Court: *Cuozzo Speed Technologies, LLC v. Lee*. The Supreme Court decided two highly significant points in favor of the USPTO in *Cuozzo*. First, the Supreme Court upheld a USPTO regulation concerning the standard by which patent claims are to be construed during inter partes review, a procedure created under the AIA that allows a third party to ask the USPTO to reevaluate the claims in an already issued patent and to cancel any claim that the agency finds to be unpatentable in light of prior art. The AIA granted authority to the USPTO to issue regulations establishing and governing inter partes review. The USPTO issued a regulation pursuant to that authority, which provides that, during inter partes review, a patent claim “shall be given its broadest reasonable construction in light of the specification of the patent in which it appears.” The Supreme Court found that the agency’s regulation was a reasonable exercise of the USPTO’s authority. The affirmance of the agency regulation provides certainty and clarity to both of the parties involved and to the PTAB judges overseeing these proceedings.

Second, the Supreme Court upheld the USPTO’s interpretation of the statute governing the institution of inter partes review. The relevant portion of the AIA provides that the agency’s decision “whether to institute an inter partes review...shall be final and non-appealable.” The Supreme Court adopted the USPTO’s view that agency decisions to institute inter partes review are not subject to further court review, even as part of a final agency decision on the merits of patent validity, except under rare circumstances. The net effect of the *Cuozzo* decision is that it will free up agency resources that might otherwise have been spent on unnecessary litigation of institution decisions.

On the amicus front, the Supreme Court also sided with the position advocated by the USPTO, working together with the Solicitor General’s Office and other federal agencies, in *Halo Electronics, Inc. v. Pulse Electronics*. In *Halo*, the Supreme Court concluded that the Federal Circuit set too high a standard for awarding enhanced patent infringement damages under 35 U.S.C. § 284 based on willfulness. Under the Federal Circuit’s test, enhanced damages could only be awarded if the patentee shows that (a) the infringer acted in an objectively reckless manner, and (b) the infringer acted in subjective or knowing bad faith. The government submitted a brief arguing that awards of enhanced damages should be allowed when the defendant engaged in deliberate copying or similarly egregious misconduct, and that this standard is not met by a defendant who did not copy and who simply continued to infringe while relying on a reasonable defense to liability.



Largely adopting the government's position, the Supreme Court held that a patent infringer's subjective willfulness may warrant enhanced damages, irrespective of whether the infringement was objectively reckless. The Supreme Court also held that the evidentiary standards employed in the Federal Circuit's two-part test were too high and proposed a more flexible, case-by-case approach to determining whether enhanced damages are warranted. The *Halo* decision is expected to enhance patent rights by lowering the bar for enhanced damage awards and thereby better protecting patentees from subjectively willful infringement.

# 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 2016 performance results. The USPTO issued its *2014-2018 Strategic Plan* in 2014. 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 the 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 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. As a result, it is critical that the USPTO thrive for American innovation to succeed.

## STRATEGIC PERFORMANCE FRAMEWORK

To fulfill the mission and goals included in the [FY 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 responsible business unit prepared action plans for implementing each of the initiatives, and results are documented semiannually 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 2016 there were 10 Strategic Plan key performance outcome measures all designed to monitor progress as the USPTO implements initiatives to achieve the USPTO’s 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 performance dashboard](#). In FY 2016, the USPTO met or exceeded its targets for 8 out of 10 key performance metrics. A summary of the key performance measurement results is provided in Tables 1 and 2.

**TABLE 1: Summary of FY 2016 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
<b>Goal I:</b> Optimize Patent Quality and Timeliness	7	2	1	-	1
<b>Goal II:</b> Optimize Trademark Quality and Timeliness	5	6	6	-	-
<b>Goal III:</b> Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide	2	2	1	1	-
<b>Management Goal:</b> * Achieve Organization Excellence	4	-	-	-	-
<b>TOTAL</b>	<b>18</b>	<b>10</b>	<b>8</b>	<b>1</b>	<b>1</b>

\* 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 FY 2016 USPTO performance results are illustrated in Table 2 and Figure 5. The goals and objectives for these performance commitments are outlined in the strategic framework presented in Table 3. A summary of strategic goal results by strategic goal is presented in Figure 5.

**TABLE 2**

Summary of Key Strategic Goal Results for FY 2012–2016						
Strategic Goals Key Performance Measures	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Target	FY 2016 Actual*
<b>GOAL I: Optimize Patent Quality and Timeliness</b>						
Average First Action Pendency (in months)	21.9	18.2	18.4	17.3	14.8	16.2
Average Total Pendency (in months)	32.4	29.1	27.4	26.6	25.4	25.3
<b>GOAL II: Optimize Trademark Quality and Timeliness</b>						
Average First Action Pendency (in months)	3.2	3.1	3.0	2.9	2.5–3.5	3.1
Average Total Pendency (in months)	10.2	10.0	9.8	10.1	12.0	9.8
First Action Compliance Rate	96.2%	96.3%	95.8%	96.7%	95.5%	97.1%
Final Compliance Rate	97.1%	97.1%	97.2%	97.6%	97.0%	97.8%
Exceptional Office Action	26.1%	35.1%	43.0%	48.3%	40.0%	45.4%
Trademark Applications Processed Electronically	77.0%	79.0%	80.7%	82.2%	82.0%	84.8%
<b>GOAL III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b>						
Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions: <ul style="list-style-type: none"> <li>Institutional improvements of intellectual property (IP) office administration for advancing IP rights,</li> <li>Institutional improvements of IP enforcement entities,</li> <li>Improvements in IP laws and regulations, and</li> <li>Establishment of government- to-government cooperative mechanisms.</li> </ul>	75.0%	100.0%	100.0%	100.0%	75.0%	100.0%
Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce Intellectual Property	N/A	N/A	N/A	5,283	5,000	4,975

\*Current year actuals are preliminary and may change after the publication of this report. Subsequent changes, if any, will be reported in the FY 2017 Performance and Accountability Report.

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

**Figure 5**  
**2016 PERFORMANCE RESULTS BY STRATEGIC GOAL**



**SUMMARY OF STRATEGIC GOAL RESULTS**

Table 2 highlights the FY 2016 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.

**TABLE 3**

2014–2018 Strategic Plan	
<b>MISSION</b>	
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.	
<b>VISION</b>	
Leading the Nation and the World in Intellectual Property (IP) Protection and Policy	
Strategic Goals with Resources Invested	Objectives
<b>Goal I:</b> <b>Optimize Patent Quality and Timeliness</b> Obligations: \$2,828.6 million Total Program Cost: \$2,794.8 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
<b>Goal II:</b> <b>Optimize Trademark Quality and Timeliness</b> Obligations: \$261.3 million Total Program Cost: \$271.5 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)
<b>Goal III:</b> <b>Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b> Obligations: \$56.7 million Total Program Cost: \$53.3 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
<b>MANAGEMENT GOAL:</b> <b>Achieve Organizational Excellence*</b>	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.

# 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 continues to be a challenge, particularly in this era of increased budgetary pressures. The USPTO will continue to pursue full access to all fee collections, maintain a prudent operating reserve, stay current with business-oriented financial tools, optimize the fee structure under existing authorities, and seek permanent fee-setting authority. Failure in these areas could mean loss of fee-payer confidence if the USPTO cannot fulfill the performance commitments it makes when setting fees.

As a fully user-fee-reliant government entity, the USPTO must not only justify its annual budget requirements, but also must plan and project for the fee collections that will be used to fund those requirements. Because its business activities cross fiscal year lines, the USPTO conducts multiyear planning at both the strategic and operational levels. This process reinforces the USPTO's commitment to financial stability by looking beyond the one-year time horizon in funding operating programs and capital improvements and promotes more orderly spending patterns, which are a critical component for successful achievement of performance targets, revenue planning, and fee-setting.

Although the USPTO receives an appropriation like other traditional federal agencies, the office charges user fees to cover the cost of patent and trademark goods and services, and these fee collections are then deposited into an account with the Department of Treasury. The USPTO must request access to these collections through a budget justification to Congress, which can then approve the use of the Treasury-deposited funds.

The challenge for the USPTO is to enhance awareness and understanding of oversight groups with this somewhat unique revenue status. The agency accomplishes this through its outreach, official testimony to oversight groups, and explanations to the public about how the USPTO functions.

## **ENHANCED PATENT QUALITY INITIATIVE**

High-quality patents, that is, patents that are correctly issued in compliance with all requirements of Title 35 as well as the relevant case law at the time of issuance, enable certainty and clarity of rights, which fuels innovation and reduces needless litigation. To ensure that the USPTO continues issuing high-quality patents well into the future, the USPTO launched the Enhanced Patent Quality Initiative (EPQI) in February 2015. This multifaceted initiative builds on past efforts and includes almost a dozen programs aimed at improving the accuracy, clarity, and consistency of patents that are issued, as well as how patent quality is measured.

Continued engagement and collaboration with internal and external stakeholders is critical to bring meaningful change and accessibility to all aspects of the IP ecosystem.

The USPTO has provided the following resources to facilitate such collaboration and engagement with respect to patent quality: holding monthly patent quality chats with the public, hosted by the Office of the Deputy Commissioner of Patent Quality; providing detailed interview practices information on the USPTO website, including information about free video conferencing with USPTO examiners; providing updated examination guidance and training materials as needed; and providing a patent ombudsman program that assists applicants or their representatives with issues that arise during patent application prosecution.

### **ADMINISTERING AIA PATENT DISPUTE RESOLUTION PROVISIONS**

The AIA has continued to significantly affect the operations of the PTAB. Continued success in implementing the patent dispute resolution portions of the AIA has increased the PTAB's case workload to levels that make meeting the AIA's 12-month pendency requirements more challenging. An additional challenge has been the implementation of a change to AIA trial practice under which patent owners can now submit new testimonial evidence. The PTAB has continued to meet all AIA statutory deadlines.

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."

### **RELIANCE ON INFORMATION TECHNOLOGY**

The USPTO relies upon information technology (IT) as a mission-critical enabler for every aspect of its operation. The quality, efficiency, and productivity of patent and trademark operations depend on the performance of their IT systems. The USPTO continuously conducts multiyear efforts to upgrade 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 examination and revenue-collection capabilities, providing recovery needs to sustain the business, making successful and reliable IT deployments, and enhancing the understanding of the interactions between IT and performance, business functions, services, and data.

The USPTO contracts, through service providers, for clean uninterrupted power from state of the art, redundant, uninterrupted power supplies for its data systems. On December 22, 2015, both of these power supplies were damaged, resulting in a complete power outage to the agency's data systems. Analysis of the damage eliminates any concerns of foul play. The USPTO took this opportunity to work with its service providers to ensure that lessons were learned and improvements were made.

The USPTO will continue to enhance the IT capabilities offered for both patent and trademark business areas. These include implementing core electronic examination tools for document management and searching; improving interactions for filing, searching, payment, and communication; and making doing business with the USPTO easier and more secure.

### **LEGAL CHALLENGES**

The wave of legal challenges to the USPTO's interpretation of the AIA and its regulations implementing the statute experienced in FY 2015 continued in FY 2016. Although the total number of appeals from USPTO decisions has more than doubled over the past two years (i.e., from 238 appeals in FY 2014 to 645 appeals in FY 2016), the total number of appeals from AIA-related decisions has more quintupled (i.e., from 65 appeals in FY 2014 to 454



appeals in FY 2016). Because the total number of appeals from District Courts taken by the Federal Circuit has dropped by roughly 20 percent over this same period of time, AIA appeals now account for about 65 percent of the Federal Circuit's docket. The success of the various AIA post-issuance proceedings has, however, brought its own challenges to the agency by increasing the demand for agency resources at both the PTAB and in the OGC. For example, by the end of FY 2016, the attorneys in the USPTO's Office of the Solicitor will have intervened in more than 100 appeals from PTAB decisions since the start of AIA post-issuance proceedings. The USPTO expects these challenges to continue over the next few years as more cases implementing the new AIA procedures become ripe for review.

# SYSTEMS AND CONTROLS

## MANAGEMENT ASSURANCES

**O**n the basis of the USPTO's comprehensive internal control program during FY 2016, 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, 2016, 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 financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over financial reporting as of June 30, 2016 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting. In addition, no material weaknesses related to internal control over financial reporting were identified between July 1, 2016 and September 30, 2016.



Michelle K. Lee  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office  
October 7, 2016

### 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 Department of Commerce Office of Inspector General (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 2016.

## **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 2016, 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.

As a result, the Chief Information Security Officer and the OCIO staff working together made a concerted effort to meet the compliance requirements of FISMA, while also meeting the reporting requirements to OMB. These endeavors were a success. All USPTO systems achieved a 100 percent FISMA compliance reporting level for FY 2016. There were no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result of the work accomplished, 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 pages 165 to 167).

### **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 2016, the USPTO did not pay interest penalties on 99.8 percent of the 11,278 vendor invoices processed, representing payments of approximately \$941.4 million. Of the 19 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 17 invoices. The USPTO paid \$4 in interest penalties for every million dollars disbursed in FY 2016. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

### **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.

### **Biennial Review of Fees**

The Chief Financial Officers Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (such as rights or privileges) provided directly to identifiable non-federal beneficiaries. The USPTO is a fully fee-funded agency without subsidy of general taxpayer revenue. 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 when setting 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 AIA, the USPTO will continue to assess fees on at least a biennial basis. In FY 2015, the USPTO completed the first comprehensive review of all fees following the initial patent fee adjustments published in January 2013 and trademark fee adjustments published in December 2014. Following the review, in early FY 2016, the USPTO shared fee adjustment proposals with PPAC, TPAC, and the public and is following the fee setting direction provided for in the AIA and federal rulemaking process.

## **Digital Accountability and Transparency Act of 2014**

The Digital Accountability and Transparency Act of 2014 (DATA Act) requires that federal agencies report financial and payment data in accordance with data standards established by the Department of Treasury and OMB.

The budget, financial spending, and award data that is required to be submitted to comply with the DATA Act currently is housed in a single source system at the USPTO. Most of the activities required to implement the DATA Act at the USPTO will entail extracting, validating, and reconciling the data prior to submission to Treasury. With minimal operational business process changes, the USPTO will use existing system resources to comply with the reporting requirements. The USPTO is on target to begin reporting the required data in May 2017.

## **OTHER SYSTEMS AND CONTROL CONSIDERATIONS**

### **Financial Management Systems Strategy**

The USPTO's Consolidated Financial System (CFS) provides support for financial management, fee collections, procurement, and travel management functions to the USPTO. CFS leverages several Commercial-off-the-shelf (COTS)/Government-off-the-shelf (GOTS) products, including a core financial and acquisition system (Momentum Financials), an acquisition tool (Aeon), an eTravel system (Concur), a budget execution and compensation projection system (Corporate Planning Tool built using Cognos Planning), a statistical analysis tool (Automated Fee Forecasting built using Alteryx), a cost accounting system (Activity Based Information System built using the Profitability and Cost Management tool), and a data warehouse (Enterprise Data Warehouse accessed using Business Objects). Additionally, CFS includes an internally developed fee collection system (Revenue Accounting and Management (RAM) and Fee Processing Next Generation (FPNG)), an imaging system (Office of Finance Imaging System (OFIS) built using Documentum), a content repository (Electronic Library for Financial Management Systems (EL4FMS) built using Cassandra and DataStax) and an internally developed application to automate the transit subsidy program (Transit Subsidy System).

The FPNG investment is replacing RAM, the USPTO's legacy fee collection system. The final release of the multi-year Fee Processing Next Generation investment that replaces RAM is planned for FY 2018. FPNG uses a combination of COTS, GOTS, and open source code, as well as a custom user interface that has the same look-and-feel as other USPTO websites. Developing and implementing FPNG supports USPTO's Strategic Priority, "Leverage IT Investments to Achieve Business Results", and is replacing legacy RAM with modern 21st century technology that has more automated internal controls, electronic commerce capabilities, and will be able to meet the patent and trademark fee collection needs of the future. As the USPTO progresses with its Patent and Trademark IT strategies (Patents End-to-End and Trademarks Next Generation), the fee processing system also needs to progress to the next generation, with the goals of improving financial and budget management agency-wide. The lack of modern technology in legacy RAM hinders the USPTO from taking full advantage of the potential benefits from Patents End-to-End and Trademarks Next Generation initiatives.

# FINANCIAL DISCUSSION AND ANALYSIS

## FINANCIAL HIGHLIGHTS

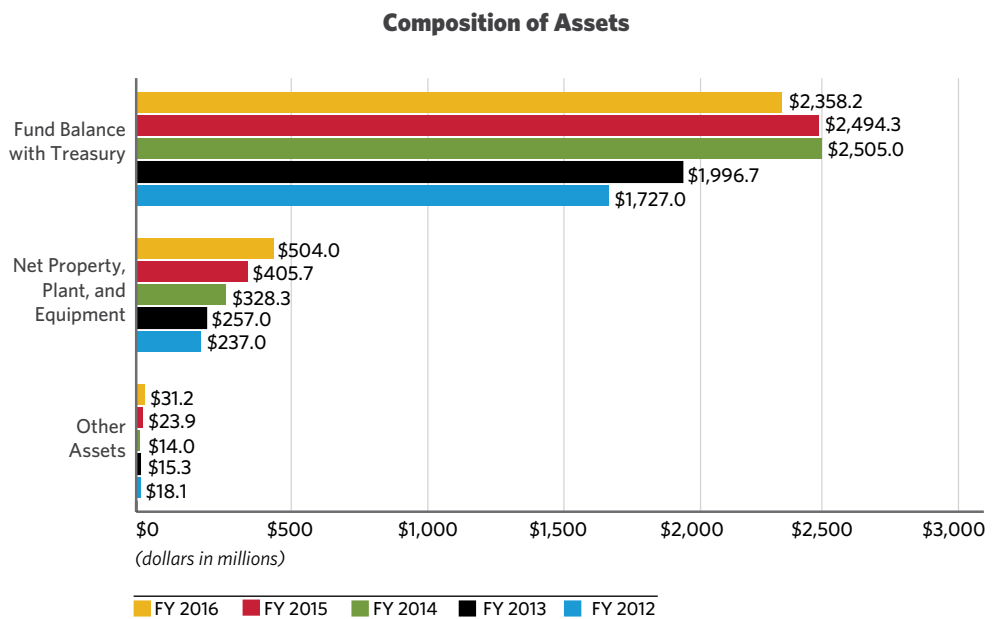
The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2016 financial statements, provided in the Financial Section of this report. This is the 24th consecutive year that the USPTO has received a clean opinion. Our unmodified audit opinion 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. The OIG 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 2016 financial statements. 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 2016, the USPTO's consolidated Balance Sheet presents total assets of \$2,893.4 million, total liabilities of \$1,445.9 million, and a net position of \$1,447.5 million.

Total assets decreased during FY 2016, with an overall increase of 46.0 percent over the last four years, resulting largely from the increase in Fund Balance with Treasury. 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 81.5 percent of total assets at the end of FY 2016. Over 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 \$590.0 million, other funds held on deposit for customers of \$135.7 million, and unobligated funds carried over from one year to the next (operating reserve) of \$461.2 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 80.4 percent of the Fund Balance with Treasury.

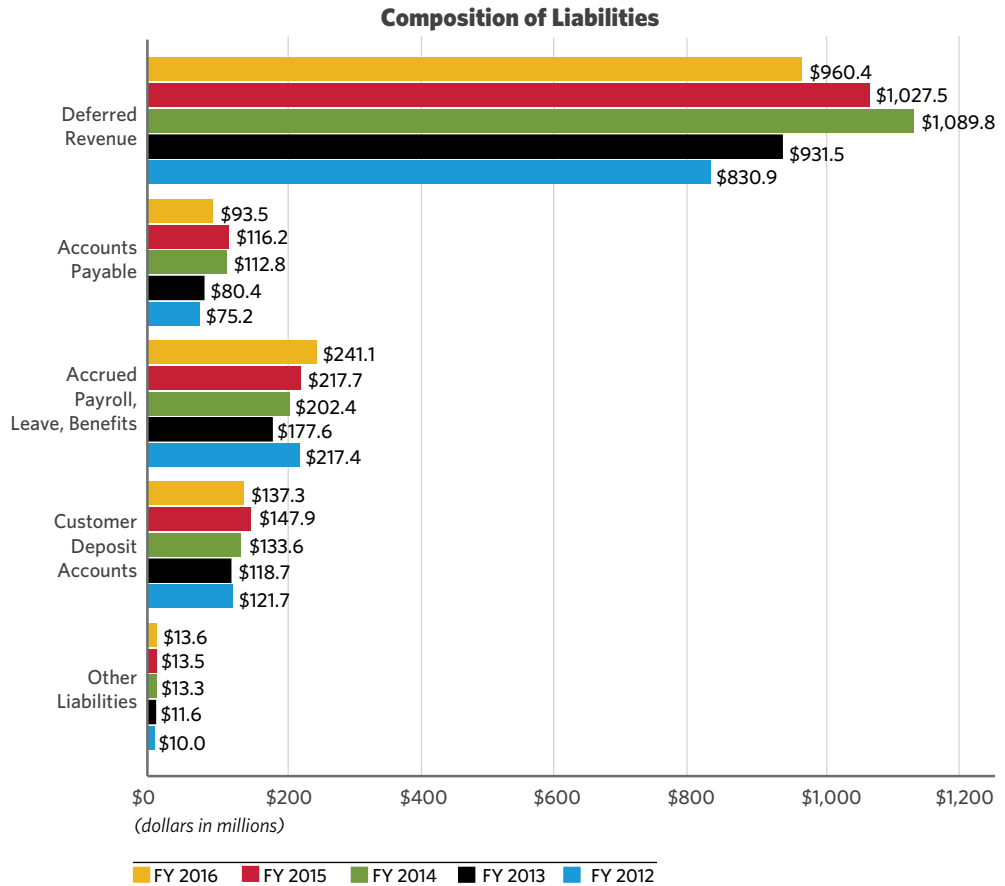
The operating reserve is available for use without further Congressional appropriation and is maintained to permit the USPTO to plan for long-term financial stability, as well as temporary changes in our cash flow. As such, the operating reserve is not tied to a specific event and enables the USPTO to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

During FY 2016, the USPTO continued operating under the strategic plan and utilized the operating reserve to invest in IT improvements, as is evident by the decrease in Fund Balance with Treasury and the increase in property, plant, and equipment.

As required by 35 U.S.C. § 42(c)(3), the USPTO maintains and tracks two separate and distinct operating reserve balances – one for Patent operations and one for Trademark operations. At the end of FY 2016, the Patent operating reserve decreased from \$402.6 million (1.8 months of operating expenses) at the end of FY 2015 to \$354.2 million (1.5 months of operating expenses) at the end of FY 2016, representing a decrease of \$48.4 million, or 12.0 percent. At the end of FY 2016, the Trademark operating reserve increased from \$101.8 million (4.4 months of operating expenses) at the end of FY 2015 to \$107.0 million (4.6 months of operating expenses) at the end of FY 2016, representing an increase of \$5.2 million, or 5.1 percent.

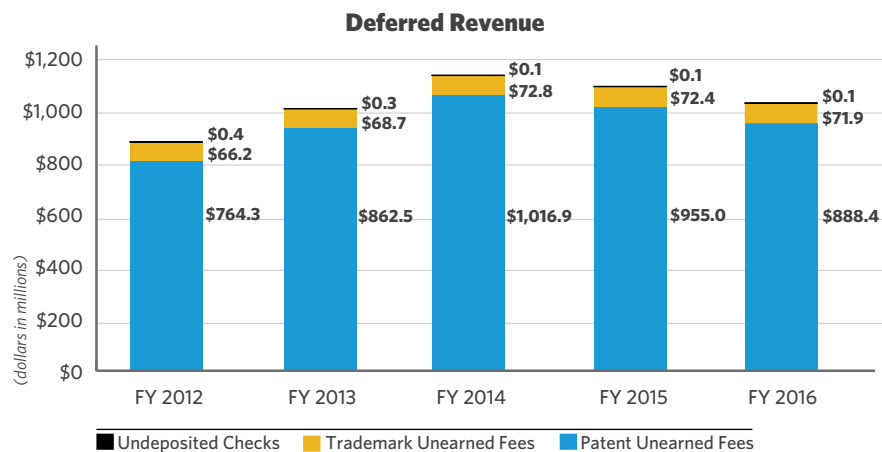
The other major asset is property, plant, and equipment. The net balance of this asset has increased by \$267.0 million during the past four years, with the acquisition values of property, plant, and equipment increasing by \$502.6 million. The USPTO is continuing to completely re-invent our IT systems from end-to-end, which will lead to future increases in IT hardware, software, and software in development values. This was evidenced by an increase of \$471.1 million from FY 2012 through FY 2016 for IT hardware, software, and software in development.

Total liabilities decreased from \$1,522.8 million at the end of FY 2015 to \$1,445.9 million at the end of FY 2016, representing a decrease of \$76.9 million, or 5.0 percent. The following graph shows the composition of liabilities during the past five years.



The USPTO's deferred revenue is the largest liability on the Balance Sheet. The liability for deferred revenue is calculated by analyzing the process for completing each 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 for deferred revenue liability.

FY 2016 resulted in a decrease to the deferred revenue liability of \$67.1 million, or 6.5 percent from FY 2015. The deferred revenue liability includes unearned patent and trademark fees, as well as undeposited checks. The unearned patent fees represented 92.5 percent of this liability for FY 2016. The following graph depicts the composition of the deferred revenue liability, in addition to the change in this liability during each of the past five years.





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

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

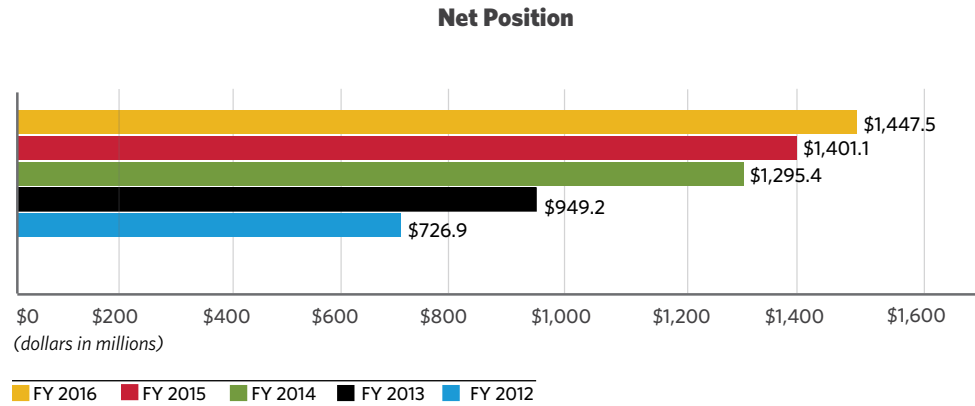
<b>Filings and Pendencies</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
Patent Filings	565,566	601,464	618,457	618,062	650,411 <sup>1</sup>
<i>Percentage Change in Patent Filings</i>	5.3%	6.3%	2.8%	(0.1)%	5.2%
Patent First Action Pendency (months)	21.9	18.2	18.4	17.3	16.2
<i>Percentage Change in Patent First Action Pendency</i>	(21.8)%	(16.9)%	1.1%	(6.0)%	(6.4)%
Total Patent Pendency (months)	32.4	29.1	27.4	26.6	25.3
<i>Percentage Change in Total Patent Pendency</i>	(3.9)%	(10.2)%	(5.8)%	(2.9)%	(4.9)%
Trademark Filings	415,026	433,654	455,017	503,889	530,270
<i>Percentage Change in Trademark Filings</i>	4.1%	4.5%	4.9%	10.7%	5.2%
Trademark First Action Pendency (months)	3.2	3.1	3.0	2.9	3.1
<i>Percentage Change in Trademark First Action Pendency</i>	3.2%	(3.1)%	(3.2)%	(3.3)%	6.9%
Total Trademark Average Pendency (months)	10.2	10.0	9.8	10.1	9.8
<i>Percentage Change in Total Trademark Average Pendency</i>	(2.9)%	(2.0)%	(2.0)%	3.1%	(3.0)%

<sup>1</sup> Preliminary data

In FY 2016, unearned patent fees decreased 7.0 percent as a result of the decrease in first action pendency of 1.1 months, offset by an increase in application filings. Deferred revenue associated with the patent process is expected to decrease in the upcoming years due to the anticipated decreases in pendencies. In the FY 2017 President's Budget, the number of patent applications filed from FY 2017 through FY 2021 is expected to gradually increase, with first action pendency decreasing to 10.2 months and total pendency to 19.1 months by FY 2021. The pendency decreases will result in patent deferred revenue decreases.

The deferred revenue associated with the trademark process decreased in FY 2016. Trademark deferred revenue decreased by \$0.5 million, or 0.7 percent, from FY 2015, with an overall 8.6 percent increase over the past four years. The FY 2016 decrease was consistent with total trademark average pendency decreasing to 9.8 months, offset by the slight increase in trademark first action pendency to 3.1 months, and an increase in trademark applications. Estimates included in the FY 2017 President's Budget project the pendencies to remain constant in the upcoming years.

The Statement of Changes in Net Position presents the changes in the financial position of the USPTO due to results of operations. 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.



The increase in net position from \$1,401.1 million at the end of FY 2015 to \$1,447.5 million at the end of FY 2016, or 3.3 percent, is attributable to the results of operations and other adjustments.

### Statement of Net Cost

The Statement of Net Cost 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 2016, the USPTO generated a net income of \$13.8 million. A significant portion of the decrease was due to an increase in personnel services and benefit program costs, offset by an increase in fee collections.

Net Income (dollars in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Earned Revenue	\$ 2,427.1	\$ 2,719.9	\$ 3,018.1	\$ 3,074.0	\$ 3,133.4
Program Cost	(2,321.0)	(2,540.4)	(2,732.4)	(3,012.8)	(3,119.6)
Net Income	\$ 106.1	\$ 179.5	\$ 285.7	\$ 61.2	\$ 13.8

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 2016 are a reflection of patent issue levels 3.5, 7.5, and 11.5 years ago, rather than a reflection of patents issued in FY 2016. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

During FY 2016, the number of patent filings increased by 5.2 percent over the prior year. However, the Patent organization disposed 6.2 percent more applications than were disposed of during FY 2015. The resulting pendency reduction, combined with increased fee collections, resulted in a decrease in patent deferred revenue and an increase in earned revenue.

During FY 2016, with the number of trademark applications increasing by 5.2 percent over the prior year, the Trademark organization was able to continue to address the existing inventory and maintain pendency between 2.5 and 3.5 months. The Trademark organization was able to do this while recognizing a slight decrease in deferred revenue and corresponding increase in revenue earned.

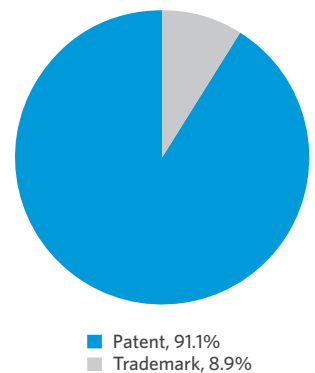
### Earned Revenue

The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The earning process is the same for all collections even though a certain portion of the fees may not be made available to the USPTO for spending. Temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. The USPTO did not collect any fees that were designated as unavailable during FY 2016.

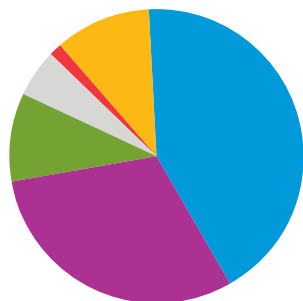
Earned revenue totaled \$3,133.4 million for FY 2016, an increase of \$59.4 million, or 1.9 percent, over FY 2015 earned revenue of \$3,074.0 million. Of revenue earned during FY 2016, \$786.2 million related to fee collections that were deferred for revenue recognition in prior fiscal years, \$1,212.2 million related to maintenance fees collected during FY 2016, which were considered earned immediately, \$1,130.6 million related to work performed for fees collected during FY 2016, and \$4.4 million were not fee-related.

For fees, other than maintenance fees, collected and earned during FY 2016, there was an increase of \$54.5 million over these same earned fees during FY 2015. This increase can primarily be attributed to the increase in customer payments in the areas of Patent filings, post-allowance (issue, post-grant publication, and assignments) and petition fees, along with an increase in earnings for other Patent services.

**FY 2016 Earned Revenue**



**FY 2016 Patent Revenue by Fee Type**



- Maintenance, 42.5%
- Filing, Search, and Examination, 30.8%
- Issue, 9.6%
- Extensions of Time, 5.2%
- PCT, 1.5%
- Services, 0.1%
- Other, 10.3%

**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 83 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.

Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2016, maintenance fees collected increased \$24.6 million, or 2.1 percent, from FY 2015.

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 vital 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 help 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 2012 (first stage), 2008 (second stage), and 2004 (third stage) has not yet closed. Using the data available at the end of FY 2016, the trend in first stage patent renewal rates shows a slight decrease over the past few years, and thus far, the yearly renewal rate is about 0.5 percent lower than last year. 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 0.9 percent below last year after a 0.3 percent increase the previous 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%	47.9%
2004	88.8%	70.8%	47.0% <sup>1</sup>
2005	87.5%	69.3%	
2006	86.0%	67.4%	
2007	87.3%	67.4%	
2008	88.1%	66.4% <sup>1</sup>	
2009	87.3%		
2010	86.5%		
2011	85.5%		
2012	85.0% <sup>1</sup>		

Note: The First Stage refers to the end of the 3rd year after the initial patent is issued; the Second Stage refers to the end of the 7th year after the initial patent is issued; and the Third Stage refers to the end of the 11th year after the initial patent is issued. For example, 85.0 percent of the patents issued in 2012 paid the first stage maintenance fee.

<sup>1</sup>Preliminary data. The full calendar year data for 2012, 2008, and 2004 will be available in the FY 2017 PAR.

Application fee revenue earned upon filing increased from \$103.5 million in FY 2015 to \$105.5 million in FY 2016 (increase of 1.9 percent), with the number of applications increasing from 618,062 to 650,411 over the same period (increase of 5.2 percent). The increase in application filings is a result of increased customer demand combined with requests for continued examination. The FY 2017 President's Budget projects an increase in patent applications filed beginning in FY 2017 through FY 2021, which will contribute to continued budgetary resources, as well as earned fee revenue.

Earned issue fee revenue increased from \$268.7 million in FY 2015 to \$274.2 million in FY 2016 (increase of 2.0 percent), with the number of patents issued increasing from 322,448 to 334,107 over the same period (increase of 3.6 percent). The increase in patent issues is in line with the increase in production and the patent allowance rate. The FY 2017 President's Budget projects that patents issued will gradually increase, which may result in increases in maintenance fees in future years.

**FY 2016 Trademark Revenue by Fee Type**



- Use-Based and Intent-to-Use Applications for Registration, 52.5%
- Renewal Fees, 9.7%
- Services, 7.3%
- Trademark Trial and Appeal Board, 13.5%
- Other Intent-to-Use Fees, 17.0%

**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 \$145.1 million in FY 2015 to \$146.1 million in FY 2016, with the number of trademarks registered (disposed of) increasing from 282,091 to 309,188 over the same period, increases of 0.7 percent and 9.6 percent, respectively. The FY 2017 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 2017 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 2012	FY 2013	FY 2014	FY 2015	FY 2016 <sup>2</sup>
Renewals	30.2%	31.5%	32.4%	32.4%	32.0%

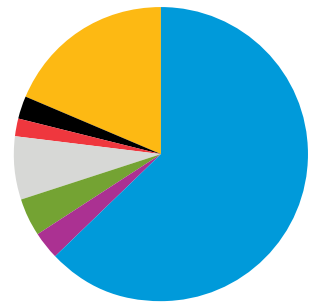
\* Note: The renewals occur every 10th year for registered trademarks. For example, in FY 2016, 32.0 percent of the trademarks registered ten years ago were renewed.  
<sup>2</sup> Preliminary data

## Program Costs

Program costs totaled \$3,119.6 million for the year ended September 30, 2016, an increase of \$106.8 million, or 3.5 percent, over FY 2015 program costs of \$3,012.8 million. The USPTO's most significant program cost is personnel services and benefits, which comprise approximately 63 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 personnel services and benefits costs for the year ended September 30, 2016, were \$2,129.4 million, an increase of \$72.2 million, or 3.5 percent, over FY 2015 personnel services and benefits costs of \$2,057.2 million. This change primarily reflects a 3.7 percent increase in payroll compensation costs resulting from salary increases, an 8.3 percent increase in health benefit costs, as well as a net increase of 58 personnel, from 12,667 at the end of FY 2015 to 12,725 at the end of FY 2016.

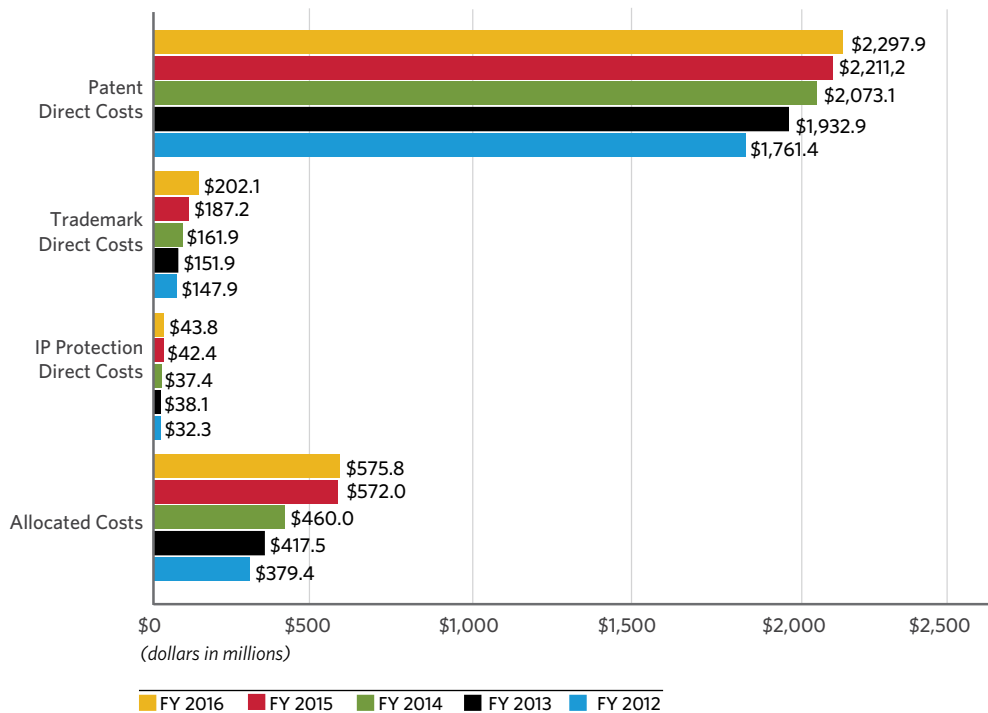
The USPTO directs maximum resources to the priority functions of patent and trademark examination, as well as IP policy, protection, and enforcement worldwide. For FY 2016, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 81.5 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using activity-based cost accounting. Allocated costs increased 0.7 percent over the past year in line with increased IT investments.

### FY 2016 Program Costs

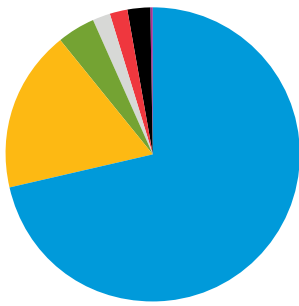


- Personnel Costs, 63.0%
- Rent, Communication, and Utilities, 2.9%
- Printing, 4.3%
- Contractual Services, 6.8%
- Depreciation, 2.6%
- Allocated Costs, 18.5%
- Other, 1.9%

### USPTO Program Costs



**FY 2016 Patent Cost by Product**



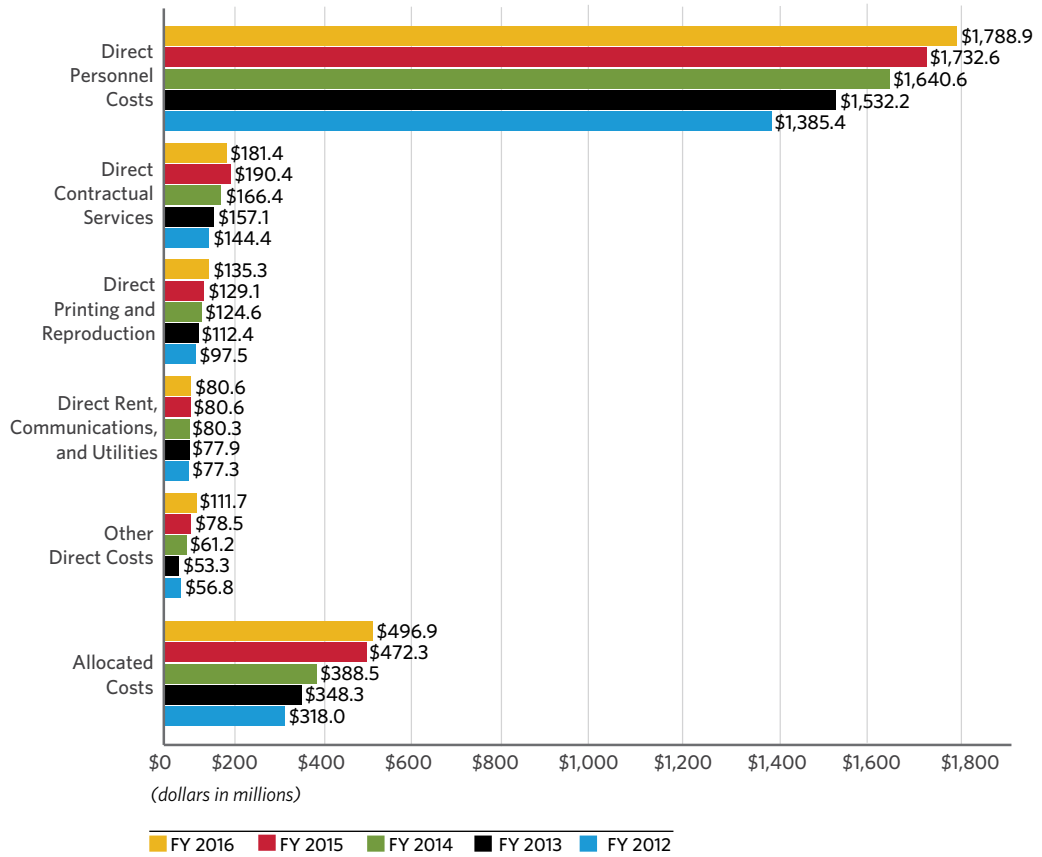
- Utility, 71.6%
- 371 Filing, 17.7%
- Patent Trial and Appeal Board, 4.2%
- PCT, 2.0%
- Design, 2.4%
- Plant, 0.2%
- Other, 1.9%

**Patent**

Total costs for the Patent program increased \$715.4 million, 34.4 percent, from FY 2012 through FY 2016. The Patent organization's most significant program costs relate to personnel services, and account for 56.4 percent of the increase in total cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2016, were \$1,788.9 million, an increase of \$56.3 million, or 3.2 percent, over FY 2015 personnel costs of \$1,732.6 million. Rent, communications, and utilities; printing and reproduction; and contractual services costs represent 14.2 percent of the Patent program costs for FY 2016. During FY 2016, contractual costs increased as a result of support costs increases for Patent IT systems.

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 the volume of applications processed in each product area.

**Patent Costs**



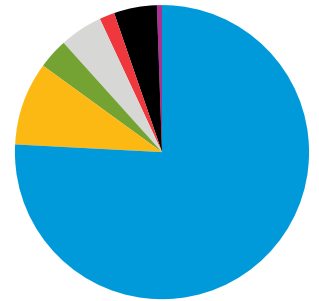


## Trademark

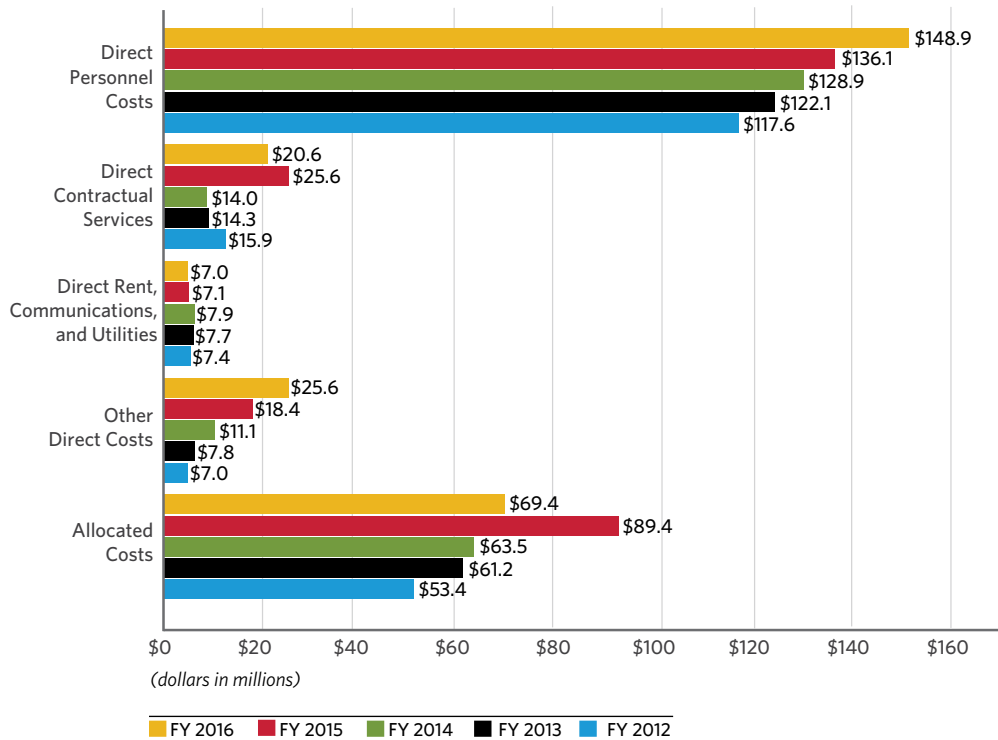
Total costs for the Trademark program increased \$70.2 million, 34.9 percent, from FY 2012 through FY 2016. The Trademark organization's most significant program costs relate to personnel services, and account for most of the increase in total direct cost of Trademark operations during the past four years. This increase of \$31.3 million was offset by other cost increases and decreases.

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

**FY 2016 Trademark Cost by Product**



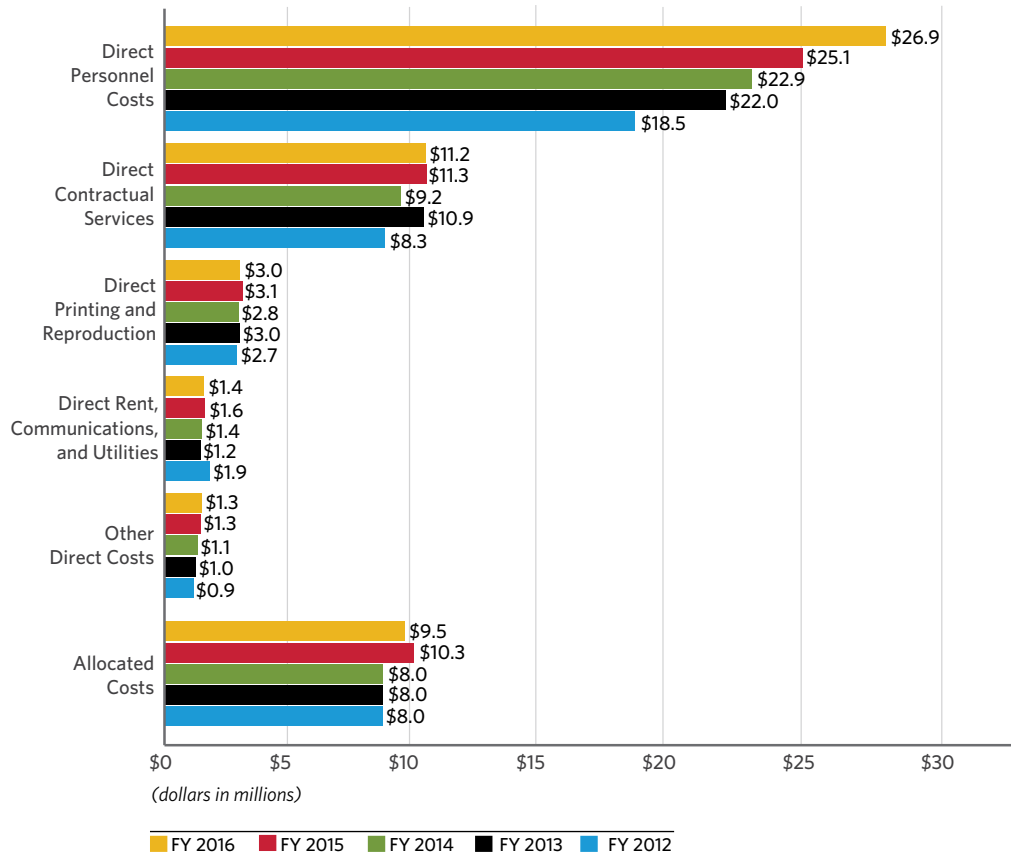
**Trademark Costs**



### Intellectual Property Policy, Protection, and Enforcement Worldwide

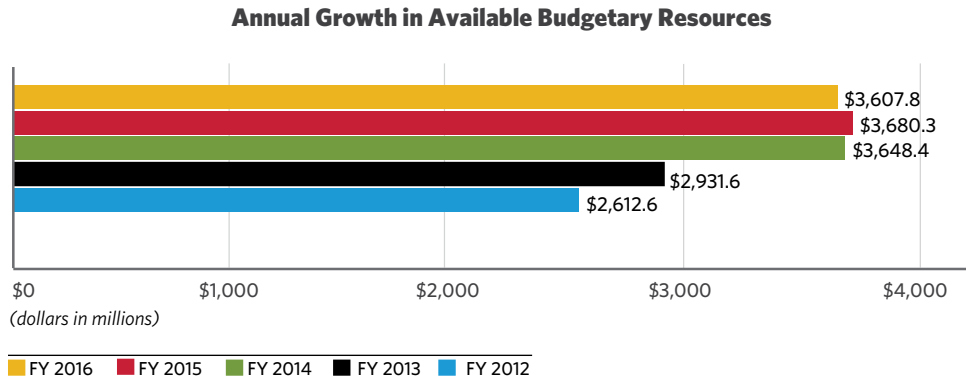
Total costs for IP Protection program increased \$13.0 million, or 32.2 percent, from FY 2012 through FY 2016. The most significant program costs for IP Protection in FY 2016 relate to personnel services, and account for 50.5 percent of the total cost for IP Protection operations. The next largest cost associated with the policy, protection, and enforcement of intellectual property worldwide is contractual services, which include joint project agreements. These costs were incurred in line with the activities discussed on pages 84 to 96.

**Intellectual Property Policy, Protection, and Enforcement Costs**



## Statement of Budgetary Resources

During FY 2016, total budgetary resources available for spending was 2.0 percent less than the amount available in the preceding year, with a 38.1 percent increase over the past five fiscal years. The change in budgetary resources available for use is depicted by the graph below.



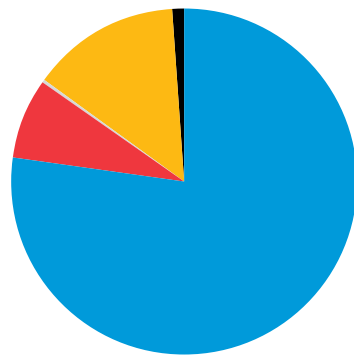
The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2016 for an amount up to \$3,272.0 million. In FY 2016, the USPTO did not collect the entire amount of anticipated fee collections appropriated; patent and trademark fee collections amounted to \$3,063.2 million (see Sources of Funds chart below). The appropriation was more than the amount of total fees collected in FY 2016. 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. During FY 2014, the USPTO collected \$148.2 million of user fees that were deposited in the Patent and Trademark Fee Reserve Fund. The FY 2014 appropriation provided the authorization for the USPTO to spend those fees and are available without fiscal limitation until expended. After successfully working through the reprogramming process with congressional appropriators early in FY 2015, the USPTO was able to gain access to these funds, which were transferred into our operating reserve, where they were used in FY 2016 for compensation and operational requirements on a first-in, first-out basis. In FY 2013, sequestration was enacted government-wide to effect an annual five percent reduction in spending, which restricted full access to agency fee collections. As we are an agency funded entirely by user fees, this reduced our available budgetary resources and affected our operations significantly.

In FY 2013, the USPTO used the new authority in the AIA to set patent fees to enable the Office to have sufficient resources to reduce the backlog of patent applications, improve our information technology, and manage patent revenue fluctuations and properly align fees in a timely, fair, and consistent manner. In FY 2014, the Office proposed to reduce trademark fees to promote efficiency in operations and offer additional electronic application processing options. Consequently, certain Trademark fee rates were reduced effective January 2015. During FY 2015, the USPTO continued to assess patent and trademark fees to assure that the Office is using the fee setting authority in a responsible manner. Following the comprehensive review of all fees completed during FY 2015, in early FY 2016, the USPTO shared fee adjustment proposals with its public advisory committees and the public. Currently, the USPTO is following the fee setting direction provided for in the AIA and federal rulemaking process.

On October 3, 2016, the USPTO issued a notice of proposed rulemaking (NPRM) to set or increase certain patent fees, as authorized by the AIA. The proposed fees will allow the USPTO to recover the aggregate estimated cost of Patent and Patent Trial and Appeal Board (PTAB) operations and USPTO administrative services that support Patent operations. On October 21, 2016, the USPTO issued a final rule to set or increase certain trademark fees, as authorized by the AIA. The final fee schedule is 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 and USPTO administrative services that support Trademark operations.

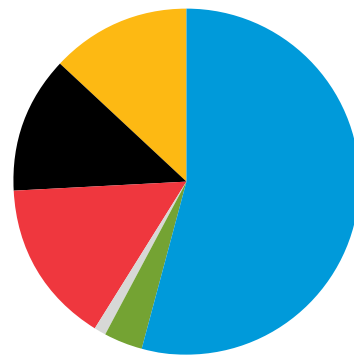
The following charts present the budgetary resources made available to the USPTO in FY 2016, and the use of such funds representing FY 2016 total obligations incurred and the operating reserve, as reflected on the Statement of Budgetary Resources.

**Sources of Funds** (dollars in millions)



- Operating Reserve, \$504.4
  - Recovery of Prior Year Obligations, \$36.3
  - Patent Fee Collections, \$2,786.9
  - Trademark Fee Collections, \$276.3
  - Other Fee Collections, \$3.9
- Total \$3,607.8**

**Uses of Funds** (dollars in millions)



- Patent Direct, \$1,963.7
  - Trademark Direct, \$126.3
  - IP Policy, Protection, and Enforcement Direct, \$35.9
  - IT Allocated, \$557.2
  - Other Allocated, \$463.5
  - Operating Reserve, \$461.2
- Total \$3,607.8**

USPTO operations rely on patent maintenance fees to fund a portion of the work being completed each fiscal year. During FY 2016, maintenance fees collected increased \$24.6 million, or 2.1 percent, from FY 2015. As maintenance fees are one of the largest sources of budgetary resources, any fluctuations in the rates of renewal have a significant impact on the total resources available to the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown on page 41, the renewal rates for all three stages of maintenance fees decreased during FY 2016.

As defined earlier, temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. During FY 2016, the USPTO did not collect any fee collections 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 2016.

The below 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.

<b>Temporarily Unavailable Fee Collections (dollars in millions)</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
Fiscal year fee collections	\$ 2,406.8	\$ 2,815.7	\$ 3,172.2	\$ 3,008.8	\$ 3,063.2
Fiscal year collections appropriated	(2,406.8)	(2,668.0)	(3,172.2)	(3,008.8)	(3,063.2)
Fiscal year unavailable collections	\$ -	\$ 147.7	\$ -	\$ -	\$ -
Prior year collections unavailable	790.1	790.1	937.8	937.8	937.8
Subtotal	\$ 790.1	\$ 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	<u>\$ 1,023.6</u>	<u>\$ 1,171.3</u>	<u>\$ 1,171.3</u>	<u>\$ 1,171.3</u>	<u>\$ 1,171.3</u>

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

## Statement of Cash Flows

The Statement of Cash Flow, while not a required financial statement, is audited and is presented for purposes of additional analysis. The Cash Flow statement records the company'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 external 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, 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 Flow (dollars in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Cash Flow from Operations					
Net Income	\$ 106.1	\$ 179.5	\$ 285.7	\$ 61.2	\$ 13.8
Operating Adjustments					
Depreciation	\$ 67.9	\$ 71.9	\$ 90.7	\$ 105.3	\$ 139.0
Accrued Payroll, Leave, and Benefits	32.9	5.0	87.4	61.8	58.1
Deferred Revenue	(14.8)	100.6	158.3	(62.4)	(67.1)
Other Adjustments	4.1	7.3	38.3	3.7	(30.6)
Total Adjustments	\$ 90.1	\$ 184.8	\$ 374.7	\$ 108.4	\$ 99.4
Net Cash Provided by Operating Activities	\$ 196.2	\$ 364.3	\$ 660.4	\$ 169.6	\$ 113.2
Net Cash Used in Investing Activities					
Property, Plant, and Equipment	\$ (98.2)	\$ (91.4)	\$ (150.5)	\$ (179.4)	\$ (245.6)
Financing Activities					
Non-Expenditure Transfer	\$ (1.0)	\$ (2.0)	\$ (2.0)	\$ (2.0)	\$ (2.1)
Net Cash Used in Investing Activities	\$ (1.0)	\$ (2.0)	\$ (2.0)	\$ (2.0)	\$ (2.1)
Net Cash (Used)/Provided	\$ 97.0	\$ 270.9	\$ 507.9	\$ (11.8)	\$ (134.5)

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 2016, 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 third year that USPTO has operated under this plan. The *2014–2018 Strategic Plan* is available at [www.uspto.gov/about/stratplan/](http://www.uspto.gov/about/stratplan/).

The USPTO's FY 2017 Congressional Justification is aligned with the *USPTO 2014–2018 Strategic Plan*. 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. Department of Commerce OIG completed and issued four final audit reports in FY 2016 for the USPTO. The first report, [Audit of Trademark's Activity-Based Information System](#), reviewed the activity-based costing methodology and controls that the USPTO uses to justify and support trademark fee changes. The report had no recommendations; however, the report had one finding. During the audit, the OIG found that one activity driver for enterprise architecture, approved by the Activity-Based Information (ABI) Steering Committee, was not inputted into the ABI system. The USPTO corrected this finding during the audit by implementing new procedures to ensure that drivers approved by the ABI Steering Committee were inputted into the system.

The second report, [USPTO Needs to Improve Assessment of Attaché Program](#), focused primarily on the effectiveness and efficiency of program management and the validity of program expenditures. The report had one recommendation. The OIG found that the USPTO needs to improve management controls over the Attaché Program. The USPTO specifically did not adequately assess Attaché Program performance because it did not establish baselines and targets to evaluate program performance. The USPTO established the following three goals for the Attaché Program:

- Promote U.S. government IP policy internationally,
- Help secure high standards in international agreements and host country laws, and
- Encourage effective IP protection and enforcement by U.S. trading partners for the benefit of U.S. stakeholders.

To track the progress made toward each goal, the USPTO established a total of six performance measures, such as the number of training and public awareness programs conducted and the number of government officials trained; however, none of the performance measures included a baseline or target by which to assess program performance.

Although noting that quantitative performance measures should not be the sole measure of effectiveness and efficiency of the IP Attaché Program, the USPTO concurs with the OIG's recommendations and will increase its current efforts to collect data that will allow the agency to establish baselines and targets for the program's quantifiable performance measures.

The third report, [USPTO Should Improve Controls Related to Equipment Used by Full-Time Teleworkers](#), reviewed the policy and procedures for monitoring laptops, printers, and other telework equipment, and how the USPTO handled lost or stolen telework equipment. The report had four recommendations. The OIG found that, generally speaking, the USPTO offices had controls in place over safeguarding laptops and other accountable equipment; however, despite this fact, the OIG found that improvements to these controls could be made to enhance effectiveness. The OIG specifically noted that the USPTO was not conducting physical inventories of hoteling employees' equipment, was not consistently ensuring adequate segregation of duties over the quarterly inventory certification process, nor was the agency ensuring that required "separation clearance forms" were completed properly.

The USPTO concurred with all of the OIG's recommendations. Although noting that an annual physical inventory of all hoteling equipment would be neither practical nor cost-effective given the geographic dispersion of the USPTO's more than 5,000 full-time teleworkers, the USPTO is in the process of completing an upgrade to its asset management system that will enable remote, real-time confirmation of the assets deployed to the agency's teleworking employees. Further, the USPTO has implemented changes in the data quality and reporting portion of its asset management system to improve the agency's identification of users who do not have a typical equipment configuration, addressed the issues the OIG identified regarding segregation of duties, and expects to deploy a new automated employee separation and clearance process in January 2017 to ensure that all assets are returned before an employee leaves the agency (additional controls have been established in the interim).

The fourth report, [\*Awarding of U.S. Patent and Trademark Office Noncompetitive Contracts Did Not Consistently Follow Guidelines and Best Practices\*](#), reviewed whether the USPTO's non-competitive contract awards were properly justified and approved. The report had nine recommendations. The OIG found that the USPTO contracting and program officials did not follow best practices—Office of Federal Procurement Policy, Federal Acquisition Regulation, the Commerce Acquisition Manual, and relevant USPTO policies—for justifying and awarding noncompetitive contracts and task orders. The USPTO did not adequately justify sole source contracts. It was determined that the USPTO did not have adequate acquisition planning processes in place, both to leverage competition as well as to assure that it received fair and reasonable prices.

The USPTO concurred with all of the report's recommendations. The agency has made significant progress in the award of its noncompetitive contracts in the past year and has likewise improved its file documentation of such contracts. Moreover, the Director of Procurement has issued policies and guidance designed to enhance performance of market surveys and market research in an effort to maximize competition and properly support sole source justifications, ensure that all USPTO procurements are reviewed and approved at appropriate levels, and require contracting officers to properly document and explain price reasonableness determinations. Finally, the Office of Procurement continues to work with internal USPTO customers to develop stronger strategic partnerships, improve organizational understanding of procurement roles and responsibilities, and refine its procurement process to ensure that adequate time and planning are provided to produce contracts that provide the goods and services required to support the USPTO's mission.

In the summer of 2016, the Department of Commerce OIG issued one investigation, [\*Analysis of Patent Examiners' Time and Attendance\*](#), concerning the potential time and attendance abuse of patent examiners within the USPTO. The OIG's analysis focused on two overlapping periods: a 9-month period and an encompassing 15-month period. For the 9-month period, the OIG reviewed specific work activities of approximately 8,100 patent examiners and identified 137,622 unsupported hours. This equates to a one-year average of nearly 180,000 unsupported hours. For the 15-month period, the OIG analyzed work activities for roughly 8,400 examiners and identified 288,479 unsupported hours. The OIG also found that the USPTO policies limit the agency's ability to prevent and detect time and attendance abuse. The report had six recommendations.

The USPTO takes any allegation of abuse in its workplace seriously. The OIG's analysis indicates that there was a "lack of digital footprint" in approximately 2 percent of the total hours claimed by patent examiners during the 15-month period—a percentage that continued to shrink following the introduction of new USPTO controls and during the course of the IG review. In recent years, the agency has made workforce management a critical focus and has invested significant time and effort in improving its overall management—for teleworking employees and those stationed at one of the USPTO's physical facilities. The agency's own investigation in 2012 into whistleblower allegations helped shine a light on areas in which the USPTO's workforce management could be improved. Since that time, the USPTO has moved forward with a number of concrete steps—including requiring new training for employees and supervisors, updating policies, adding controls, and building tools for supervisors—to enable USPTO supervisors to engage and manage their employees more effectively.

### **PERFORMANCE DATA VERIFICATION AND VALIDATION**

In accordance with the Government Performance and Results Act 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 2016**

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 2016 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 2016 are documented in this report in the performance information for Strategic Goals I and II. FY 2016 bonus information was not available at publishing time. That information will be provided in next year's PAR. For FY 2015, the Commissioner for Patents was awarded a bonus of 8.2 percent of base salary. The Commissioner for Trademarks was awarded a bonus of 10.9 percent of base salary.

# PATENTS:

## STRATEGIC GOAL I

### **WHAT IS A PATENT?**

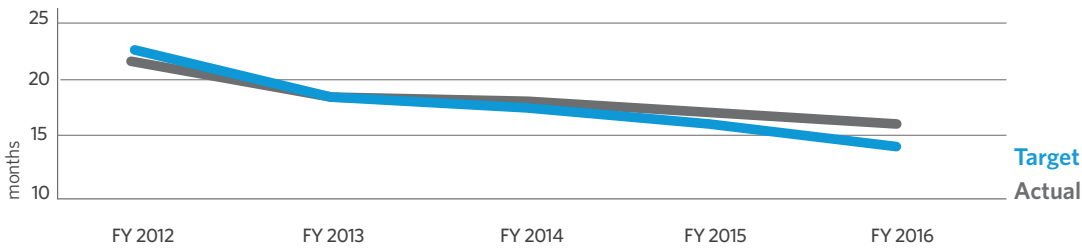
A patent is an intellectual property right granted by the government of the United States of America to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in 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/process/](http://www.uspto.gov/patents/process/).

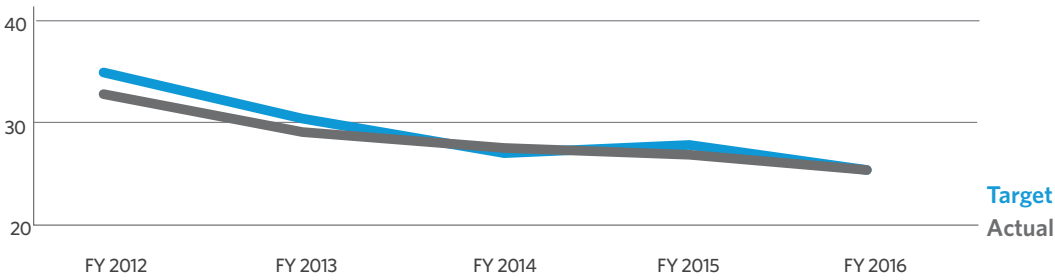
What follows are those Strategic Goal I key measures for which enough data are available to establish performance trends.<sup>1</sup>

### 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 62.

### 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 62.

<sup>1</sup> Patent Quality Composite Score. The USPTO is working with internal and external stakeholders to reevaluate the entire quality process at the USPTO by engaging in public forums and roundtables to increase the effectiveness, clarity, and simplicity of the USPTO's quality review process by focusing on excellence in work products, excellence in measuring patent quality, and excellence in customer service. As part of this effort, the USPTO aims to define and introduce revised quality metrics based on stakeholder input by October 2016. Because the precise contours of the metric will likely change in the upcoming years, it is not useful to portray trends for the current measure.

## 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 strategies 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](http://www.performance.gov). The Patent organization's objectives support the *Strategy for American Innovation*,<sup>1</sup> an administration initiative that recognizes innovation as the foundation of American economic growth and competitiveness. Economic growth in advanced economies, like that of the United States, is driven by creating new and better ways of producing goods and services, a process that triggers new and productive investments.

### PATENT QUALITY AND TIMELINESS

#### Patent Quality

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 all 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.

High-quality patents enable certainty and clarity of rights, which fuels innovation and reduces needless litigation. To ensure issuing high-quality patents well into the future, the USPTO launched the EPQI in FY 2015. This initiative enables the USPTO to target its efforts in enhancing patent quality in specific ways, such as strengthening work products, processes, services, and how patent quality is measured at all stages of the patent process.

The USPTO is continuing its efforts toward enhancing patent quality through stakeholder and employee engagement. In April 2016, the USPTO hosted a Patent Quality Community Symposium to update the public on the status of quality-enhancing programs, to introduce some developing programs, to collect feedback, and to discuss with stakeholders what patent applicants and their representatives can do to enhance quality. In addition, USPTO hosts a series of events, such as roadshows, roundtables, and patent quality chat webinars, which are designed to provide information on patent quality topics and to gather public feedback.

In March 2016, the USPTO published a Federal Register notice outlining its new process to capture and measure data about patent quality. The feedback received from the public comment period indicated that the Quality Composite score, which was reported between FY 2011 to FY 2015, did not adequately reflect quality. In April 2016, the USPTO terminated the Quality Composite score and has proposed a new quality measure.

<sup>1</sup> Published by the President's Economic Council in February 2011, available at [www.whitehouse.gov/sites/default/files/uploads/InnovationStrategy.pdf](http://www.whitehouse.gov/sites/default/files/uploads/InnovationStrategy.pdf).



Under this new proposal, the USPTO is standardizing reviews of finished work products, such as USPTO office actions through use of a single Master Review Form. Compared with past forms, the Master Review Form places a much greater emphasis on assessing the clarity of an examiner's reasoning, while maintaining focus on the correctness of an examiner's action. This allows the USPTO to provide targeted training to achieve greater quality.

The USPTO is continuing to enhance patent quality through its efforts to improve examiner resources and tools. The Post Grant Outcomes Program, launched as a pilot in April 2016, aimed at putting the content of AIA trial proceedings, including their prior art, in front of the examiners of pending related applications. Another method is improving training as part of the Improving Clarity and Reasoning in Office Actions Training. On the basis of external stakeholder feedback, USPTO has started including tips and techniques on how examiners can enhance various aspects of the prosecution record as part of all training on substantive examination practice, such as 35 U.S.C. § 101 training. Providing clarity in the prosecution record has long been a critical aspect of the job of patent examiners.

The USPTO also is continuing its efforts to enhance patent quality through developments to improve the prosecution process. For example, the USPTO launched the Post Prosecution Pilot (P3) in July 2016. This pilot provides applicants with the opportunity to make an oral presentation to a panel of examiners after a final rejection has been issued at the close of prosecution (the oral presentation is scheduled prior to the filing of a notice of appeal). The USPTO also launched a Clarity of the Record Pilot to ensure that a complete and comprehensive record is created to give inventors and investors the confidence to take the necessary risks to launch products and to start businesses. The idea is to avoid costly and needless litigation down the road.

### **Patent Timeliness**

The Patent Program, through its strategic goal to optimize patent quality and timeliness, supports the Department's strategic goal to foster a more innovative U.S. economy. Given the lower than expected filings in FY 2015, at the beginning of FY 2016 the USPTO projected a 1 percent overall growth in Utility, Plant and Reissue (UPR) filings; however, actual growth was in excess of 5 percent. This unexpected growth in UPR filings negatively impacted the USPTO's ability to achieve the first action pendency annual target.

Between the end of FY 2015 and the end of FY 2016, average first action pendency decreased by 1.1 months and total pendency by 1.3 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.

The USPTO's dedicated employees continue to make great strides in reducing the unexamined patent application backlog, decreasing the backlog from 553,221 at the end of FY 2015 to 537,655 at the end of FY 2016, which represents a decline of 2.8 percent below FY 2015.

The RCE backlog increased from 26,901 at the end of FY 2015 to 27,394 at the end of FY 2016, and the time from the filing of an RCE to the next office action was reduced from 3.3 months at the end of FY 2015 to 2.7 months at the end of FY 2016.

## 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, the commitments made to the fee-paying public, and the need to ensure balance between workload and production capacity.

The USPTO has continued its progress toward achieving an optimal working level inventory of unexamined patent applications and performance targets of 10 months for first action pendency, and 20 months for total pendency in FY 2019.

### Pendency

The USPTO achieved its total pendency target; however, it missed its first action pendency target. Again, given the lower-than-expected filings in FY 2015, at the beginning of FY 2016 the USPTO projected a 1 percent overall growth in UPR filings; however, actual growth was in excess of 5 percent, and the first action pendency result was negatively impacted. The USPTO will continue to monitor incoming patent application filings and will make any necessary adjustments to long-term planning projections to ensure progress toward its pendency targets.

Patent processing times are primarily gauged by two measures: Average First Action Pendency (Table 4) and Average Total Pendency (Table 5). As shown in Tables 4 and 5, the USPTO has made strides in its ongoing efforts to reduce average pendency of filed patent applications.

**TABLE 4**

Measure: Patent Average First Action Pendency (Months)		
Fiscal Year	Target	Actual
2012	22.6	21.9
2013	18.0	18.2
2014	17.4	18.4
2015	16.4	17.3
2016	14.8	16.2
2017	14.5	
Target Not Met.		

### Patents Dashboard

Responding to public feedback, the online Patents Dashboard ([www.uspto.gov/dashboards/patents](http://www.uspto.gov/dashboards/patents)) has been updated. The Patents Dashboard is one of several tools the USPTO makes available to the public to track its progress in areas such as pendency, quality, and timeliness.

An important part of the effort to reduce pendency is to better understand the numerous factors that contribute to examination delays and to measure their impact in a way that makes the USPTO more transparent to the public. By looking at the whole picture, the USPTO can more effectively develop ways to increase the efficiency of the examination process. The Patents Dashboard has been expanded to include technology center (TC)-level statistics and frequent statistics of the quarter updates that address topics of interest to the patent community.

**TABLE 5**

Measure: Patent Average Total Pendency (Months)		
Fiscal Year	Target	Actual
2012	34.7	32.4
2013	30.1	29.1
2014	26.7	27.4
2015	27.7	26.6
2016	25.4	25.3
2017	23.5	
Target Met.		

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

### Nationwide Workforce

Meeting the demands of a modern workforce provided the backdrop for the creation of the USPTO's Nationwide Workforce Program. The program establishes a nationwide workforce by utilizing regional offices, allowing for telework from off-site locations, and incorporating other appropriate measures to hire and retain highly skilled, experienced IP professionals who are interested in joining the USPTO but who do not wish to relocate to the Washington, DC, region. Employing a geographically diverse demographic provides a more balanced workforce to enhance patent examiner retention and helps decrease the number of patent applications waiting for examination. In addition, the Nationwide Workforce Program directly expands the employment candidate pool, reduces real estate costs associated with workforce expansion, and expands the national presence of the USPTO for enhanced interaction with the IP community.

On September 16, 2011, the president signed into law the AIA, which brought important reforms to the USPTO and complimented the agency's already ongoing modernization efforts. In particular, Section 23 of the AIA prescribed that the USPTO establish three or more satellite offices in the United States within three years of the law's enactment, subject to available resources. This mandate supported the USPTO's Nationwide Workforce Program, which initiated a regional office pilot program in Detroit prior to the enactment of the AIA.

Four regional offices are now open, one in each of the four U.S. continental time zones. The workforce model is used across the four offices and consists of a regional director, outreach staff, patent examiners and management staff, administrative staff, and IT staff. The Elijah J. McCoy USPTO Regional Office opened for business on July 13, 2012, in downtown Detroit. The Denver office was opened on June 30, 2014, marking the start of operations at the Byron G. Rogers Federal Building. The Silicon Valley Regional Office was opened on October 15, 2015, in a wing of the San Jose City Hall building. The Texas Regional Office was opened on November 9, 2015, in the Terminal Annex Federal Building in downtown Dallas.

## Expansion of Patent Application Initiatives

### *The Cancer Moonshot*

During his final State of the Union address, President Obama reminded America that we are not alone in the fight against cancer, and that if we work together, answers are within our reach. The president has a strong commitment to success and has set a goal to double the rate of progress in cancer research and treatment.

The president's "Cancer Moonshot" initiative is accelerating these research efforts and is breaking down barriers to progress. The initiative aims to bring about a decade's worth of advances in five years, making more therapies available to more patients, while also improving the ability to prevent cancer and detect it at an early stage.

The USPTO is proud to join the team of allies in the president's effort to refocus, reinvent, and reprioritize the fight to cure cancer. In July 2016, the USPTO implemented a free initiative called "Patents 4 Patients," which fast-tracks reviews of patent applications on cancer treatment. The goal of this accelerated program is to complete review of applications that are accepted into the program in one year or less after they are received. The sooner the USPTO identifies and patents these innovations, the closer the world is to a cure.

In addition to this fast-track program, USPTO launched an IP "Horizon Scanning Tool." The Horizon Scanning Tool leverages patent data sets to reveal new insights into investments around cancer therapy research and treatments. In September, this data was released through the USPTO Developer Hub, allowing users to build rich visualizations of IP data, often an early indicator of meaningful research and development, and combine them with other economic and funding data. For information and updates on how the USPTO is advancing President Obama's call for a Cancer Moonshot, please visit [www.uspto.gov/about-us/national-cancer-moonshot](http://www.uspto.gov/about-us/national-cancer-moonshot).

### *Additional Initiatives*

The USPTO continues 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), and the After Final Consideration Program 2.0 (AFCP 2.0). New initiatives designed to streamline the patent prosecution and enhance efficiency launched in FY 2016 include Post Grant Outcomes and P3.

### **Post Grant Outcomes**

Post Grant Outcomes seeks to provide to the examiner the most useful post grant information from various sources. It basically provides examiners access to prior art and other evidence submitted by third parties in AIA trials before the PTAB. This program improves the efficiency of examiner searches and examination quality. The three objectives of the program are (1) enhanced patentability determinations in related child applications, (2) targeted examiner training, and (3) patent examiner education.

### **Post Prosecution Pilot**

The P3 was developed as part of the USPTO's commitment to collaborate with stakeholders and provide new programs to assist applicants and practitioners during the application process. This program allows an applicant with a utility patent application to submit a proposed after-final amendment to be considered by a panel of experienced examiners. The applicant has the opportunity to make a presentation to the panel, either in-person or via phone, and the panel will provide a brief written summary of the status of the pending claims as well as the reasoning for maintaining any rejection.

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**

Total Cost Per Patent Production Unit		
Fiscal Year	Target	Actual
2012	\$3,970	\$3,617
2013	\$4,041	\$3,686
2014	\$4,633	\$3,940
2015	\$4,646	\$4,086
2016	\$4,558	\$4,198
2017	\$4,674	
Target Met.		

The “total cost of the patent production unit” is a relative measure of efficiency. This measure is calculated by taking the total cost of the Patent process for the fiscal year, including all support costs, and dividing it by the total number of Patent Production Units (PUs) for the same period, including design and PCT PUs. PUs are an internal measure of work completed by patent examiners. Although this measure is described as the “total cost of the patent production unit,” it is not a true “total cost.” One reason is because, although a certain number of PUs are completed in a given fiscal year, the activities that contribute to this PU often occur over multiple years.

**OBJECTIVE 3: INCREASE INTERNATIONAL COOPERATION AND WORK SHARING**

This third objective will help attain pendency targets through international collaboration, which is a critical component of an increasingly global IP system. Although foreign countries maintain sovereign control over their own patent laws and systems, collaboration among the various offices is increasingly important in fulfilling the needs of the global IP community. Furthermore, approximately half of the USPTO’s patent filings are from nondomestic filers. The USPTO seeks avenues to level the international playing field in both legal and procedural contexts and to reduce administrative costs for filers, where possible.

The USPTO is engaged in specific application-level work sharing with international IP offices. The USPTO has agreed to the provisions of the Global PPH system and is sharing work and accelerating examination on allowed applications through the Global PPH system or bilateral PPH agreements with 30 different IP offices. In addition, the USPTO continues to administer two bilateral collaborative search pilots (CSPs), one with the Japan Patent Office (JPO) and a second with the Korean Intellectual Property Office (KIPO), to determine whether collaborative search and its evaluation to commonly filed claims prior to final determination can improve the examination process and provide more consistent results across offices. The pilots will determine whether the offices can control, to a sufficient extent, the sharing of search information between offices such that applications are not receiving an unnecessary delay in examination.

The electronic sharing of information and documentation between IP offices, where applications for an invention are cross-filed, is critical for increasing the efficiency and quality of examination globally. In support of this, the USPTO revised procedures to facilitate electronic sharing of information, which results in less of a burden (in terms of administrative costs) to applicants, specifically regulations were modified allowing the exchange of such data in cases in which a submission is required by a foreign office unless an applicant specifically

opted out of the relief provided. This resulted in an improved exchange of work-products—for example, quality-related search and examination results—at no compliance cost to applicants.

The five largest IP offices—the IP5—collaborate to improve the efficiency of the examination process for patents worldwide. The members of the IP5 are the European Patent Office (EPO), the JPO, the KIPO, the State Intellectual Property Office of the People’s Republic of China (SIPO), and the USPTO. The IP5 agreed to launch a third phase of the PCT Collaborative Search and Examination pilot at the IP5 Heads Meeting in June 2016. Through this pilot, examiners from different international authorities with different working languages work together on one application to establish a single high-quality search report and written opinion.

In November 2015, the first release of the public portal of Global Dossier, allowing the public to view USPTO and IP5 patent application dossiers, was deployed.<sup>2</sup> Public Access to Global Dossier is a user-friendly online interface that makes it easier for patent stakeholders to quickly and easily view, monitor, and manage IP protection around the world by providing access to the dossiers of related applications filed at the IP5 offices. Global Dossier also benefits examiners; for example, shared dossier information includes search and examination results and allows examiners to build on the results from partnering offices, thereby improving overall examination quality. From a strategic perspective, the Global Dossier represents a significant move forward in technical harmonization, one that will begin to highlight procedural and other differences among offices.

The USPTO published a Request for Comments in the Federal Register on August 29, 2016, indicating that the agency is exploring how it can better leverage applicant’s other applications that have the same—or substantially the same—disclosure (e.g., domestic parent and counterpart foreign applications) as the U.S. application under examination in an effort to provide examiners with relevant information as early as possible. The USPTO believes that providing this information at the earliest possible stage of prosecution of the U.S. application can improve the efficiency and quality of the examination. The USPTO seeks to improve the quality and efficiency of examination, for example, by developing a system that utilizes both Global Dossier and the USPTO’s internal databases to provide examiners with the information from counterpart foreign and domestic parent applications automatically at the earliest stage in prosecution of a U.S. application. In addition to improving patent examination quality and efficiency, providing the examiner with this information from an applicant’s other applications may reduce an applicant’s burden to provide this information to the USPTO.

The Industrial Design 5—ID5—is a partnership of the five largest design patent offices, which includes the USPTO, SIPO, European Union Intellectual Property Office (EUIPO), JPO, and KIPO; WIPO serves in an advisory role. The inaugural ID5 meeting was hosted by the USPTO in December 2015. The goal of ID5 is to better understand practices from all partner offices and strive toward more universal convergences in design patents. In addition, in February 2016, a memorandum of cooperation was signed by the USPTO and JPO to cooperate in exploring the potential for harmonizing classification for industrial designs.

The USPTO continues to work with the EPO and other countries on a Cooperative Patent Classification (CPC) system. The CPC is a detailed classification system that enables patent examiners to efficiently conduct thorough patent searches. The CPC incorporates the best classification practices of both the U.S. and European systems. The CPC enhances efficiency and quality and supports work sharing initiatives with a view to reducing unnecessary duplication of work. The USPTO and the Israel Patent Office reached an agreement for the Israel Patent Office to classify its newly filed Israel national stage patent documents into the

<sup>2</sup> Number of accesses to USPTO patent application dossiers in FY16 = 1,191,895; number of accesses to IP5 patent application dossiers (not counting USPTO) in 2016 via the Public Access component of Global Dossier = 7,386,697.

CPC as of September 1, 2016. This expands CPC’s coverage of patent documents throughout the world and enables Israel documents to be searched alongside other countries, benefiting both innovators and businesses who are filing both domestically and abroad.

For further information on international cooperation, please see the discussion of Strategic Goal III, p. 86.

#### **OBJECTIVE 4: CONTINUE TO ENHANCE PATENT QUALITY**

Patent quality is central to fulfilling a core mission of the USPTO, which as stated in the Constitution, is to “promote the progress of science and useful arts.” It is critically important that the USPTO issue patents that are both correct and clear. Historically speaking, the USPTO’s primary focus has been on correctness, but the evolving patent landscape has challenged the agency to increase its focus on clarity.

As part of the EPQI, the USPTO launched 12 programs based on feedback received in response to a Federal Register Notice Request for Comments on Enhancing Patent Quality, March 2015 Patent Quality Summit, and a variety of other outreach events. These programs are as follows:

- 1. The Topic Submission for Case Studies Program** allowed the public to suggest, through a Federal Register Notice, topics for case studies to be conducted by the Office of Patent Quality Assurance. Six case studies were selected, which are currently ongoing.
- 2. The Clarity and Correctness Data Capture Program** developed a system to enable reviewers in both the Office of Patent Quality Assurance and the TCs to consistently document and access office action quality review data. This system includes the new Master Review Form, which captures both correctness and clarity information via a series of standardized questions. The form was built by using smart form logic; thus, reviewers only see those sections/questions that are applicable to a particular review. The team used feedback from a variety of sources in developing the form, including through comments to a Federal Register Notice as well as a through a public workshop held as part of the Patent Quality Community Symposium.
- 3. The Quality Metrics Program** is developing new, world-class patent quality metrics by using existing data, such as Quality Index Report (QIR) data, and new data, such as



Patent examiners from around the country gathered at USPTO’s Alexandria headquarters in May for PaTH (Patent Training at Headquarters), where the agency’s nationwide workforce had the opportunity to participate in two days of educational workshops and meetings with their art unit and with Patents leadership. (Michael A. Cleveland/USPTO)

Master Review Form data. These metrics will replace the Quality Composite Score that has been used since FY 2011. The team uses feedback received from a variety of sources, including through comments to a Federal Register Notice, when developing the metrics.

4. **The Clarity of the Record Pilot** is identifying best practices for enhancing the clarity of particular aspects of the prosecution record, namely claim interpretation, reasons for allowance, and interview summaries, and is exploring the impact of implementing these best practices during examination.
5. **The P3** has developed a new path for after-final amendments, which includes popular aspects from both the AFCP 2.0 program and the Pre-Appeal Pilot. In particular, P3 permits an applicant to submit an after-final amendment for consideration by a panel of examiners, present oral arguments to the panel, and then receive a detailed explanation of the panel's decision.
6. **The Post Grant Outcomes Program** has three main objectives, which are to enhance patentability determinations in applications that are related to patents undergoing an AIA trial, to provide targeted examiner training on identified best practices gathered from post-grant proceedings, and to provide examiners with a periodic review of post grant outcomes focusing on technology sectors. This program's Post Grant Outcomes Pilot, which is currently ongoing, accomplishes the first objective by notifying examiners when they have an application related to a patent involved in an AIA trial, streamlining access to the contents of the AIA trials, and gathering best practices.
7. **The Interview Specialist Program** has identified and trained interview specialists in all TCs to be subject matter experts on interview practice and policy. The interview specialists are to assist both applicants and examiners with interviews, including facilitating and assisting with technical issues that may arise.
8. **The Design Patent Publication Quality Program** has developed new procedures for improving the image quality of published design patents.
9. **The Clarity of the Record Training—Improving Clarity and Reasoning in Office Actions Training Program**—has trained examiners through instructor-led training modules and workshops as well as through computer-based training on numerous topics, including 35 U.S.C. § 101, 112(a), 112(b), 112(f), and reasons for allowance. These modules have included tips and techniques on how examiners can improve the clarity of their office actions.
10. **The Automated Pre-Examination Search Pilot** is exploring ways to make a pre-examination search available automatically in patent applications to provide examiners with a strong foundation for their own search.
11. **The Scientific and Technical Information Center (STIC) Awareness Campaign** has publicized to examiners the tools and resources for searching prior art that are currently available in STIC.
12. **The Reevaluate QPIDS Program** is currently evaluating ways to improve the QPIDS program.

The USPTO held a Patent Quality Community Symposium in April 2016 to showcase progress on the EPQI's programs. In addition, the symposium featured a workshop on the Master Review Form and a discussion on ways that applicants can improve patent quality. The symposium was held in all of the USPTO's offices—the Alexandria headquarters and USPTO's four regional offices—and was attended by over 3,000 people, with 387 attending in person. The remaining participants attended the symposium via WebEx.





Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office (USPTO), Russ Slifer leads a panel discussion about “How Applicants Can File and Prosecute a Quality Application as part of the Patent Community Symposium. Panelists include: Bill Bunker, Knobbe Marten; Rick Nydegger, Workman Nydegger; Kevin Noonan, MBHB; Laura Sheridan, Google; and Tim Wilson; SAS. The symposium updated the public on the status of the USPTO’s quality enhancing programs, introduced some developing programs and collect feedback, and continued the discussion from a stakeholder’s perspective on what patent applicants and their representatives can do enhance quality. (Jay Premack/USPTO)

The USPTO partnered with American Intellectual Property Law Associations for a series of cross-country roadshows with stops in Santa Clara, Calif., Dallas, and Alexandria. The roadshow program focused on enhancing patent quality and conducting AIA trials with numerous speakers from the USPTO as well as from private practice.

The Deputy Commissioner for Patent Quality hosts a monthly webinar known as *Patent Quality Chats*. The Patent Quality Chat series is designed to provide information on patent quality topics and gather the public’s input. These webinars include a speaker(s) presentation (approximately 20 minutes), reserving the remainder of the time for questions and comments from the virtual audience (sent in via email). All Patent Quality Chats are free and open to the public.

The Stakeholder Training on Examination Practice and Procedure (STEPP) program was created based on public feedback and is a new and important part USPTO’s mission to deliver IP information and education to external stakeholders. Training delivered through STEPP is designed to provide external stakeholders with a better understanding of how and why an examiner makes decisions while examining a patent application. In-person courses are led by USPTO trainers and are based on material developed for training employees of the USPTO.

**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.

The USPTO has progressed on a multipronged effort to stabilize the Patent Application Location and Monitoring (PALM) legacy system used for patent examining. The Patent



Commissioner for Patents, Drew Hirshfeld, speaks at a public Enhanced Patent Quality Initiative event. The United States Patent and Trademark Office (USPTO) and American Intellectual Property Law Association co-hosted a series of cross-country roadshows that consisted of a full-day program focused on enhancing patent quality, conducting America Invents Act (AIA) trials, and featuring a variety of speakers. (Jay Premack/USPTO)

Reporting System was improved for examiners and managers and increased usage of the PALM services gateway as demonstrated by an increase in services. The USPTO also completed a project that improved the performance of the automated biotech sequence search system by increasing the computing power.

The USPTO has begun the replacement of legacy tools with new tools. The entire patent-examining corps has received training on the Docket and Application Viewer (DAV), which replaces the electronic Desktop Application Navigator (eDAN) tool. DAV is a customizable, searchable tool to help examiners manage their workload and prioritize tasks. At present, over 65 percent of the examining corps is using the tool three or more days a week.

This new tool, like others to come, will help the agency in the drive to increase patent quality. 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. Late in 2016, the USPTO expects to launch more releases that are critical to examiners, including office action and search tools. Office action capabilities will allow the patent-examination corps to write their office action and to fill out the appropriate forms and workflow for having that office action type approved for communication with the applicant. Search will be a high-performance tool that will find prior art supporting complex Boolean searches, reviewing results, hit terms, and documents.

As previously mentioned, the USPTO deployed public access to One Portal Dossier (OPD), which is an IP5 initiative to provide "secure, one-stop access and management to global patent applications." The USPTO will serve as the providing office, and integrated OPD with the WIPO Centralized Access to Search and Examination system will serve as a providing office.

### **Redesign and Re-Architect Current Patent IT Systems**

The USPTO is about to begin modernizing eCommerce capabilities—transactions that involve the transfer of information across the Internet—and integrating MyUSPTO to tie all eCommerce offerings together at the USPTO. By the fall of 2016, the Patent Center, a unified interface for patent applications, will have a pilot program to receive text patent applications from pilot participants. Throughout 2017, the Patent Center will be deploying functionality to replace EFS-Web and Patent Application Information Retrieval and integrate them with MyUSPTO.

For patent applicants, eMod (eCommerce Modernization) will help provide a simpler authentication process, improved functionality, and a more user-friendly interface and documents. For patent examiners, the updated systems will streamline patent submission, review, and management processes, and increase accuracy of application processing and publication. Overall, a more easy-to-use electronic patent application process will improve 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 all four regional offices now open, the focus is now on educating both patent and trademark applicants on the wide variety of services provided by the USPTO. Some of these services focus 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 (PTRC). 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 Patents 4 Patients and the IP Horizon Scanning Tool mentioned in Objective 2 are just a portion of what the USPTO is doing to get its message out as America's Innovation Agency. In January 2016, the USPTO was invited to the Consumer Electronics Show (CES) in Las Vegas, NV. The USPTO's educational team had an exhibit on the trade show floor along with a hundred or more high-tech startup companies. This presence allowed the USPTO to engage directly with startups of all sizes at CES's "Eureka Park" on how IP—be it a patent, trademark, trade secret, or copyright—can help companies achieve their business goals. The energy and entrepreneurship on display at CES was incredible, as were the new technologies being demonstrated. This was the first time the USPTO had a presence at CES, and the time spent there interacting with innovative companies was very productive.

### **Office of Stakeholder and Patent Ombudsman**

The USPTO will continue 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), and raising awareness about other programs that could be of assistance to them.

The Patents Ombudsman Program enhances the USPTO's ability to help applicants or their representatives with issues that arise during patent application prosecution. When there is a breakdown in the normal application process, including before and after prosecution, the Patents Ombudsman Program can help get the application back on track. The patents ombudsman has been giving presentations on the Patents Ombudsman Program with particular emphasis on how applicants can proactively resolve the most frequent types of inquiries. The program is available online at [www.uspto.gov/patent/ombudsman-program](http://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 the new AIA post-grant proceedings (AIA trials). The PTAB continues to be a faster and less expensive alternative to litigation in the district courts. In FY 2016, the PTAB received more than 1,500 petitions under the AIA and met all statutory deadlines. The PTAB also decided over 13,000 appeals and reduced the PTAB Ex Parte Appeal<sup>3</sup> backlog from over 21,000 in FY 2015 to about 17,000 by the end of FY 2016.

To meet this challenge, PTAB has grown quickly. This has required additional administrative infrastructure and minor organizational realignments, with close attention being paid to appropriate manager-to-employee ratios. The opening of the USPTO's four permanent regional offices, with hearings now being conducted in each of these locations, has led to a requirement for additional hearing and administrative-support personnel. PTAB recruited and hired 36 administrative patent judges in FY 2016.

The number of AIA petitions filed each month is difficult to predict with great accuracy because there are only three years of historical data available for modeling. In addition,

<sup>3</sup> For more information about Ex Parte Appeals, please visit [www.uspto.gov/ip/boards/bpai/ptab\\_appeals.jsp](http://www.uspto.gov/ip/boards/bpai/ptab_appeals.jsp).

the impact of factors such as rule changes, pending legislative initiatives, and judicial decisions is not well known. 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.

### **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. Since then, usage of PRPS has exceeded expectations, and the time has come to 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 upload PDF documents to the system. PTAB E2E also provides an interface to the Fee-Processing Next Generation (FPNG) for paying fees.

The PTAB E2E system initially will provide for AIA petitions to be filed for inter partes review, post-grant review, and covered business method review, including integration with FPNG for paying fees. PTAB E2E will replace the PRPS for these trial types. Future iterations will replace PRPS for derivation proceedings and will integrate appeal decision functionality.

# TRADEMARKS:

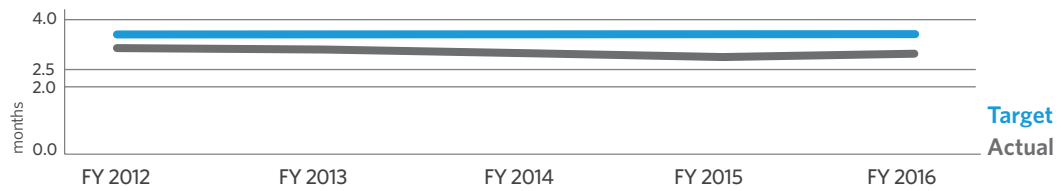
## STRATEGIC GOAL II

### **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. Although federal registration of a mark is not mandatory, 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 from the USPTO, please visit [www.uspto.gov/trademarks/process/](http://www.uspto.gov/trademarks/process/).

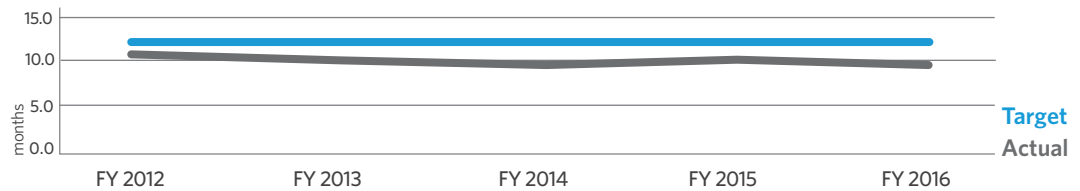
What follows are those Strategic Goal II measures for which enough data are available to establish performance trends.

### Trademark Average First Action Pendency



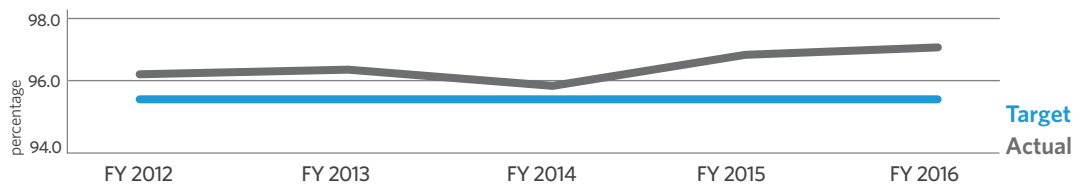
Trend: The trend line indicates that the performance is meeting goals within the expected target range of 2.5 to 3.5 months. Additional discussion for this measure can be found on pages 75-76.

### Trademark Average Total Pendency



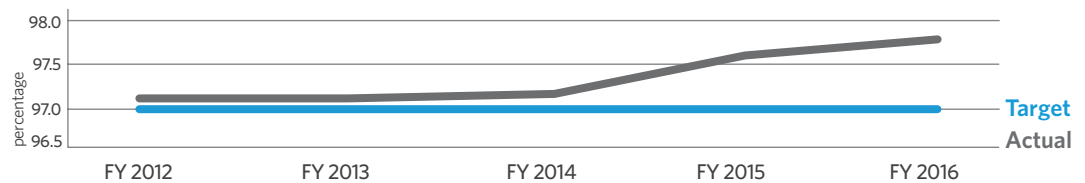
Trend: The trend line indicates that the performance trend is meeting goals within the target range. Additional discussion for this measure can be found on pages 75-76.

### Trademark First Action Compliance Rate



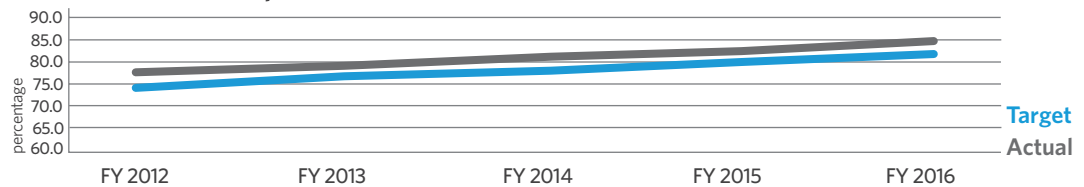
Trend: The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for the first Office action under the Trademark Act. Additional discussion for this measure can be found on page 78.

### Trademark Final Compliance Rate



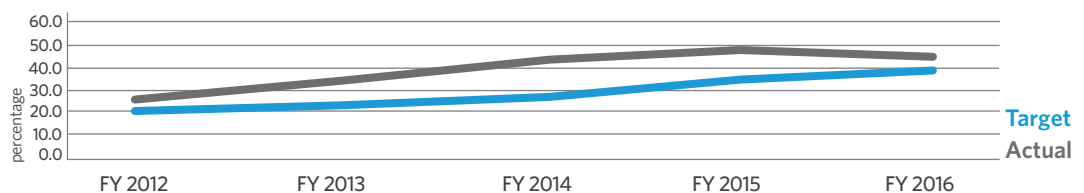
Trend: The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for registration based on the examiner's approval or denial of the application including first Office actions under the Trademark Act. The trend line indicates that the performance is maintaining standards within the target. Additional discussion for this measure can be found on page 78.

### Trademark Exceptional Office Action



Trend: The trend line indicates positive performance. Additional discussion for this measure can be found on pages 77-78.

### Trademark Applications Processed Electronically



Trend: The trend line indicates positive performance. Additional discussion for this measure can be found on page 77.

## STRATEGIC GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

The USPTO's Trademark operations support the strategic goal to optimize trademark quality and timeliness. The USPTO protects consumers and provides benefits to businesses by effectively and efficiently carrying out the trademark laws of the United States. Through federal trademark registrations, consumers can identify the source of products and services, and businesses have reliable indicators of the quality of their marks.

The USPTO consistently achieves trademark pendency targets and delivers high-quality results. Trademarks have been registered in less than 12 months on average since 2008. An indication of registrability via a first action has been provided in less than 3.5 months every month 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 84.8 percent in 2016. First and final action compliance rates, which measure trademark quality, exceed 97 percent. The USPTO strives to maintain this strong performance as filings continue to increase.

The USPTO is committed to this sustained level of performance in operations under the *2014–2018 Strategic Plan*. The following objectives focus on the management actions required to continually ensure that staffing, resources, and refined processes are aligned with demand for products and services.

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

Trademark application filing levels can be volatile, and the USPTO will continue to align trademark examination capacity with incoming workloads through various management techniques, such as hiring, judicious use of overtime and production incentives, and the approval of career development details.

Over the past few years, economic uncertainty has persisted at high levels, affecting business decisions and investments. Economic recovery remains steady but slow and fragile. Economic uncertainty contributes to inherently volatile application filing levels and the challenge of developing accurate forecasts. Despite the uncertainty and the volatility, the USPTO managed its resources and staffing to maintain the timeliness that the agency's stakeholders have come to expect. In response to a 5.2 percent increase in trademark filings for FY 2016, the USPTO plans to continue hiring to ensure that trademark examination capacity remains properly aligned with incoming work.

#### **Continue to Define and Validate Optimal Pendencies**

First action pendency—the length of time between receipt of a trademark application and when the USPTO makes a preliminary decision—remains well 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—is equally

impressive at 9.8 months. The USPTO has achieved and sustained optimal pendency results (see Tables 7 and 8), which serve as an important indicator for stakeholders when making business decisions. Trademarks will continue to make process and IT improvements to further its commitment to deliver quality service and enhanced capabilities to all its stakeholders. The USPTO is committed to continuing the revalidation of the agency's overall targets with its IP community.

**TABLE 7**

<b>Measure: Trademark Average First Action Pendency (Months)</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	2.5 to 3.5	3.2
2013	2.5 to 3.5	3.1
2014	2.5 to 3.5	3.0
2015	2.5 to 3.5	2.9
2016	2.5 to 3.5	3.1
2017	2.5 to 3.5	
Target Met.		

**TABLE 8**

<b>Measure: Trademark Average Total Pendency (Months)</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	12.0	10.2
2013	12.0	10.0
2014	12.0	9.8
2015	12.0	10.1
2016	12.0	9.8
2017	12.0	
Target Met.		

In addition to managing trademark examination capacity, the USPTO will continue to encourage its applicants to make greater use of electronic communication throughout the registration and maintenance processes. To achieve this, the USPTO will continue to reach out and solicit feedback from applicants and user groups to improve the current rate of applications processed and managed electronically. In May 2016, Trademarks published an Notice of Proposed Rulemaking (NPRM) to modify some fees; the USPTO plans to implement these fee changes in January 2017. One purpose of the fee proposal is to further incentivize electronic filing and communication and to promote fairness so that electronic filers do not subsidize the cost of paper processing. The fee changes will allow USPTO to (1) better align fees with the full cost of products and services, (2) protect the integrity of the register by incentivizing more timely filing or examination of applications and other filings and more efficient resolution of appeals and trials, and (3) promote the efficiency of the process, in large part through lower-cost electronic filing options. These changes will increase fees related to all paper filings and increase fees for the regular Trademark Electronic Application System (TEAS) application registration to encourage complete electronic communications from filing through disposal or registration. Furthermore, this proposal increases fees for ex parte appeals, oppositions, cancellations, and affidavits at the TTAB to diminish the amount of the subsidy the TTAB receives from the Trademark examining operation.



Electronic filing is beneficial to the USPTO’s users, workflow processes, data collection, and file management, while supporting E2E electronic processing of trademark applications. Electronic processing of trademark applications rose to 84.8 percent of applications in FY 2016, as shown in Table 9. These applications were exclusively processed electronically from filing to disposition. The USPTO will continue to engage with the public to identify ways to streamline processes, lessen the financial burden on applicants, and efficiently process trademark applications. As a result, the long-term trajectory of trademark filings continues toward a system of exclusively electronic correspondence.

**TABLE 9**

<b>Measure: Trademark Applications Processed Electronically</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	74.0%	77.0%
2013	76.0%	79.0%
2014	78.0%	80.7%
2015	80.0%	82.2%
2016	82.0%	84.8%
2017	82.0%	
Target Met.		

**OBJECTIVE 2: MAINTAIN HIGH TRADEMARK QUALITY**

Quality measurement takes into consideration adherence to registrability standards and the comprehensive excellence of Office actions, including research, writing, legal decision making, and evidence. Trademark quality targets are routinely achieved, and the USPTO continues to sustain these high performance levels 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 2016, providing compelling evidence that the specialized training, online tools, and enhanced communication efforts are effective.

The most comprehensive Exceptional Office Action quality measures have consistently exceeded their targets (see Table 10), illustrating the commitment of the examiners and the USPTO to provide and sustain excellence in constructing search strategy, preparing supporting evidence, writing the office action, and communicating the decision. The measure has proven to be a success, emphasizing a holistic approach to quality. The USPTO continues to address quality by developing guidelines specific to quality review findings. Incentive awards have been successful in motivating more examiners to strive for exceptional work products. 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.

**TABLE 10**

<b>Measure: Exceptional Office Action</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	20.0%	26.1%
2013	23.0%	35.1%
2014	28.0%	43.0%
2015	36.0%	48.3%
2016	40.0%	45.4%
2017	40.0%	
Target Met.		

The USPTO will continue its multifaceted training program for its trademark-examining attorneys and support staff. New examining attorneys are provided with classroom training and 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 Quality Review, ongoing trademark case law updates, and examination guidelines by the legal policy office providing continuing legal education on relevant topics by outside lawyers, as well as the use of IT to provide new research resources and procedures to minimize errors. The USPTO continues to engage stakeholders in validating trademark-quality findings; offering user-group-provided, industry-specific training; and working with industry experts on updating identifications for goods and services. Regular meetings with outside constituent groups, a customer call center, and an email box for customer problems also provide valuable feedback about examination quality.

Trademark examination quality is indicated by the first and final compliance rate, which is determined 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**

<b>Measure: Trademark First Action Compliance Rate</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	95.5%	96.2%
2013	95.5%	96.3%
2014	95.5%	95.8%
2015	95.5%	96.7%
2016	95.5%	97.1%
2017	95.5%	
Target Met.		

**TABLE 12**

Measure: Trademark Final Compliance Rate		
Fiscal Year	Target	Actual
2012	97.0%	97.1%
2013	97.0%	97.1%
2014	97.0%	97.2%
2015	97.0%	97.6%
2016	97.0%	97.8%
2017	97.0%	
Target Met.		

Table 13 provides the relative cost-effectiveness of the trademark examination process, as measured by the average cost of a trademark disposal compared with trademark direct and indirect costs. The “total cost of the trademark production unit” is a relative measure of efficiency. This measure is calculated by dividing total expenses associated with the examination and processing of trademarks (including associated overhead and allocated expenses) by the total number of outputs (office disposals) for the same period.

**TABLE 13**

Total Cost Per Trademark Office Disposal		
Fiscal Year	Target	Actual
2012	\$607	\$560
2013	\$609	\$552
2014	\$650	\$559
2015	\$673	\$667
2016	\$600	\$600
2017	\$538	
Target Met.		

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

#### **Modernize IT Systems through Developing the Trademark Next Generation**

The organization has made considerable progress in its development of Trademark Next Generation (TMNG) since work began in late 2010. When completed, TMNG will separate the trademark IT infrastructure from the rest of the USPTO IT infrastructure and implement an integrated IT system for E2E electronic processing of trademark applications and trademark registration maintenance. TMNG enables E2E processing that is faster, more practical, more feature-rich, and more reliable for the USPTO employees, trademark applicants, trademark owners, and the public at large. User-centered design is a core component of the TMNG development effort that works with end users (both internal and external) to identify the features they desire in the new system interface. Work continues on the development of the initial replacement of systems used by examiners to perform their work.

TMNG development takes advantage of virtualization and cloud computing. Using this technology requires a redesign of the Trademark organization's 24 internal computer systems. This modernization effort is a multiyear investment that delivers enhancements to existing tools such as Trademark Status and Document Retrieval, the internal search program known as X-search, and expanded search functionality for other tools, such as the Electronic Official Gazette and the ID Manual. Progress was made in FY 2016 on the development and eventual replacement of FAST 1 (the online examination system used by examining attorneys) and is scheduled to fully replace FAST 1 in FY 2017.

In June 2016, the USPTO hired its first Deputy Commissioner for Trademark Administration to lead business requirements and planning for IT systems, including TMNG. In addition to IT modernization efforts, the Deputy Commissioner for Trademark Administration also oversees financial management and strategic planning for the Trademark organization.

#### **OBJECTIVE 4: CONTINUE AND ENHANCE STAKEHOLDER AND PUBLIC OUTREACH**

The USPTO continues to expand outreach to practitioners across the country by hosting roundtables for open discussion to explore a number of topics, including the current state of trademark operations; updates and improvements 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. Roundtables were held in conjunction with different stakeholder groups, including multiple bar associations and the International Trademark Association (INTA), in cities throughout the United States.

Beginning in November 2015, Trademarks began conducting video chat sessions in conjunction with its regional offices around the country. The regional offices invited area business people and entrepreneurs to learn about the Trademark application process from highly experienced Trademark officials. These highly interactive sessions are conducted on a monthly basis in the regional offices located in Detroit, Silicon Valley, Dallas, and most recently in USPTO's Denver regional office.



This year for the first time, USPTO's public outreach efforts included a presence at the Consumer Electronics Show in Las Vegas. Representatives from across the agency, including two of USPTO's regional offices, met with inventors and others in the high-tech community to discuss the entire range of intellectual property issues.



Commissioner for Trademarks Mary Denison spoke to Trademark staff from around the country gathered at the USPTO's Alexandria headquarters for the TORCH training program. Helping to further the continuing education of Trademark staff, nearly 40 speakers conducted training classes and group meetings for a geographically-distributed workforce that doesn't often have the opportunity to meet in person.

### **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 program, now expanded to include 43 participating colleges and universities. The program benefits both law school programs and the business owners they represent in filing applications and obtaining trademark protection. This program allows law students enrolled in participating law schools to practice both patent and trademark law before the USPTO and under the strict guidance of a faculty supervisor.

The USPTO reaches out to provide 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 are geared to those generally not acquainted with trademark information, such as non-trademark examining attorneys, the small business community, the entrepreneurial community, and students. The USPTO partners with colleges and universities, entrepreneurship clubs, and similar groups to present informational lectures on trademarks and the importance of a strong mark that is both federally registrable and legally protectable.

The USPTO has also increased information available on its website by updating the *Basic Facts About Trademarks* booklet and corresponding videos, which are available in both English and Spanish languages. *What Every Small Business Should Know Now, Not Later* is one of several informational videos designed specifically for anyone interested in starting a business. The video highlights the important role of trademarks in starting a business, discusses how trademarks, patents, copyrights, domain names, and business name registrations differ, and gives guidelines on how to select the right mark. The video also explains the benefits of federal registration and suggests resources if help is needed in preparing and filing an application. The video makes it clear why addressing trademarks in a business plan can be critical to success. This video has been watched over half a million times since it was launched in August 2013.

### Engagement of Stakeholders for the Trademark Registry

The USPTO this year advanced its goal of strengthening the integrity of the Trademark Register. After analyzing the results of a Post Registration Pilot, more than half of the registrants randomly selected for the pilot were unable to provide the requested proof of use of the mark; thus, stakeholders sought changes to improve the accuracy of the Register. The USPTO put forth an NPRM to make the random audits program permanent, which was published on June 22 in the Federal Register.

Increasing the solemnity of the declaration does not require a rule change, but the new language was posted on Ideascale, an interactive online program that allows users to provide suggestions and comments. Plans are in place to implement a permanent program in FY 2017 in which random audits of registration maintenance filings will occur to ensure use. In addition, as advocated by stakeholders, the USPTO is developing proposals for a streamlined non-use expungement proceeding to quickly and inexpensively cancel the registration of a mark not in use. The USPTO will publish recommendations, informed by stakeholder feedback, to address accuracy on the Register. In addition, the USPTO has implemented a new pilot program regarding goods and services impacted by technology evolution, ensuring the integrity of the Register to reflect marks that still remain in use in the relevant industry.

### Global Collaboration With Peers and Partners

The USPTO is dedicated to working closely and regularly with its Trademark office counterparts and stakeholders worldwide to collaborate on processes and exchange best practices. In May, USPTO officials participated in the 2016 INTA Annual Meeting in Orlando, FL. Registrants accounted for the largest attendance in its history, which helped the USPTO further expand its reach to the trademark and IP community. In the local USPTO headquarters area, the USPTO hosted the 2015 TM5 Annual Meeting at USPTO headquarters on December 1-2, 2015. The TM5 comprises the five largest trademark offices in the world: the USPTO, the JPO, the KIPO, the EUIPO, and the Trademark Office of the State Administration for Industry and Commerce of the People's Republic of China (SAIC). The TM5 framework allows the partner offices to exchange information on trademark-related matters and to undertake cooperative activities aimed at harmonizing or improving their respective trademark protection systems and procedures. The annual meeting saw progress on a number of cooperative projects and included sessions designed to obtain feedback from users on existing efforts and to generate ideas and discussion about future work.

The Common Status Descriptors project advanced greatly with a number of countries agreeing to certain "universal" symbols to be placed in applications and registrations, thereby making translations as to status unnecessary. Commissioner Mary Boney Denison and other USPTO officials later convened at the midyear TM5 meeting this past July in Beijing, China, and are scheduled to participate in the fifth annual meeting in China this fall.

For further information about global collaboration with peer organizations around the world, please see the discussion of Goal III, page 86.



Commissioner for Trademarks Mary Denison represented the USPTO in Beijing at the midyear TM5 meeting last July, meeting with her counterparts from the European Union, Japan, South Korea and the People's Republic of China.

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

The TTAB's most important initiative in FY 2016 was drafting and publishing an NPRM to amend the Board's rules, primarily with regard to its inter partes (i.e., trial) proceedings. The Final Rule was published in the Federal Register on October 7, 2016, and its provisions take effect January 14, 2017. The amended rules focus on streamlining trial proceedings by promoting efficient and cost-effective use of resources of the Board and of parties to TTAB proceedings. The NPRM incorporated feedback from the 2015 Roundtable on Evolving TTAB Processes, attended by representatives of IP stakeholder organizations, and that roundtable was followed by several subsequent stakeholder outreach sessions, and meetings with TPAC. The NPRM was published for comment on April 4, 2016, and on June 24, 2016, the Board held a public meeting to summarize and "report out" the essence of the formal comments received during the comment period. The comments received in response to the NPRM aided the drafting of the Final Rule and will help ensure that the rule changes are responsive to the needs of parties involved in Board proceedings.

The TTAB continued 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. FY 2016 data shows continuing improvement (declines) in overall average pendency (from commencement to completion) of appeals, trial cases and Accelerated Case Resolution trial cases. It is significant to note that FY 2016 marks the fifth consecutive year that the TTAB has reduced overall average pendency in trial cases.

In March 2016, the TTAB hosted a users' forum for TTABVUE, the Board's electronic docket and case file repository and viewer. This forum (1) resulted in valuable comments and suggestions that TTAB will use to set the requirements for a legacy IT system improvement package and (2) aided the Board's planning for the future implementation of the USPTO's E2E electronic processing of trademark matters, known as *TMNG*, which will significantly increase the functionality and flexibility of the USPTO's systems and its appeal and trial processes. Because *TMNG* is a long-term project, the legacy system improvements to TTABVUE will provide needed near-term improvements, for example, enabling bulk download of docketed documents will respond to a functionality improvement requested by stakeholders.

In June 2016, 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, and the Federal Rules of Civil Procedure. The Board anticipates updating the TBMP in January 2017 to reflect the new procedural rules. In addition, the Board finalized a revision of its Standard Protective Order for trial cases and made it effective as of June 24, 2016. Finally, the Board continued to fulfill its commitment to developing the law by issuing a substantial number of precedential opinions and orders, with such decisions issued on a wide variety of substantive and procedural matters.

Committed to proactively engaging with the public regarding Board operations, the TTAB and the PTAB partnered with four law schools across the country in early 2016 to showcase PTAB AIA trial proceedings and TTAB trial and appeal proceedings. During these 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 local professional meetings throughout the country, offering tips for practice before the Board, and this year the Board's new procedural rules. The Board will continue to explain the rules during events in FY 2017.

# INTELLECTUAL PROPERTY: STRATEGIC GOAL III

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

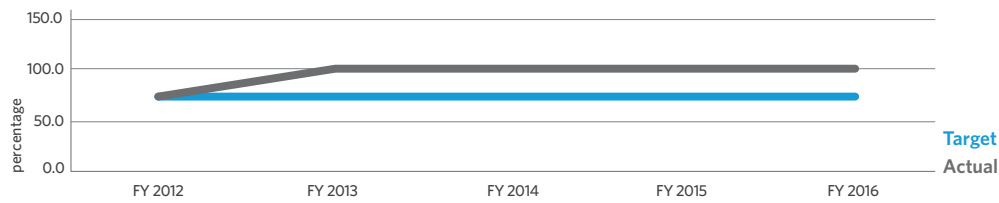
The USPTO advises the president—through the Secretary of Commerce—and all federal agencies on national and international intellectual property policy issues, including IP protection in other countries. The USPTO's strategic plan highlights these activities in the USPTO's Strategic Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide. The USPTO's Office of Policy and International Affairs oversees and implements this policy role.



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

Percentage of Prioritized Countries for Which Country Teams Have Made Progress on at Least 75% of Action Steps in the Country-Specific Action Plans Along the Following Dimensions:

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



Trend: The trend line indicates that the performance trend is maintaining standards with significant variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 95.

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

The USPTO has a statutory mandate to advise the president and all federal agencies, through the Secretary of Commerce, on national and international IP policy issues. In addition, the USPTO is authorized by statute to provide guidance, to conduct programs and studies, and to interact with IP offices worldwide and with international intergovernmental organizations on matters involving IP.

The USPTO fulfills this mandate by working to meet Strategic Goal III. Through OPIA, it leads negotiations on behalf of the United States at 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, 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 aimed at improving the IP system.

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

Throughout FY 2016, 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 on curbing abusive patent litigation and on protecting trade secrets; continuing to carry forth the work flowing out of the green paper, *Copyright Policy, Creativity, and Innovation in the Digital Economy*, issued by the Department of Commerce's Internet Policy Task Force (IPTF) in 2013; and releasing in January 2016 the IPTF's *White Paper on Remix, First Sale and Statutory Damages* and commencing work to implement its recommendations. OPIA also exercised a leadership role by developing and strengthening international frameworks with foreign IP offices.

### **Copyright White Paper**

The *White Paper on Remix, First Sale and Statutory Damages* sets forth the IPTF's conclusions on three important copyright topics in the digital age: (1) the legal framework for the creation of remixes, (2) the relevance and scope of the "first sale" doctrine in the digital environment, and (3) the appropriate calibration of statutory damages in the contexts of individual file-sharers and secondary liability for large-scale infringement. In making its recommendations, the IPTF was mindful of the need to protect copyrights effectively while also promoting innovation on the Internet.

The *White Paper on Remix, First Sale and Statutory Damages* makes three statutory recommendations relating to statutory damages: (1) amending the Copyright Act to incorporate a list of factors for courts and juries to consider when determining the amount of a statutory damages award, (2) removing a bar to eligibility for the Act's "innocent infringer" provision, and (3) providing discretion to courts to lessen the risk of excessively high statutory damages in the context of secondary liability for online service providers. The report also notes that some of the concerns that have been raised about the high levels of damages assessed in cases against individual infringers could be alleviated if Congress were to establish a small claims tribunal, with caps on damage awards.

With respect to remixes and the first sale doctrine, the report concludes that the evidence has not established a need for changes to the Copyright Act at this time. The IPTF does make several recommendations on how to make it easier for remixers to understand when it is fair to use their work and how to obtain licenses when they wish to do so. It also recommends the development of best practices to improve consumers' understanding of the terms of online transactions involving creative works. Finally, it notes the continued need to monitor legal and marketplace developments to ensure that library lending and preservation concerns are addressed.

### **International Treaties**

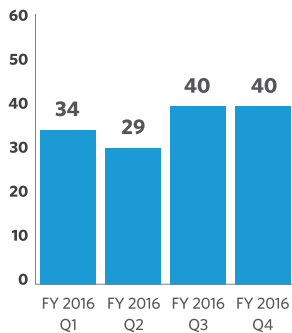
The USPTO led the administration's work in preparing ratification and implementation packages for two treaties negotiated under the auspices of WIPO: the Beijing Treaty and the Marrakesh Treaty. The legislative implementation packages for both were submitted to Congress in February 2016.

The Beijing Treaty strengthens IP protections globally for actors, musicians, and dancers by requiring countries to ensure updated and consistent standards of protection for performers in audiovisual works. The Marrakesh Treaty lays a foundation, in a manner consistent with existing international copyright standards, for further opening up a world of knowledge for blind, visually impaired, and print-disabled persons by improving their access to published works.

### **Provide Domestic and International Education, Outreach, and Capacity Building**

The USPTO, through OPIA, provides educational and training programs for domestic and foreign government officials, small and medium-sized enterprises (SMEs), universities, and other sectors of the public. In FY 2016, OPIA conducted a total of 143 such training programs.

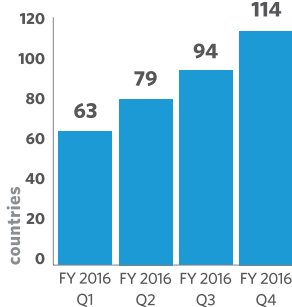
**Figure 6**  
EDUCATIONAL PROGRAMS CONDUCTED



OPIA continued to refine its approach to teaching through its IP Boot Camps. In FY 2016, OPIA staff visited 10 cities throughout the United States and reached over 600 participants. OPIA also conducted 31 programs targeted to U.S. SMEs. Figure 6 shows, by quarter, the number of educational programs during FY 2016 at the USPTO’s [Global Intellectual Property Academy \(GIPA\)](#).

IP capacity-building programs were also offered throughout the year to patent, trademark, and copyright officials; judges; prosecutors; police; customs officials; foreign policymakers; examiners; and IP rights owners and users, as well as to college students and faculty in IP-related programs of study. Figure 7 shows the number of individuals OPIA trained by quarter in FY 2016. During this time, OPIA provided training to a total of 7,073 individuals, including 4,975 foreign government officials, 585 members of academic groups, and 1,513 individuals associated with U.S. SMEs.

**Figure 7**  
NUMBER OF ATTENDEES TRAINED



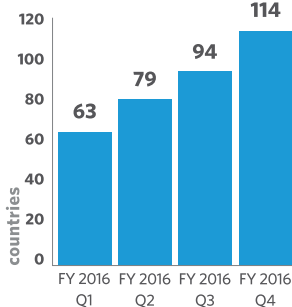
Participants from 114 countries participated in OPIA training during FY 2016. Figure 8 shows the number of countries by quarter. To view a complete list of all countries represented at OPIA training in FY 2016, please visit the [USPTO Data Visualization Center](#).

In addition to conducting programs, the USPTO continues to utilize technology to make its training programs more efficient and to expand the reach of those programs. For example, the USPTO hosts [distance-learning modules](#) on its website. The modules, available in five different languages and covering six different areas of IP protection, have received more than 56,229 unique visitors since they were first made available online in FY 2010. In FY 2016, the USPTO organized an e-learning team to supplement training in the field with a modern, efficient, and effective “blended learning” approach. The first in a planned series is an e-learning module on trade secret law.

**Provide Empirical Evidence on the Economic Impact of USPTO Operations**

OPIA’s mission recognizes the benefits of enhancing the understanding of economics and IP. Through the Office of Chief Economist (OCE), OPIA encourages and supports empirical studies of the economic impacts of IP and innovation.

**Figure 8**  
CUMULATIVE NUMBER OF COUNTRIES TRAINED FOR THE FISCAL YEAR



This is achieved partly through the Thomas Edison Visiting Scholars Program, which enlists the services of academic researchers to study key IP matters. Since its debut in 2012, the program has supported Edison Scholars in studying ways to improve the USPTO’s efficiency and performance, decrease burdens on applicants, and improve patent quality and clarity, as well as document the value of IP to economic growth, performance, and employment. In FY 2016, Edison scholars released research documenting the vital role of patents in fostering the growth of start-up companies, in creating new jobs, and in generating follow-on innovation.

This past year, the OCE devoted significant resources to investigating the use of IP across different industries. The results of these studies culminated in a report, *Intellectual Property and the U.S. Economy: 2016 Update*, reveals that IP-intensive industries supported 45.5 million U.S. jobs in 2014 and contributed \$6.6 trillion in value added, which is equivalent to 38.2 percent of U.S. gross domestic product.

In addition, to promote awareness and encourage empirical economic research and inform IP policy, the UPSTO hosted several domestic and international conferences. One notable event was a conference on “IP in Economics and Economics in IP,” which was held in Beijing, China, and hosted by the USPTO and China’s Renmin University. This program explored better ways of using empirical data to understand the impact of IP on the economies of the United States and China and to advance the goal of improving the environment for IP-intensive goods and services.

### **Improve Transparency of and Access to Intellectual Property-Related Data**

The USPTO continues to expand its efforts to enhance the utility of the IP data. In FY 2015, USPTO launched the beta version of [PatentsView](#), a new patent data visualization platform that allows users to explore nearly 40 years of data on inventors, their organizations, locations, and overall patenting activity. In FY 2016, the agency enhanced PatentsView by integrating an advanced algorithm for identifying inventors over time and launching a query tool for advanced search capabilities and data downloads.

Throughout FY 2016, the USPTO also released new and updated datasets in forms convenient for public use and academic research on matters relevant to IP, entrepreneurship, and innovation. Among these was the new Patent Examination Research Dataset, which contains detailed information on the characteristics and prosecution history of more than 9 million publicly viewable patent applications and annual updates of several patent and trademark datasets.

### **Engage Congress and Federal Agencies on Intellectual Property Legislation**

Throughout FY 2016, the USPTO continued to engage Congress, other U.S. government agencies, and stakeholders to discuss, develop, promote, and implement effective and balanced IP-related legislation, policy, and administrative actions. These discussions focused on congressional proposals to reduce or eliminate abusive tactics in patent litigation and update provisions of the copyright statute. The USPTO also provided technical drafting assistance and worked through the interagency process on a Statement of Administration Policy in support of the Defend Trade Secrets Act of 2016, which was signed into law by President Obama on May 11, 2016.



At a White House ceremony held May 11, 2016, President Obama signs the Defend Trade Secrets Act of 2016. (Official White House photo by Lawrence Jackson.)

### ***Congressional Testimony and Events***

USPTO officials also appeared before Congress to address key international IP issues. The Commissioner for Trademarks testified on February 11, 2016, before the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet on “Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property.” On April 27, 2016, an OPIA representative testified before the Senate Judiciary Committee on “Counterfeits and Their Impact on Consumer Health and Safety.” On June 7, 2016, senior counsel from OPIA testified before the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law on “International Antitrust Enforcement: China and Beyond.” Finally, on September 13, 2016, USPTO Director Michelle K. Lee testified before the House Judiciary Committee’s Subcommittee on Courts, Intellectual Property, and the Internet at an oversight hearing on USPTO operations.

The USPTO supported various congressional caucus events during FY 2016 that focused on IP issues. These included the Capitol Hill Maker Faire on June 21, 2016; two events with the Trademark Caucus, “Trademarks 101” and “Combatting Counterfeits During the Holidays”; a World IP Day event attended by the chairs of the House and Senate Judiciary Committees, Representative Robert Goodlatte, and Senator Charles Grassley; an “Innovation Matters” briefing with the Congressional STEM, IP, and Maker caucuses; and a panel discussion on building the STEM workforce through the next generation.

### ***State and Local Government Engagement***

The USPTO also engaged with state and local governments during FY 2016. Notable engagements included working with the mayor’s office of Boston, MA, to set up roundtables addressing various issues relating to startup companies and the growing impact IP has on the U.S. economy and joining with the Iowa lieutenant governor’s office to organize an Iowa STEM Day event that featured Senator Charles Grassley. In addition, the new mayor of Alexandria, Allison Silberberg, visited the USPTO on several occasions during FY 2016, most notably for the reopening of the National Inventors Hall of Fame on May 6, 2016.

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

On an ongoing basis, the USPTO provides technical expertise in the negotiation and implementation of bilateral and multilateral agreements that improve IP rights protection and enforcement. The USPTO continues to lead the promotion of harmonization by working closely with other international entities. Innovators need cost-effective ways of obtaining reliable rights in multiple jurisdictions; therefore, pursuing the alignment of laws and procedures among IP systems is critical for ensuring consistency and clarity of rights for innovators as they seek to tap into global markets. The AIA of 2011 moved this effort forward with the adoption of the first-inventor-to-file principle in the United States. The PPH and CPC efforts are examples of international work-sharing cooperation programs that both benefit from and contribute to international harmonization of patent laws and operations. Other examples include the CSP work-sharing pilot programs with the JPO and KIPO.

## **Lead Efforts at WIPO and Other Intergovernmental Organizations to Improve International Intellectual Property Rights Systems**

The USPTO represents the U.S. government in intergovernmental organizations that focus on IP. In FY 2016, the USPTO continued to seek enhanced cooperation and improved protection for IP in these fora, especially at WIPO and the World Trade Organization (WTO). For instance, USPTO representatives made several proposals for improving the WIPO-administered PCT system. The PCT system allows an inventor to file a single international patent application to obtain patents in each of the PCT contracting parties. Among the proposals put forward by USPTO staff were ones for implementing an electronic document system, implementing a process for improving prior art searches with respect to the international application, and providing WIPO assistance in training of examiners.

USPTO representatives also played a leading role in several standards-setting bodies of WIPO aimed at streamlining IP rights acquisition and enforcement across various IP disciplines, including the Standing Committees related to Patents, Trademarks, and Copyright.

The USPTO also worked with the Office of the U.S. Trade Representative on the accession of countries to the WTO and on the trade policy reviews of current WTO members, and participated in ongoing discussions in the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council.

### ***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 based in Geneva, Switzerland. UPOV promotes development of new varieties of plants, which are essential in ensuring global food security, improving economic growth, and promoting trade. To assist its members and stakeholders, UPOV is developing electronic application forms and systems aimed at improving the efficiency of the application process in multiple offices. The first version of these electronic forms was completed in early 2016, and a second version is scheduled to be released at the end of 2016.

Significant achievements at UPOV during FY 2016 included the accession of the first two East African countries—Tanzania and Kenya—as signatories to the 1991 Act of the UPOV Convention (UPOV91) and the implementation by Peru of plant variety protection legislation in conformity with UPOV91 and in compliance with the United States–Peru Trade Promotion Agreement.

### ***Geneva Act of the Lisbon Agreement***

Adopted in May 2015, the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Geneva Act) expands the scope of the Lisbon Agreement for the Protection of Appellations of Origin (Lisbon Agreement) to provide for the international registration of geographical indications (GIs) and to permit certain intergovernmental organizations to accede. An appellation of origin is a special kind of geographical indication generally consisting of a geographical name. The United States was disappointed with this outcome, because the diplomatic conference that adopted the Geneva Act did not allow for equal participation by all WIPO members, and the Lisbon Agreement and its Geneva Act provide an overly broad scope of protection for appellations of origin and GIs.

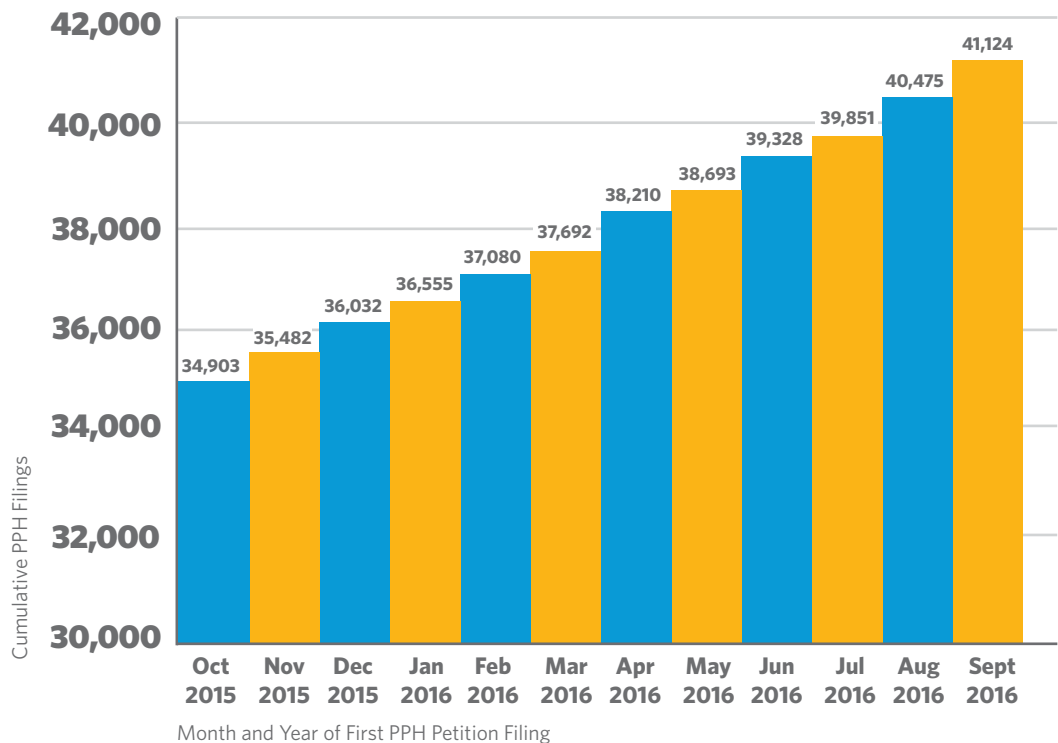
During FY 2016, the United States and a group of other countries pressed for more balanced discussion on GIs at WIPO. With assistance from the WIPO Secretariat, this same group of countries also moved the Lisbon Union toward meeting its obligation to be self-financing. The United States will continue to insist that any promotion of the Lisbon System be part of a comprehensive and balanced approach to GI protection that adequately takes into account its impact on trade and common names.

**Engage Additional Countries in Patent Prosecution Highway Agreements: Improving Efficiency and Cooperation in the Global Patent System**

Work sharing continued to be a key element of the USPTO’s international engagement throughout FY 2016. 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 patent claims from one participating office to request accelerated prosecution of corresponding claims in another participating office. This potentially enables the applicant to obtain patents faster in multiple jurisdictions and at less expense, while also enabling the participating offices to leverage each other’s work, thereby improving examination efficiency and quality.

A milestone in work sharing was reached in January 2016 when the USPTO and Brazil’s National Institute for Industrial Property (INPI-BR) launched a PPH pilot program. To encourage its use and enhance its benefits to the USPTO, INPI-BR, and their respective constituencies, OPIA has launched an ambitious outreach effort that focuses on key markets throughout the United States and that targets specific industries. OPIA staff have also partnered with INPI-BR, the American Chambers of Commerce in Rio de Janeiro and São Paulo, and Brazil’s National Confederation on Industry to promote the PPH in Brazil. See Figure 9 to see our cumulative PPH filings for this fiscal year.

**Figure 9**  
CUMULATIVE PPH FILINGS IN 2016





Another advance in PPH efforts, Global PPH, was launched in January 2014. Global PPH is intended to simplify and streamline the existing PPH network by replacing the dozens of bilateral PPH arrangements that were in place 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 applications through the participating offices. The United States is one of 24 offices currently accepting PPH requests under the Global PPH pilot program. The USPTO continues to engage in work-sharing arrangements to maximize efficiencies in the global patent system.

During FY 2016, the USPTO also made significant advances in other areas of cooperation related to substantive patent law harmonization with partner offices during FY 2016. Recognizing the global nature of commerce and acknowledging the difficulties faced by inventors in navigating patent systems around the world, the USPTO continued to engage with a subgroup of like-minded IP offices to develop an “objectives and principles” document that specifies both the principles for an internationally harmonized patent system and the goals that such a system should aim to achieve.

#### ***Improve Efficiency and Cooperation in the Global Industrial Design System***

On December 3-4, 2015, the USPTO hosted the inaugural Industrial Design 5 (ID5) Forum in Alexandria. The forum brought together representatives from the five largest industrial design offices: the USPTO, the JPO, the KIPO, the European Union’s Office for Harmonization in the Internal Market (OHIM), and the SIPO. Acknowledging the growing importance of industrial design, the ID5 Forum focused on improving consistency in industrial design registration policies, cataloging office practices, promoting interoperable procedural frameworks, and protecting emerging designs such as GUIs, animations, and other new technology designs.

#### ***Improve Efficiency and Cooperation in the Global Trademark System***

In FY 2016, the USPTO advanced several strategic cooperative projects through the framework of the TM5. The TM5 consists of the five largest trademark offices in the world: the USPTO, the EUIPO, the JPO, the KIPO, and the SAIC. 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 TM5 project is the TM5 ID List project, which entails the ongoing development of a harmonized pick-list of identifications for goods and services that are acceptable in all



USPTO Director Michelle K. Lee speaks at the inaugural Industrial Design 5 (ID5) Forum in Alexandria, Va. Hosted by the USPTO December 3-4, 2015, the forum brought together representatives from the world’s five largest industrial design offices. (USPTO photo)

participating IP offices. During FY 2016, work continued on expanding the number of ID entries and their translation into multiple languages, and IP offices from countries that are not TM5 members have been invited to participate in the project. To date, the TM5 has developed more than 16,000 pre-approved IDs for applicants to use in trademark applications.

Another TM5 project that the USPTO leads entails the partner offices' adoption of a common set of "status descriptors." These are terms—and corresponding symbols—that indicate the status of trademark applications and registrations in each of the TM5 partner offices. In FY 2016, the USPTO deployed the common status descriptors on its Trademark Status and Document Retrieval (TSDR) tool, which is accessible on the USPTO's website. Finally, the USPTO actively participated in the TM5 bad faith filings project, a vehicle for combatting a problem of great concern for rights holders worldwide. In general, bad faith trademark filings refer to an act in which a trademark is filed for unfair purposes, taking advantage of the fact that another person's trademark is not registered in the country or region concerned.

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

Capacity-building programs were developed and implemented in FY 2016 to address a variety of enforcement-related issues around the world, including border enforcement of IP rights, IP enforcement issues relating to express mail deliveries, judicial colloquies focusing on the adjudication of trademark and copyright infringement, and a workshop for prosecutors to combat Internet piracy.

In coordination with various U.S. trading partners, the USPTO in FY 2016 provided a series of workshops to combat trademark counterfeiting and copyright piracy. Participants included customs officials, police, prosecutors, judges, and officials from IP offices in Southeast Asia, Central America, Europe, the Middle East, and South and Central Asia. In addition, the USPTO conducted a workshop on the protection and enforcement of trade secrets for officials from Southeast Asian countries.

Table 14 shows the total number of foreign government officials trained on best practices to protect and enforce IP in FY 2016. The slate of courses in FY 2016 was reduced from prior years, when more travel funding was available. In addition, some courses slated for FY 2016 were postponed to FY 2017, due to global or cultural circumstances, which shifted the participant count for the year. Going forward, GIPA's education of foreign government officials will increasingly leverage the GIPA e-Learning initiative to engage participants throughout the year in a nimble and modern "blended learning strategy." This is the third year in which this measure has been directly aligned with the USPTO's performance progress in Goal III.

**TABLE 14**

<b>Measure: Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce Intellectual Property</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	N/A	9,214
2013	N/A	7,078
2014	4,300	4,960
2015	6,300	5,283
2016	5,000	4,975
2017	5,000	
Slightly below target.		

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

Throughout FY 2016, the USPTO provided policy advice and technical expertise on domestic and international IP matters to departments of the Executive Office of the President, including the Office of the U.S. Trade Representative, the Office of Science and Technology Policy, and the Office of the U.S. Intellectual Property Enforcement Coordinator; other bureaus of the U.S. Department of Commerce; and other federal agencies. The USPTO advised the USTR in negotiations of trade agreements and on trade policy reviews undertaken at the WTO and on the WTO accession process of several countries, as well as in connection with the annual “Special 301” report review of the IP systems of U.S. trading partners.

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

The USPTO continued to provide expert technical advice on IP protection in connection with ongoing negotiation of multilateral trade agreements. In FY 2016, for example, it supported the USTR in negotiations regarding the IP portions of the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Trade and Investment Partnership agreements.

The TPP is a new, high-standard trade agreement that will level the playing field for U.S. workers and businesses in the Asia-Pacific region. Negotiations on the TPP concluded in October 2015, and the agreement was officially signed by all partner states on February 3, 2016.

During TPP negotiations, the USPTO drafted IP provisions, assisted in their negotiation, and analyzed existing IP-related provisions of the laws of the 12 TPP member states, particularly those on IP enforcement, copyright, trademarks, patents, digital access, and the Internet. Among other things, the final TPP agreement establishes strong protections for patents, trademarks, and copyrights; institutes strong measures to prevent the theft of trade secrets; closes loopholes that let dangerous counterfeit products cross borders; and provides fair, equitable, and nondiscriminatory market access opportunities for U.S. individuals and businesses that rely on IP.

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

The USPTO continued to post IP attachés in important markets, including Brazil, Russia, India, China, Thailand, and Mexico. In FY 2016, it deployed three new IP attachés: to Rio de Janeiro, Brazil; Mexico City, Mexico; and Lima, Peru. All of the 12 IP attachés played active leadership roles in IPR working groups at their respective posts and used their expertise to promote appropriate protection and enforcement of U.S. IP rights overseas.

During FY 2016, the USPTO arranged for IP attachés and U.S. stakeholders to have many interactions. In December 2015, it organized a series of IP attaché consultations in the United States, including in Washington, DC, and Detroit. As part of these consultations, the attachés participated in a roundtable sponsored by the U.S. Chamber of Commerce’s Global Intellectual Property Center that attracted more than 150 attendees. The attachés also participated in a meeting with the Business Council for International Understanding, which drew more than 50 industry representatives. The attachés also held separate meetings with various other U.S. stakeholders, U.S. government agencies, and USPTO business units.

In addition, in May 2016 the IP attachés from Brazil, Russia, China, Peru, the European Union, and Thailand had a series of meetings in Daytona Beach, FL, with representatives from a wide variety of industries, including food, entertainment, aerospace/defense, and manufacturing.

Apart from these activities, the USPTO continued its successful implementation of country-specific action plans in prioritized countries, as shown in Table 15.

**TABLE 15**

<b>Measure: Percentage of Prioritized Countries for Which Country Teams Have Made Progress on at Least 75% of Action Steps in the Country-Specific Action Plans*</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2012	75.0%	75.0%
2013	75.0%	100.0%
2014	75.0%	100.0%
2015	75.0%	100.0%
2016	75.0%	100.0%
2017	75.0%	
Target Met.		
*Progress of action steps in the country-specific action plans were made along the following dimensions: (1) institutional improvements of IP office administration for advancing IP rights, (2) institutional improvements of IP-enforcement entities, (3) improvements in IP laws and regulations, and (4) establishment of government-to-government cooperative mechanisms.		

# MANAGEMENT GOAL

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

The USPTO's overarching management 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; and
- 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.

The USPTO has made progress toward improved operations and services in FY 2016, as well as for its next-generation systems. PE2E made significant progress on patent prosecution tools for patent examiners, patent applicants, and international partners. DAV is PE2E's patent examiner case management tool and was released in FY 2015. At the end of FY 2016, 65 percent of patent examiners were using DAV for three or more days per week. DAV achieved functional parity with the legacy system that it was designed to replace (eDAN), which is now scheduled to be phased out in December 2016.

The Official Correspondence and Examiner Search tools both continue to make progress toward their initial release to the patent examiners in December 2016, which will allow for the rollout and examiner training on these tools. Pilot users are evaluating both of these products' available features.

PE2E's Content Management System (CMS) combines multiple disparate Patent document storage solutions into a single, highly available content hub. CMS was released to the patent examiners in FY 2016, and it experienced obstacles related to data storage.

Difficulties dispersing large numbers of files in a highly available, distributed system that met the USPTO's disaster recovery requirements were encountered. As a result, CMS was rolled back, and based on lessons learned during the execution of the FY 2016 CMS solution, USPTO has begun to evaluate new solutions to avoid the pitfalls experienced by the previous CMS system.

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 will provide input for additional product enhancements.

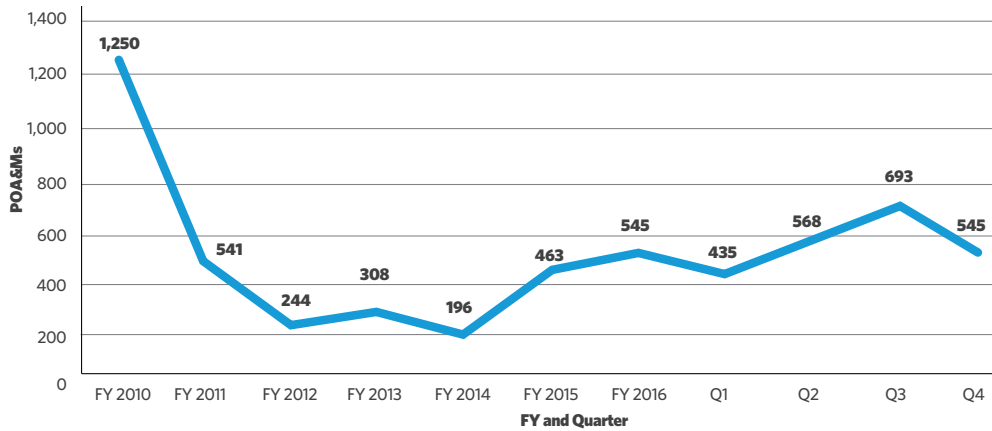
The CPC system maintains a Patent Classification Scheme that is harmonized between the USPTO and EPO. CPC was initially released in FY 2013 and has continued to make strides to automate collaboration between the USPTO and the EPO, dramatically reducing the time required for Patent Classification Schema revisions. CPC has also made important strides toward replacing the legacy classification system and is preparing to achieve functional parity with the legacy classification system in FY 2017.

Significant progress was made in FY 2016 to TMNG products supporting both internal and external customers. TMNG-Examination (which will ultimately replace FAST1) was deployed to the first Law Office and a group of beta testers. Over 6,300 office actions were processed by these trademark examining attorneys using TMNG. In addition, all content from legacy systems was migrated to the TMNG database (5+ million images, 200+ million documents); the TMNG Synchronizer was deployed to enable bi-directional synchronization of data between the TMNG database and legacy systems; the TMNG Content Viewer was deployed to all Trademark employees, integrating case content from legacy systems; and limited fail-over capability to a TMNG Disaster Recovery environment was demonstrated. With regard to externally facing TMNG products, TMNG-Electronic Official Gazette was enhanced to allow PDFs for Registration Certificates and Updated Registration Certificates to be produced, and TMNG-ID Manual transitioned from beta into full production with enhanced features based on user feedback.

The USPTO also made significant progress in FY 2016 in its FPNG portfolio. In April, the USPTO released the first of its major next generation systems to the public by launching two new online tools: Financial Manager and the Patent Maintenance Fees Storefront. These tools completely replace the externally facing components of the USPTO legacy fee-collection system and are the first to use the USPTO's single-user identity solution. In Financial Manager, customers are able to store and manage their payment methods online; assign secure user permissions, allowing others to use payment methods; receive administrative email notifications; and create transaction reports, including monthly deposit account statements. In the Patent Maintenance Fees Storefront, customers are able to retrieve patent maintenance fee information, upload bulk files to pay several patent maintenance fees at once, check out more quickly by using their stored payment methods, add fees to an online "shopping cart" and save them for payment later that day, receive an itemized receipt for each payment, and download a statement for each patent.

Figure 10 and Table 16 show the total number of open Plan of Actions and Milestones (POA&M) for the USPTO's operational systems at the end of FY 2015 and for every quarter of FY 2016. Any known security weakness requiring remediation is tracked using POA&M. The USPTO's goal is to decrease the number of POA&M by remediating security weaknesses in the systems.

**Figure 10**  
FY 2010 TO FY 2016 POA&M SUMMARY



**TABLE 16**

FY 2010 to FY 2016 Plan of Actions and Milestones (POA&M) 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	653	13	289	84	463
FY 2016	1,013	39	787	105	545
Q1	174	30	127	45	435
Q2	245	1	81	30	568
Q3	259	8	104	22	693
Q4	335	-	475	8	545
<b>Totals</b>	<b>3,302</b>	<b>1,128</b>	<b>2,651</b>	<b>228</b>	

In fulfilling responsibilities under 44 U.S.C. § 3504(h), the USPTO uses a capital planning and investment control process to prioritize investments and 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.



## 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 strategies and programs and leverages the insights and desires of the USPTO workforce 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.

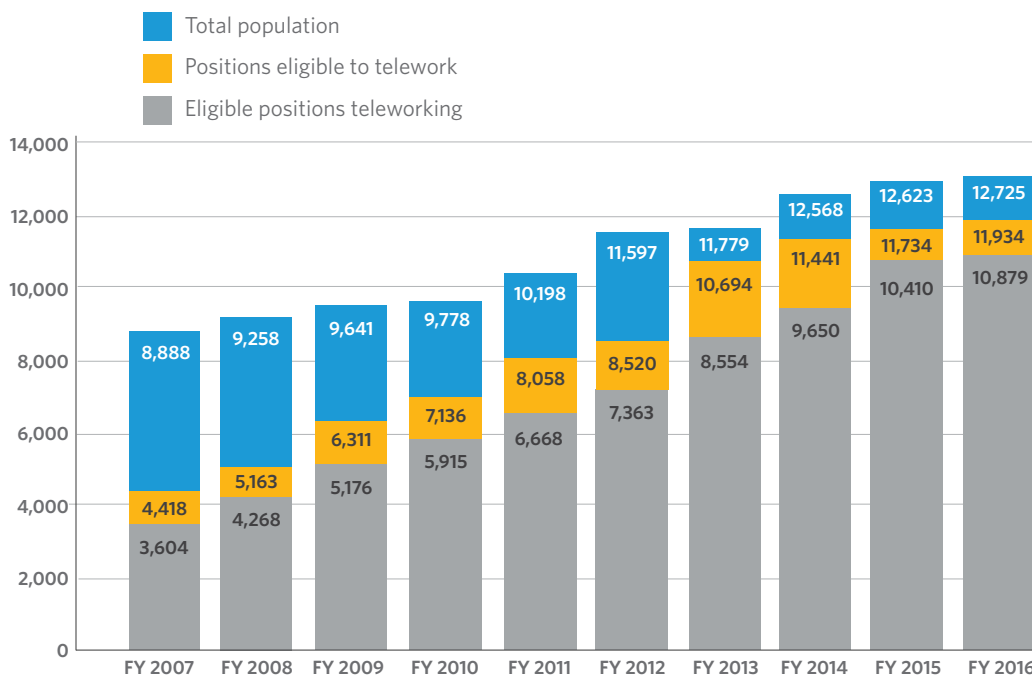
The USPTO’s 2015–2018 *People Plan* is centered on three pillars that have a direct impact on organizational performance: Lead, Engage, and Enable. By leveraging these three pillars, the USPTO will empower employees in unique ways that support the agency’s mission while providing outstanding service to the public and working at the cutting edge of the nation’s technological progress and achievement.

### 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 FY 2016, 10,567 employees agency-wide were working from home at least one day per week, translating to 83 percent of the USPTO workforce. This is an increase of 469 teleworking employees from last fiscal year. Including situational teleworkers, the USPTO had a total of 10,879 teleworkers at the end of FY 2016. Figure 11 represents the USPTO telework growth since FY 2007.

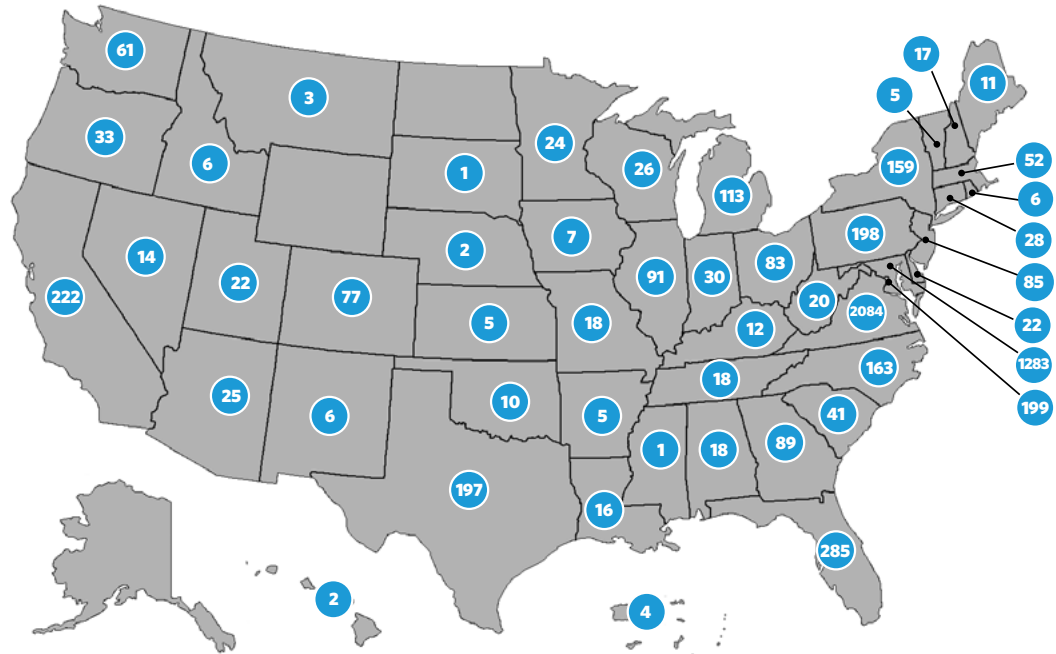
**Figure 11**  
TELEWORK GROWTH

Since its start 19 years ago with 18 Trademark examining attorneys, telework has grown dramatically at the USPTO. The graph shows the growth of the total population, positions eligible to telework, and eligible positions teleworking agency-wide.



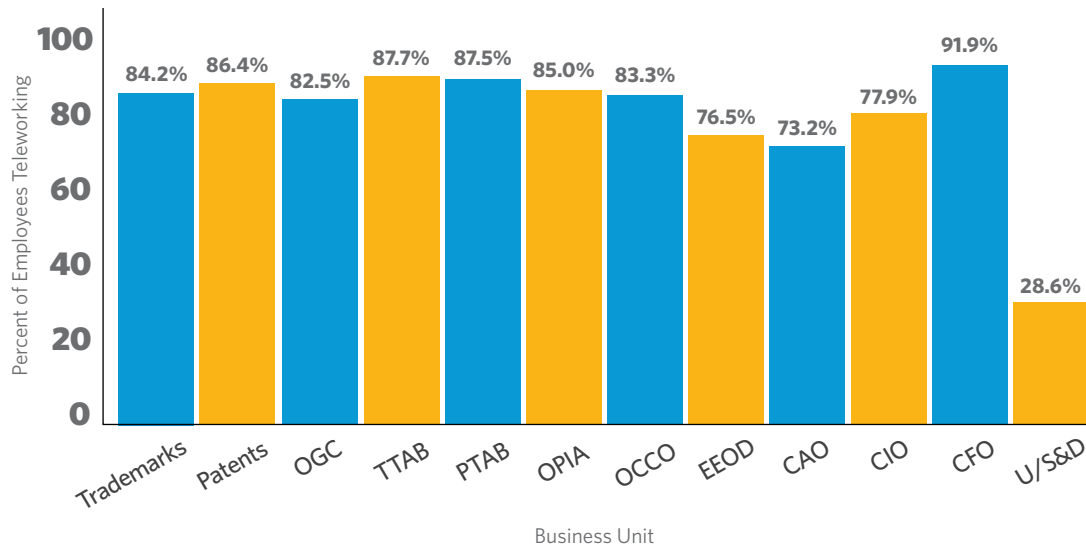
Between FY 2015 and FY 2016, the percentage of positions eligible to telework increased from 93 percent to 94 percent (200 positions eligible to telework). See Figure 12 for the state-by-state breakout of full-time teleworker participants in FY 2016. Figure 13 shows the percentage of eligible employees teleworking by organization in FY 2016.

**Figure 12**  
FULL-TIME TELEWORKERS BY STATE, FY 2016



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 employees to waive their right to travel expenses for up to six annual mandatory trips back to the USPTO headquarters in Alexandria. Hoteling (or full-time teleworking) employees may now elect, voluntarily and for their own convenience, to live greater than 50 miles from the USPTO campus by becoming a TEAPP participant, thereby changing their official duty station. As of the end of FY 2016, 2,315 employees were participating in the TEAPP, which is an increase of 9 percent from FY 2015. 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, telework and hoteling employees remain productive. During the 2016 winter season, on average, patent examiners maintained an 84 percent production rate, and trademark examining attorneys maintained an 85 percent production rate compared with a non-inclement weather day.

**Figure 13**  
PERCENT OF EMPLOYEES TELEWORKING BY BUSINESS UNIT



USPTO’s teleworkers have a dramatic impact on the environment in the Washington, DC, metropolitan area, and in FY 2016, they spared the environment more than 46,793 tons in estimated CO<sub>2</sub> emissions. Figure 14 highlights the environmental impact of telework in FY 2016.

**Figure 14**  
ENVIRONMENTAL IMPACT OF TELEWORK

**Each year, USPTO’s teleworkers have a dramatic impact on the environment in the Washington metropolitan area.\***

5,995


teleworkers working from home  
**4-5 days per week**

- Avoid driving 66,566,981 miles in a year,
- Collectively save \$5,214,414 in gas a year, and
- Collectively reduce emissions by 34,948 tons a year.

4,572

teleworkers working from home  
**1-3 days per week**

- Avoid driving 22,562,820 miles in a year,
- Collectively save \$1,767,421 in gas a year, and
- Collectively reduce emissions by 11,845 tons in a year.



\* Includes Patent Telework Program (PTP) 10 hours per bi-week

To ensure the continued success of the USPTO's telework program, in FY 2016, 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:

- Required all current teleworkers to review and electronically certify their specific telework guidelines. The computer-based training also contained important information on telework duties and responsibilities and reiterated telework best practices;
- Distributed a management handbook on telework;
- Offered "Telework Tune Ups" for business units that provide supervisory training on effectively managing a remote workforce; and
- Convened patent and trademark examiners who telework remotely or are on-site at the regional offices as part of the Patents Training at Headquarters (PaTH) and Trademark Organization Reconnect and Collaboration Home (TORCH) programs, including 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 the Nationwide Workforce Stays Integrated With the Corporate Culture**

On May 12, 2016, the USPTO launched "The Innovation Challenge—13,000 Heads Are Better Than One." The Innovation Challenge is an agency-wide competition for employees that taps into the combined expertise of the USPTO workforce by encouraging employees to submit, view, comment, and vote on ideas that address a specific topic. The competition consisted of two rounds and welcomed both individual and team submissions from employees. In round one, participants submitted 270 ideas, cast 8,893 votes, and posted 359 comments in response to the challenge topic for the competition's inaugural year—*"Identify new ways to communicate, connect, and engage at the USPTO."* The top 20 ideas were assessed by business unit and union leadership against several evaluation factors to select the top five ideas that were most feasible for implementation. Finalists representing the top five ideas moved on to the second round of the challenge, where they developed and presented business cases to a panel of senior leaders from across the agency at an event called "The Showcase." A single winning idea will be selected for possible implementation based on evaluation factors similar to those used in the first round.

The USPTO People Survey is in its second consecutive year of administration to all USPTO employees (in comparison to the Federal Employee Viewpoint Survey (FEVS) administered by the Office of Personnel Management, which only allows for a random sample of USPTO employees). This year's survey included 63 diagnostic items across 14 different dimensions and allowed employees to provide open-ended comments to questions. Questions were also included to help evaluate the employee value proposition and to better understand perceptions of women in science, technology, engineering, and mathematics (STEM) positions.

This year's results included a response rate of 61 percent (7,709 out of 12,673) employees invited to participate) and an overall 74 percent employee engagement score. Although there were declining scores in some areas, responses remained favorable across the majority of dimensions, and three core strengths remained intact: customer focus, immediate supervisors, and culture of accountability. Findings also noted that USPTO

The USPTO recognizes that "employees are in the right position to offer creative and innovative solutions to make the agency an even better place to work."

USPTO  
INNOVATION  
CHALLENGE  
13,000 heads are better than one.

women in STEM are engaged, well represented in management and leadership roles (including in senior executive service or SES), and that the USPTO's recruitment and retention strategies for women in STEM are working.

To better understand this year's results, off-site meetings were held with executive management and with union leaders in February to discuss the results and action planning, specifically focusing on the areas of improvement.

### **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, to ensure the agency maintains a high performing organization in FY 2016.

#### ***After Work Education Program***

The continued funding for such programs as the After Work Education (AWE) Program reflects the value that the USPTO places on educational opportunities and career advancement for employees. AWE is a voluntary program available to eligible employees to develop and enhance work skills related to the agency's mission by taking classes at an accredited college or university. The courses under this program 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***

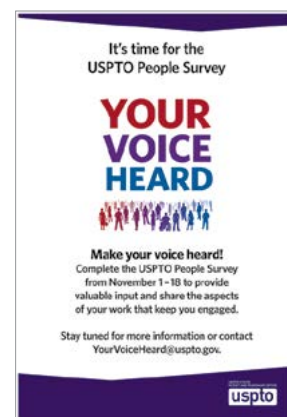
The USPTO Upward Mobility Program (UMP), provides specific career development opportunities for employees who are in positions or occupational series that offer limited opportunities for advancement. Under this program, eligible employees apply for available trainee positions, and an Individual Training Plan (ITP) is developed for selected employees. Upon successful completion of an ITP, employees may be reassigned or non-competitively promoted to the corresponding target position.

#### ***Administrative Professionals Excellence Program***

The nine-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. 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 addition, participants have opportunities to network with their peers.

#### ***Leadership Forum***

The bi-annual Leadership Forum provided practical knowledge in an environment that combines education with collaboration to ensure that leaders have the tools they need to lead the USPTO workforce in meeting the challenges facing the agency now and in the future. Over the course of four days (August 1-4, 2016), the Forum featured four keynote addresses and 58 workshop sessions, which focused on topics attendees indicated were important to them in a pre-Forum survey. Attendees were exposed to best practices, tools, and techniques to reinforce leadership and management skills and knowledge. The Forum also provided networking opportunities that allowed managers to interact with one another and apply Forum insights through discussion with peers. Managers were required to attend 12 hours of training over the course of the four days. Speakers included a mix of USPTO senior leaders, technical subject matter experts, and external presenters who addressed the theme, "USPTO-Wide Leadership: Creating Connections, Partnering for



Poster used to promote and encourage employees to take the People Survey and make their voice heard.



Excellence.” This year’s event was held on-site at the Alexandria campus headquarters and offered simultaneous webcast of the sessions to accommodate the agency’s remote workforce. Of the 1,170 eligible agency-wide executives, managers, supervisors, and selected non-supervisory employees invited, 1,040 participated in at least one forum session.



**Leadership Academy**

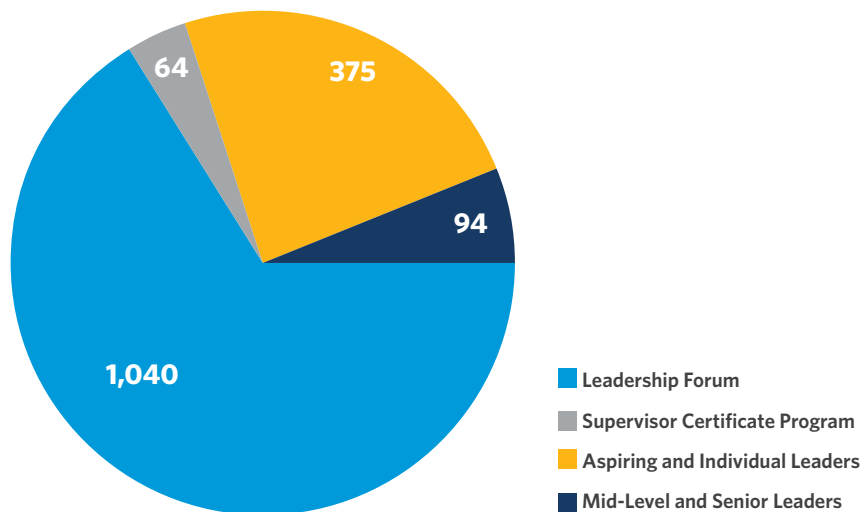
In FY 2016, the USPTO completed the design of the new SES Leadership Academy (LA), a cohort-based leadership development program for incumbent SES. The LA is intended to achieve individual interpersonal and enterprise excellence. The program vision is to support and grow our leaders with a commitment to diverse perspectives, innovation, and an engaged workforce. The LA structure is based on a leadership development conceptual model founded on insights from cutting-edge research and contemporary industry studies, which reveal the most effective methods for developing executive leaders. The implementation of the SES LA program pilot cohort is planned for February 2017.

In addition to the design of the LA, executive education efforts in FY 2016 included the administration of 360 leadership assessments to all USPTO SES members. Subsequent coaching was offered to help SES interpret the assessment results and update executive development plans.

**Supervisor Certificate Program**

The Supervisor Certificate Program (SCP) is part of the larger USPTO Leadership Development Program (LDP). The SCP’s interactive curriculum addresses leadership competencies for supervisors (i.e., managing self, people, and projects) and is tailored to the unique needs of new USPTO supervisors. In FY 2016, three cohorts of new supervisors participated in the program, which included a pilot virtual instructor-led training (vILT) cohort. The vILT pilot was developed to provide training to new supervisors and team leads who telework full-time or who serve at one of the USPTO’s regional satellite offices (Detroit, Dallas, Denver, and Silicon Valley). In addition to the SCP, the LDP provides leadership training to individual leaders (i.e., non-supervisory employees), aspiring leaders (i.e., employees who want to potentially become a manager), and mid- and senior-level leaders (i.e., experienced managers and supervisors and executives with more than three years of supervisory experience). The following chart (Figure 15) provides an enrollment summary for the entire LDP in FY 2016.

**Figure 15**  
LEADERSHIP DEVELOPMENT PROGRAM: ENROLLMENT SUMMARY



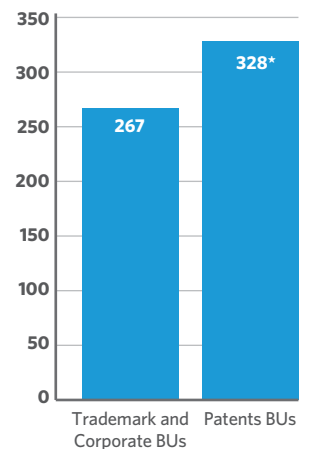
## Enhance Recruitment and Hiring Efforts to Help Sustain and Develop a Highly Qualified and Diverse Workforce, Including the Senior Team

The recruitment and hiring strategies leveraged throughout FY 2016 have successfully attracted and engaged potential employees, helped to maintain a diverse workforce, and has produced significant gains in meeting the USPTO’s hiring needs.

In FY 2016, hiring targets included 474 mission critical hires (i.e., patent examiners, administrative patent judges, trademark examining attorneys, all information technology, human resources specialists, contract specialists and general attorney), and veteran hiring goals of 10 percent for patent examiners, and 20 percent for non-patent examiner hires.

The Office of Human Resources (OHR) continues to support the recruitment goals for the USPTO business units through a multi-faceted approach. Valuable insights gained from benchmarking best practices ensures that the agency’s 21st century recruitment strategy continues to align with proven approaches to organizational growth through recruitment, retention, and human capital strategies. For a summary of the hiring distribution among USPTO business units for FY 2016, please see Figure 16. For a detailed look at the USPTO’s FY 2016 critical hiring activities, please see Figure 17.

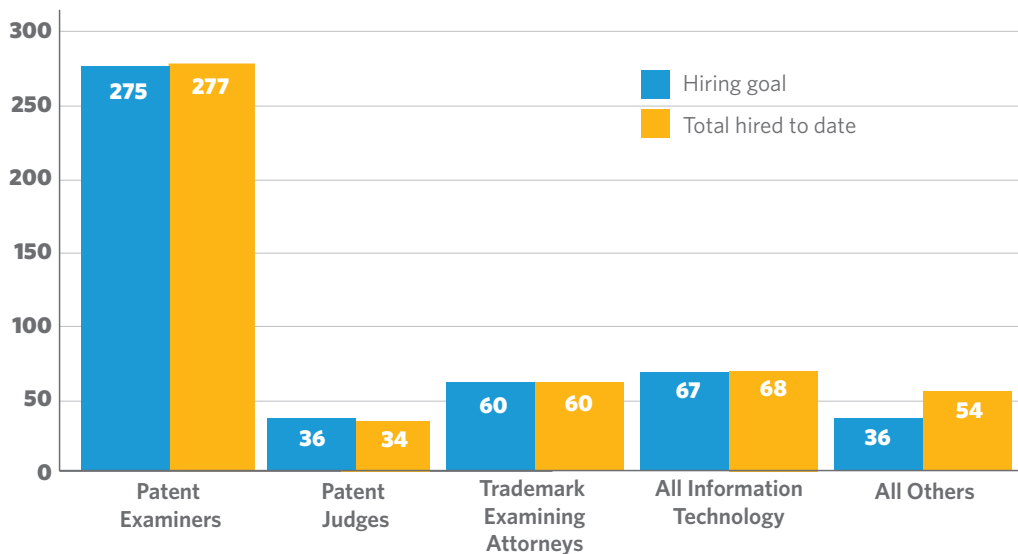
**Figure 16**  
TOTAL HIRED BY BUSINESS UNITS (BUs)\*



\*Includes Patent Examiners

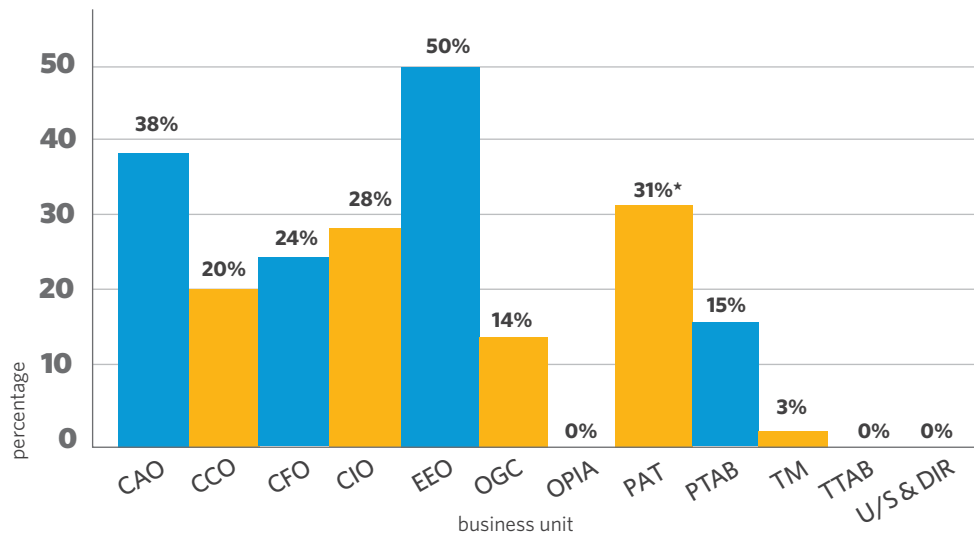
**Figure 17**  
USPTO CRITICAL HIRES

### Actual Hires to Goal



The Veterans Hiring Program (VHP) has sponsored or participated in multiple events, 10 of which were held locally in the DC metropolitan area, and three of which were held in the cities of Austin, Dallas, and San Antonio, TX. The VHP team continues outreach efforts with universities and student ambassadors, most recently with San Jose State affiliating itself with USPTO’s Silicon Valley Regional Office and the University of Texas associating itself with USPTO’s Dallas Regional Office. The VHP team also partnered throughout the year with the USPTO Military Association, participating in memorial activities and coordinating mentoring and enculturation activities. A combined 450 resumes were received from veterans for the Veteran Hiring Program in FY 2016. For a summary of veteran hiring distribution in FY 2016, please see Figure 18.

**Figure 18**  
**PERCENTAGE OF HIRES BY VETERAN STATUS**



\* Includes Patent Examiners

Several in-person and virtual hiring fairs were held in FY 2016 to target desired candidates. The Patent Examiner Recruitment Open House that took place on March 4-5 at USPTO's Alexandria headquarters campus for prospective employees was a particularly noteworthy event. Students and professionals were invited to these information sessions to learn more about entry-level patent examiner careers at the USPTO.

By leveraging new and improved recruitment strategies, the OHR Marketing Team continues to build awareness and engagement among key demographics including (but not limited to) millennials, people with disabilities, veterans, African-Americans, Hispanics, and women.

### **Content Development**

Based on industry best practices, storytelling and visualizations were used to attract active and passive candidates to positions and hiring events, to promote USPTO's brand story, and to champion the USPTO as a top employer of choice. One of the most notable content pieces from FY 2016 is the women in STEM-focused keepsake brochure, "[We're All In: Celebrating Women in STEM at the USPTO](#)." The brochure was created to help support the agency's participation at the Grace Hopper and Society of Women Engineers conferences. This brochure provides readers with a "success playbook" experience and insight into life at USPTO; showcases the agency's culture of diversity and inclusion; illustrates what makes USPTO a top-rated employer of choice among women; and communicates the agency's commitment to championing career growth and advancement of STEM women. In October 2015, the brochure was presented at The White House Office of Science and Technology Policy's (OSTP) "Image of STEM" meeting, and response to it was extremely positive.

**OSTP [said that] "they liked the 'ALLinSTEM' brochure so much that USPTO should make it open source so other government agencies could recreate it."**



### **Social Media**

Integrated and interactive digital recruitment strategies launched through social media channels like LinkedIn, Twitter, Facebook, and YouTube, help USPTO continue to connect and stay connected with potential candidates. Several notable “firsts” for social media recruitment in FY 2016 garnered a huge amount of excitement and enthusiasm, as follows:

- The USPTO hosted its first-ever recruitment Twitter chat to promote patent examiner positions in Silicon Valley and Dallas on May 24;
- The USPTO launched two premium content categories on LinkedIn—“Job of the Week” and “Job Spotlight”—that are posted each Tuesday and Thursday, respectively; and
- As of June 29, 2016, USPTO LinkedIn followers have exceeded the 20,000 mark (a 113 percent increase in two years).

### **Digital Outreach**

The best of the USPTO’s online tools were leveraged to engage potential candidates and to build avenues for continued advocacy. The [USPTO Careers website](#) completed a major redesign to provide the best user experience, with rich targeted content and imagery that can be easily accessed and shared. Agency stakeholders engaged with current user communities to ensure that the redesigned site provides accurate information in an easy-to-use manner, which invites continued engagement and encourages repeat visits.

### **Recruitment Messaging, Partnership and Engagement**

To provide clear, actionable information to targeted key demographics, a new suite of brochures is being developed to help the USPTO Special Placement Program Coordinator continue to promote the agency’s Schedule A hiring authority. As part of the current redesign of the [USPTO.gov/Careers website](#), a new section for potential candidates who are eligible for employment through USPTO’s Disability Hiring programs now exists ([www.uspto.gov/jobs/hiring-people-disabilities](#)).

In light of the agency’s recent announcement of the TEAPP expansion to Puerto Rico, the USPTO is developing strategies to forge relationships with Hispanic Serving Institutions throughout the country and extended territories, as well as with federal organizations that support diversity, such as the White House Initiative on Educational Excellence for Hispanics via the Department of Education.

In more recent engagements, the USPTO hosted a recruitment table at the National Aeronautics and Space Administration’s (NASA’s) Historically Black Colleges and Universities/Tribal Colleges and Universities Making and Innovation Challenge, where students from historically black colleges and universities and tribal colleges and universities showcased innovations that solve real-world problems facing their communities. During a recent one-day event, the OHR marketing team provided guidance to the students about how to apply through USAJobs as they consider the USPTO as their employer of choice.



### **Continue to Foster and Enhance Strong Labor Management Relationships**

The USPTO-wide Labor Management Forum (LMF) exemplifies management's and the union's continued commitment to enhance strong labor-management working relationships and to promote measurable improvements at the USPTO.

In an effort to enhance productivity, increase communication, and improve employee engagement during agency-wide power and automation outages, the LMF is developing an overall process for employees who face limited ability to perform work during such periods. The LMF is also working to amend the Policy on Work Schedule Notification, Communication, and Collaboration to address issues of performance and work schedules.

In response to employee-inspired insights and ideas, the labor-management working relationship led to the successful negotiation of two new agency-wide pilot initiatives: (1) the Office of the Ombudsman Pilot and (2) the Innovation Challenge. The Office of the Ombudsman Pilot is an independent, neutral, informal, and confidential office that provides a safe setting for any USPTO employee to explore options to prevent, address, and resolve workplace issues. Both initiatives were successfully launched in FY 2016.

### **Continue to Build Collaborative Relationships with USPTO's Affinity Groups**

The USPTO is proud to have an incredibly diverse workforce with so many employees of various backgrounds and cultures. The USPTO has a network of 16 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 to host cultural, social, and career-development programs and events for their members and the wider USPTO community.

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 and Women's History Month, and created a series of high-quality, on-demand special emphasis month videos to reach the USPTO remote workforce.

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**

In FY 2016, the USPTO continued its efforts to expand IP education and pro bono services through the USPTO Law School Clinic Certification Program. The program enables law school students enrolled in a participating law school's clinic to acquire firsthand patent and trademark application preparation and prosecution experience under the guidance of an approved faculty clinic supervisor and guidelines established by the Office of Enrollment and Discipline, all the while providing free legal services to individuals and small businesses throughout the country. On June 27, 2016, the Final Rule implementing the USPTO Law School Clinic Certification Program, Public Law 113-227 (December 16, 2014) became effective. During the first three quarters of FY 2016, participating law schools filed 107 patent applications and 465 trademark applications, and the projected number of filings is expected to equal or surpass the number of filings in previous years. The Law School Clinic Certification Program has continued to expand and currently includes 43 participating law schools.

During FY 2016, the USPTO also continued to expand the Patent Pro Bono Program to support nationwide availability of patent pro bono services. The Patent Pro Bono Program provides free legal assistance to under-resourced inventors and small businesses interested in securing patent protection for their inventions. In FY 2016, the USPTO, through the Office of Enrollment and Discipline, helped establish two additional pro bono service providers and assisted in program launches in two states.

### **Support Government-Wide Efforts to Promote Science, Technology, Engineering, and Mathematics (STEM) Education Initiatives**

STEM is vital to invention, innovation, and the development of a future USPTO workforce. Integration of STEM knowledge, especially as it relates to IP, is also vital to the development of a future stakeholder base for the USPTO, that is, inventors, innovators, and creators who will file better and higher quality patent and trademark applications based on their attained knowledge of IP.

The Office of Education and Outreach (OEO) provides programming for students, educators, and young inventors and innovators of all ages. The OEO supports the mission of the agency by providing relevant IP, innovation, and invention resources to school administrators, teachers, students, and parents. OEO goals and objectives are also aligned to support government-wide efforts to attract and retain students (K-12) in STEM-based education to increase STEM competence and to support an internal and external stakeholder base for the USPTO.

OEO goals are achieved by building and expanding strategic partnerships, collaborations, and linkages with other federal agencies, non-profit organizations, and where possible, private sector organizations in order to reach the most diverse group of students and educators.

### **Promote Science, Technology, Engineering, and Mathematics (STEM) Education**

The USPTO, in cooperation with the National Summer Teacher Institute on Innovation, STEM, and Intellectual Property (NSTI), conducted its 3rd Annual NSTI Program on July 17-22, 2016, in East Lansing, MI. This year's program was offered in collaboration with Michigan State University and was hosted on its campus. More information on the 2016 program may be found at [www.uspto.gov/learning-and-resources/outreach-and-education/national-summer-teacher-institute](http://www.uspto.gov/learning-and-resources/outreach-and-education/national-summer-teacher-institute).

The USPTO has a joint partnership with the YMCA of the USA (Y of the USA) to expand its signature Thingamajig® Invention Convention, a program that started in Washington, DC. The program, which literally encourages students to "make" their own "thingamajigs," expanded to seven U.S. cities in the summer of 2015 and approximately 20 sites in FY 2016.

The USPTO collaborated with the Foundation for Inspiration and Recognition of Science and Technology (FIRST®) on its annual Global Innovation Award, an invention competition designed to encourage First Lego League participants to take their invention ideas to the next level. At least two of the winning teams have applied for and received patents; others have patents pending. The USPTO worked in collaboration with FIRST® to increase student knowledge and 21st-century skills in problem solving, team building, and presentation skills.

JamTech is a hands-on educational experience designed to help teach students with little or no exposure to computer programming to build and program their own video games in the course of a day. This year marks the third year that OEO has worked in collaboration with JamTech organizers Carney Labs, George Mason University School of Computer Game Design, and Carney, Inc., to help students understand the vital role IP plays in the development, protection, and marketing of new game technologies.

The original IP Patch was an earned patch offered at the Brownie, Junior, Cadette, and Senior levels of Girl Scouts of America. The demand for such a patch by other groups besides the Girl Scouts of America has spurred the USPTO to develop a Universal IP Patch open to all students regardless of gender or youth organization affiliation. IP permeates every field and industry, and as such, the materials for the Universal IP Patch are structured to be tailored to the STE"A"M ("A" stands for "arts") field of interest of the student.

Finally, the USPTO, in partnership with the National Science Foundation, created the Science of Innovation project, a multi-part video series and accompanying curriculum. (The series was produced by NBC Learn.) The focus of the materials is on the interrelation between IP and STEM. The stories are told through the eyes of scientists and engineers funded by National Science Foundation who have used patents and trademarks to protect and advance their work. In 2016, the Science of Innovation series added six video stories and lesson plans focused on advanced manufacturing and designed to inspire and further engage student learning on the cutting edge of innovation and STEM. This series also helps to highlight government STEM initiatives (including computer science) and the All In Stem initiative, which was begun last year, by telling the stories of various STEM professionals involved in innovation.

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

The USPTO continues its work to establish a funding model that provides for a reliable and sustainable source of funding. The USPTO's operating structure is like a business in that it receives requests for services—applications for patents and trademark registrations—and charges fees projected to cover the cost of performing the services that the USPTO provides. Enactment of the AIA represented a significant leap forward in achieving a sustainable funding model. This objective continues the effort to supplement or refine those authorities.

The USPTO made significant progress toward implementing a sustainable funding model for operations under the *USPTO 2010-2015 Strategic Plan*, particularly through the enactment and implementation of the AIA. This effort is moving forward under the *2014-2018 Strategic Plan* by continuing to supplement or refine the authorities through initiatives to ensure spending authorization to use all fee collections; to make fee-setting authority permanent; to continuously optimize the fee structure; to continue identifying, obtaining and implementing private sector business tools; and to maximize cost-efficiency and transparency.

A primary consideration for the USPTO and its stakeholders is to ensure access to and authority to use all fee collections. The AIA established the Patent and Trademark Fee Reserve Fund (PTFRF), into which collections in excess of appropriated spending levels are deposited for later use. Although the PTFRF does not definitively guarantee that the USPTO will have access to all fee collections, it has been a useful tool. For instance, when the USPTO deposited funds into the PTFRF in late FY 2014, the office was able to access those fees early in FY 2015. Actual fee collections did not exceed the USPTO's appropriation in either FY 2015 or FY 2016, and as such, the USPTO did not need to leverage this mechanism in FY 2016.

Although the AIA gave the USPTO authority to set fees by regulation, it also includes a seven-year sunset provision for fee-setting. The USPTO is committed to taking the steps necessary to ensure that fee-setting is made permanent. Among those steps is demonstrating the agency's ability to make constructive, well-thought-out changes to the fee structure under its current authority.

In FY 2015 the agency conducted its first comprehensive biennial fee review since the implementation of the major patent-fee schedule changes in FY 2013. The comprehensive fee review was conducted in accordance with the USPTO fee structure philosophy, which is to provide sufficient financial resources to facilitate the effective administration of the U.S. IP system. The following objectives support this fee structure philosophy:

- Promote Administration Innovation Strategies,
- Align fees with the full cost of products and services,
- Set fees to facilitate the effective administration of the patent and trademark systems, and
- Offer application-processing options.

Based on the 2015 fee review, the USPTO developed patent and trademark fee adjustment proposals, which it shared with PPAC and TPAC in early FY 2016. In accordance with the AIA, both public advisory committees conducted a public hearing and provided a formal report summarizing reactions and providing comments, advice, and recommendations on the respective proposals.

The USPTO reviewed the reports and made several adjustments to its fee proposals. On May 27, 2016, the USPTO issued an NPRM, published in the [Federal Register](#) to set or increase certain trademark fees. Comments were received from 12 individuals or industry groups. Following an analysis of the comments received, the USPTO revised several fee proposals and published a final rule in the Federal Register on October 21, 2016. The new trademark fees will become effective in January 2017. The more complex patent fee adjustment was published in the *Federal Register* later, on October 3, 2016. The USPTO will carefully review public comments to the patent-related fee proposals and currently plans to publish a final rule in Summer 2017.

Although aligning revenue with program costs is critical, the USPTO knows that it cannot simply raise fee rates to pay for every desired improvement. This is why, as the agency implements its sustainable funding objective, the USPTO is equally focused on both the revenue and the spending side of its ledger. Maximizing cost-efficiency and transparency is of utmost importance and is the USPTO's responsibility as good financial stewards. Given the trust Congress and the agency's stakeholders place in the USPTO with fee-setting authority and having an operating reserve, the agency needs to demonstrate that it is taking all steps possible to run a cost-efficient organization.

In recognition of these responsibilities and of the dynamic financial environment within which the USPTO operates, a formal Financial Advisory Board was established in FY 2015 to review and analyze data and proposals impacting both fee collections and spending. FY 2016 represented the first full fiscal year during which the new Board operated. The Board made recommendations to USPTO executives on financial risk management, priorities for spending, fee-adjustment proposals, and the size of operating reserves needed to mitigate financial and operational risk. The USPTO strives to focus its spending on behalf of its fee-paying customers by striking an appropriate balance among improvements in quality, pendency, and IT as it continues to improve operations and the customer experience with the agency.

In early FY 2016, as updated spending and revenue projections indicated that the USPTO's operating reserves could drop to dangerously low levels by the end of FY 2017, USPTO undertook a holistic and comprehensive review of its spending priorities for both FY 2016 and FY 2017. The Financial Advisory Board collaborated with leaders from across the agency to identify critical strategic investments that should continue to be funded, reign in spending that was not necessary immediately, and ensure that the USPTO has the healthy foundation we need to effectively carry out our mission. These same principles continued to guide decision makers during the summer months as the USPTO finalized its spending plans going into FY 2017.

The USPTO also continues to leverage private sector business tools, such as maintaining reasonably sized operating reserves. Late in FY 2015, the USPTO finalized its operating reserve policy to help guide the financial management of the organization. The new policy focuses on mitigating financial and operational risk and includes guidance to manage the two operating reserves within a range of acceptable balances, with a minimal balance target set for two years and a longer term optimal balance that it strives to reach in the future. The minimum balance—currently set at \$300 million for the Patent Business Line and \$55 million for the Trademark Business Line—is reviewed on an annual basis and set at a level sufficient to mitigate known financial risks to core agency operations.

## **OBJECTIVE 5: ESTABLISH REGIONAL OFFICES AND A REGIONAL PRESENCE**

USPTO regional offices support the agency's core mission of fostering American innovation and competitiveness by offering services to entrepreneurs, inventors, and small businesses while effectively engaging communities and local industries. The four regional offices include the Elijah J. McCoy Midwest Regional Office in Detroit (opened July 2012); the Rocky Mountain Regional Office in Denver (opened June 2014); the West Coast Regional Office in Silicon Valley in San Jose (opened October 2015); and the Texas Regional Office in Dallas (opened November 2015).

The establishment of four USPTO regional offices fulfills a commitment dating to September 16, 2011, when President Obama signed the AIA into law. The regional offices embody the administration's commitment to promoting innovation and entrepreneurship across the United States. USPTO can now, more than ever, engage directly and meaningfully with the nation's inventors, entrepreneurs, IP practitioners, academics, and policymakers.

These locations are also helping facilitate the hiring and retention of a highly qualified, diverse nationwide workforce. Each regional office houses patent examiners who deliver high-quality and timely examination of patent applications, PTAB judges who conduct rigorous hearings, and outreach officials who disseminate IP information and education services to every continental time zone of the United States. The USPTO has hired directors for all four regional offices, making them well-positioned to fully advance the agency's mission.

### **Regional Outreach**

The Texas Regional Office has already held a number of outreach events in 2016, including three seminars on patents, trademarks and petitions, and a Congressional App Challenge celebration for students and their families who participated in the competition from Congresswoman Eddie Bernice Johnson's district.

The Silicon Valley Regional Office continues to engage in conversations about policy decisions that affect innovation. The office is serving the regional entrepreneurial community with events such as "Speed Dating for Startups," co-sponsored by Santa Clara University, in which over 150 entrepreneurs, small business owners, and students learned about incorporating IP into their business strategies. Several top USPTO officials also participated in an "Inventor and Entrepreneur Forum" at the University of California, Irvine Applied Innovation Lab, which had 700 attendees in person and online. This past May, the USPTO welcomed Secretary of Commerce Penny Pritzker, who discussed the importance of open data to innovation in an entrepreneurs' showcase, and Deputy Secretary Bruce Andrews, who met with the newest class of examiners and the newest PTAB judge.

The Rocky Mountain Regional Office has also been busy, hosting a Patent Quality roundtable in October 2015, in conjunction with the IP Committee of the Colorado Chapter of the Association for Corporate Counsel and the IP Section of the Colorado Bar Association. Members of the bar, local patent community, and the general public are invited to come together with USPTO officials to share ideas, experiences, and insights on patent quality. The office hosted its first TTAB argument, with participants in Denver appearing before the TTAB via the USPTO's telecommunications system, and held its first AIA trial proceeding in the month of April 2016.

In March 2016, the Midwest Regional Office held the IP Spring Seminar in East Lansing, MI (the event was coordinated by the Michigan State Bar IP Section), where the Commissioner for Trademarks, Mary Boney Denison, joined Midwest Regional Director, Dr. Christal Sheppard. Denison and Sheppard also spoke to 60 local entrepreneurs at a Trademark Lunch and Learn at TechTown Detroit. This office has continued to host PTAB hearings, including their first live Inter Partes Review trial in January 2016, and has been active in the community as well, hosting the first Patent Drafting Competition in conjunction with University of Detroit Mercy. Law schools from around the Midwest Region sent teams to Detroit, to present in front of a panel of judges, including patent examiners, PTAB judges, and IP practitioners, with Indiana University Maurer School of Law winning the competition.

All the regional offices held events for World IP Day and enabled local innovators to participate virtually in the Patent Quality Community Symposium, held this past April, which brought together a broad range of stakeholders—patent prosecutors, litigators, inventors, academics, and patent examiners—for a public discussion about patent quality.

### **Hiring**

Since its grand opening on November 9, 2015, the Texas Regional Office welcomed its first class of patent examiners in January 2016, who completed their initial training and moved into their offices by April 2016. This office also welcomed five new PTAB judges in 2016, thereby reaching a total of 18 PTAB judges in the Texas Regional Office.

The Silicon Valley Regional Office opened on October 15, 2015, and celebrated the graduation of its first training academy of examiners and welcomed its second academy in February 2016. There are a total of 50 utility and 11 design patent examiners and 23 PTAB judges in the Silicon Valley Regional Office.

With the addition of four new PTAB judges in FY 16, the Rocky Mountain Regional Office is now fully staffed with 17 PTAB judges and 62 patent examiners.

The Midwest Regional Office is now fully staffed with 10 PTAB judges and 116 patent examiners.

Overall, across the four regional offices, there are a total of 68 PTAB judges and 311 patent examiners on board.

The USPTO regional offices play an important role in supporting the overall mission of the agency, including ensuring easier access by innovators and entrepreneurs to resources and IP protections that they need to compete in today's global economy. To learn more about events in any of the USPTO's regional offices, visit the events page of the USPTO website [www.uspto.gov/about-us/events](http://www.uspto.gov/about-us/events).



# FINANCIAL SECTION



Members of the 2016 Performance and Accountability Report Team.  
From left to right: Jeff Isaacs, David Fitzpatrick, Dennis Detar, Alexandria Emgushov,  
Patrick Washington, Shana Willard, and Walter Schlueter



Anthony P. Scardino

## MESSAGE FROM THE CHIEF FINANCIAL OFFICER

“In the middle of every difficulty lies opportunity.” Albert Einstein’s words are as true today as they were when he said them. The USPTO seeks to find opportunities in every challenge we face as an agency as we continue to adapt to our ever-changing environment. Similarly, the Office of the Chief Financial Officer looks to capitalize on each challenge as an opportunity for improving the way we deliver financial management policy, planning, strategies, and advice. During my tenure as Chief Financial Officer, I have seen this time and time again, and I know we will continue to strive to be enterprise-wide leaders, proactively partnering with groups across the USPTO to embrace our shared challenges.

Seven years ago, the USPTO faced something of a “perfect storm” from a financial perspective. After years of gradually gearing up to meet the dramatic increase in demand for IP protection since the turn of the century, patent and trademark fee collections plummeted in 2009 in response to the global economic recession. Without an operating reserve and without the ability to set our fee rates, the agency had no choice but to execute a series of draconian budget reductions that further exacerbated ongoing performance concerns. By the end of that year, total patent application pendency had climbed to nearly 35 months. Something had to change.

With the USPTO’s *2010–2014 Strategic Plan*, we identified funding authority to support agency performance objectives as a significant challenge in accomplishing our vision and mission. To address this challenge, we proposed an initiative to establish a sustainable funding model to support agency operations. A sustainable funding model would enable the Agency to adapt and manage its finances as needs and workload demands change, provide the USPTO with authority to set fees at the rates necessary to recover the cost of operations, and allow the USPTO to spend the fees it collects on requirements-based operations. The importance of sustainable funding continues to be recognized in the *2014–2018 Strategic Plan*.

The Agency took immediate action, and in FY 2010 we formalized the operating reserve as a part of our budget planning to enable the USPTO to mitigate financial risks, undertake long-term strategies for operating improvements, and better manage our finances across multiple years. In FY 2015 we finalized the Agency’s operating reserve policy and instituted an internal Financial Advisory Board to advise the Under Secretary on the funding and use of the reserves. During FY 2016, we continued to leverage the Financial Advisory Board to instill greater transparency and discipline when the need arises to shift and realign the budget as priorities or the economy changes. This board continues to assure that funding aligns with Agency priorities and that spending is targeted to critical investments. As we look to the future, we will continue to manage the operating reserve responsibly, while minimizing financial and operational risks.

While some actions we were able to take on our own, others required the support of our congressional stakeholders. In FY 2011, Congress passed the *Leahy-Smith America Invents Act*, which was a huge step towards helping the USPTO achieve financial stability, and granted the USPTO—for the first time ever—the authority to set almost all of its fees by regulation. This fee setting authority allows the Agency to generate sufficient revenue to recover our operating costs, as well as to further key public policy considerations. The Agency implemented its inaugural set of comprehensive patent fee adjustments in January 2013 and published a trademark fee reduction in December 2014. Consistent with best practices, the USPTO is committed to reviewing its fees biennially, and in FY 2016 we again began the


regulatory process of adjusting our fee rates. The USPTO's fee setting authority is currently set to expire in FY 2018, and we will continue to work with Congress as we seek to complete the sustainable funding model initiative by making that authority permanent.

The comparative financial stability that these changes have brought to the USPTO have enabled us to shift our focus to improving the support and services we provide to both our external and internal customers. In FY 2016, for instance, we made significant progress in modernizing the system that will replace Revenue Accounting and Management (RAM)—the legacy fee collection system that has been in place for approximately 20 years. In April 2016, the USPTO released two external-facing, online fee payment tools to our customers—Financial Manager and the Patent Maintenance Fee Storefront. These new online fee payment tools provide customers with increased efficiency, better information, and a workflow that is more streamlined to integrate with customer business processes. The final release of the multi-year Fee Processing Next Generation investment that replaces RAM is planned for FY 2018. In another example, we are working closely with our internal customers to improve the acquisition process at the USPTO to ensure we are receiving the best value and quality of goods and services for the money we spend. We have made, and continue to make, the necessary investments and improvements that will allow us to continue to provide our customers with the critical support they need.

As we have taken on each of these challenges, we have maintained our outstanding reporting record:

- This fiscal year marks our 24th year of receiving an unmodified opinion on the Agency's financial statements; the auditors reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting; further, the underlying concerns for the one significant deficiency that arose during FY 2015 have been remediated;
- 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 14th consecutive year for our FY 2015 Performance and Accountability Report; and
- The USPTO also received the Certificate of Excellence in Citizen-Centric Reporting for our 5th Citizen-Centric Report, awarded by AGA for 2015, again clearly demonstrating the USPTO's excellence in integrating performance and accountability reporting.

Looking ahead, we must continue to demonstrate our commitment to achieving optimal performance and employing sound business and financial practices. We encourage our employees at all levels to demonstrate enterprise leadership in all aspects of their work. Our talented and committed workforce makes this happen and continues to display great dedication to producing a high standard of financial management at the USPTO. We look to the future with confidence, as we continue to serve as a trusted business partner, providing sound financial advice and supporting the strategic direction and mission of the USPTO.



Anthony P. Scardino  
Chief Financial Officer  
November 14, 2016

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Consolidated Balance Sheets**

As of September 30, 2016 and 2015  
(Dollars in Thousands)

	<u>2016</u>	<u>2015</u>
<b>ASSETS</b>		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 2,358,227	\$ 2,494,267
Accounts Receivable (Note 3)	52	56
Other Assets—Advances and Prepayments (Note 6)	<u>7,722</u>	<u>2,224</u>
Total Intragovernmental	2,366,001	2,496,547
Cash (Note 4)	5,562	4,008
Accounts Receivable, Net (Note 3)	422	242
Property, Plant, and Equipment, Net (Note 5)	504,025	405,740
Other Assets—Advances and Prepayments (Note 6)	<u>17,454</u>	<u>17,386</u>
Total Assets	<u>\$ 2,893,464</u>	<u>\$ 2,923,923</u>
<b>LIABILITIES</b>		
Intragovernmental:		
Accounts Payable	\$ 8,265	\$ 7,026
Accrued Payroll and Benefits	15,542	11,635
Accrued Workers' and Unemployment Compensation	1,862	1,930
Customer Deposit Accounts (Note 7)	<u>7,626</u>	<u>7,687</u>
Total Intragovernmental	33,295	28,278
Accounts Payable	85,196	109,185
Accrued Payroll and Benefits	118,076	104,391
Accrued Leave	107,529	101,640
Customer Deposit Accounts (Note 7)	129,719	140,239
Deferred Revenue (Note 9)	960,398	1,027,460
Actuarial FECA Liability (Note 10)	11,729	11,003
Contingent Liability (Note 12)	<u>-</u>	<u>570</u>
Total Liabilities (Note 8)	<u>\$ 1,445,942</u>	<u>\$ 1,522,766</u>
<b>NET POSITION</b>		
Cumulative Results of Operations—Funds from Dedicated Collections (Note 14)	\$ 1,447,522	\$ 1,401,157
Total Net Position	<u>\$ 1,447,522</u>	<u>\$ 1,401,157</u>
Total Liabilities and Net Position	<u>\$ 2,893,464</u>	<u>\$ 2,923,923</u>

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, 2016 and 2015  
(Dollars in Thousands)

	<u>2016</u>	<u>2015</u>
<b>Strategic Goal 1: Optimize Patent Quality and Timeliness</b>		
Total Program Cost	\$ 2,794,841	\$ 2,683,522
Total Program Earned Revenue	<u>(2,855,973)</u>	<u>(2,800,792)</u>
Net Program Income	<u>(61,132)</u>	<u>(117,270)</u>
<b>Strategic Goal 2: Optimize Trademark Quality and Timeliness</b>		
Total Program Cost	271,503	276,593
Total Program Earned Revenue	<u>(277,397)</u>	<u>(273,209)</u>
Net Program (Income)/Cost	<u>(5,894)</u>	<u>3,384</u>
<b>Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide</b>		
Total Program Cost	<u>53,240</u>	<u>52,718</u>
Net Income from Operations (Notes 14 and 15)	<u>\$ (13,786)</u>	<u>\$ (61,168)</u>
<b>TOTAL ENTITY</b>		
Total Program Cost (Notes 16 and 17)	\$ 3,119,584	\$ 3,012,833
Total Earned Revenue	<u>(3,133,370)</u>	<u>(3,074,001)</u>
Net Income from Operations (Notes 14 and 15)	<u>\$ (13,786)</u>	<u>\$ (61,168)</u>

*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, 2016 and 2015  
(Dollars in Thousands)

	<b>2016</b>	<b>2015</b>
	<b>Funds from Dedicated Collections</b>	<b>Funds from Dedicated Collections</b>
<b>Cumulative Results of Operations</b>		
Beginning Balances	\$ 1,401,157	\$ 1,295,408
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(2,100)	(2,000)
Other Financing Sources:		
Imputed Financing	34,679	46,581
Total Financing Sources	32,579	44,581
Net Income from Operations	13,786	61,168
Net Change	46,365	105,749
Cumulative Results of Operations	<u>\$ 1,447,522</u>	<u>\$ 1,401,157</u>
Net Position, End of Year	<u>\$ 1,447,522</u>	<u>\$ 1,401,157</u>

*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, 2016 and 2015  
(Dollars in Thousands)

	<u>2016</u>	<u>2015</u>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance: Brought Forward, October 1	\$ 504,353	\$ 650,957
Recoveries of Prior Year Unpaid Obligations	36,266	15,468
Recoveries of Prior Year Paid Obligations	332	573
Spending Authority from Offsetting Collections (discretionary)	3,066,894	3,013,440
Total Budgetary Resources	<u>\$ 3,607,845</u>	<u>\$ 3,680,438</u>
<b>STATUS OF BUDGETARY RESOURCES</b>		
Obligations Incurred	\$ 3,146,607	\$ 3,176,085
Unobligated Balance, End of Year:		
Apportioned	461,238	504,284
Unapportioned	-	69
Total Status of Budgetary Resources	<u>\$ 3,607,845</u>	<u>\$ 3,680,438</u>
<b>CHANGE IN OBLIGATED BALANCE</b>		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	\$ 671,341	\$ 549,941
Obligations Incurred	3,146,607	3,176,085
Gross Outlays	(3,191,583)	(3,039,217)
Recoveries of Prior Year Unpaid Obligations	(36,266)	(15,468)
Unpaid Obligations, End of Year	<u>\$ 590,099</u>	<u>\$ 671,341</u>
Uncollected Payments:		
Uncollected Customer Payments from Federal Sources, Brought Forward, October 1	\$ (56)	\$ (120)
Change in Uncollected Customer Payments from Federal Sources	4	64
Uncollected Customer Payments from Federal Sources, End of Year	<u>\$ (52)</u>	<u>\$ (56)</u>
Memorandum (non-add) entries:		
Obligated Balance, Net, Start of Year	<u>\$ 671,285</u>	<u>\$ 549,821</u>
Obligated Balance, Net, End of Year	<u>\$ 590,047</u>	<u>\$ 671,285</u>
<b>BUDGET AUTHORITY AND NET OUTLAYS</b>		
Budget Authority, Gross (discretionary)	\$ 3,066,894	\$ 3,013,440
Actual Offsetting Collections (discretionary)	(3,069,330)	(3,016,077)
Change in Uncollected Customer Payments from Federal Sources (discretionary)	4	64
Recoveries of Prior Year Paid Obligations (discretionary)	332	573
Budget Authority, Net (discretionary)	<u>\$ (2,100)</u>	<u>\$ (2,000)</u>
Gross Outlays (discretionary)	\$ 3,191,583	\$ 3,039,217
Actual Offsetting Collections (discretionary)	(3,069,330)	(3,016,077)
Net Outlays (discretionary)	<u>\$ 122,253</u>	<u>\$ 23,140</u>

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

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**Consolidated Statements of Cash Flows (Indirect Method)**

For the years ended September 30, 2016 and 2015  
(Dollars in Thousands)

	<u>2016</u>	<u>2015</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net Income from Operations	\$ 13,786	\$ 61,168
Adjustments Affecting Cash Flow:		
Imputed Financing from Cost Absorbed by Others	34,679	46,581
Increase in Accounts Receivable	(176)	(44)
Increase in Advances and Prepayments	(5,566)	(10,914)
(Decrease)/Increase in Accounts Payable	(14,376)	82
Increase in Accrued Payroll and Benefits	17,592	11,554
Increase in Accrued Leave and Workers' and Unemployment Compensation	5,821	3,665
(Decrease)/Increase in Customer Deposit Accounts	(10,581)	14,305
Decrease in Deferred Revenue	(67,062)	(62,352)
(Decrease)/Increase in Contingent Liability	(570)	320
Increase/(Decrease) in Actuarial Liability	726	(28)
Depreciation, Amortization, or Loss on Asset Dispositions	138,984	105,298
Total Adjustments	<u>99,471</u>	<u>108,467</u>
Net Cash Provided by Operating Activities	<u>113,257</u>	<u>169,635</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of Property and Equipment	<u>(245,643)</u>	<u>(179,428)</u>
Net Cash Used in Investing Activities	<u>(245,643)</u>	<u>(179,428)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Transfers Out Without Reimbursement	<u>(2,100)</u>	<u>(2,000)</u>
Net Cash Used in Financing Activities	<u>(2,100)</u>	<u>(2,000)</u>
Net Cash Used in Operating, Investing, and Financing Activities	<u>\$ (134,486)</u>	<u>\$ (11,793)</u>
Fund Balance with Treasury and Cash, Beginning of Year	\$ 2,498,275	\$ 2,510,068
Net Cash Used in Operating, Investing, and Financing Activities	<u>(134,486)</u>	<u>(11,793)</u>
Fund Balance with Treasury and Cash, End of Year	<u>\$ 2,363,789</u>	<u>\$ 2,498,275</u>

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



## Notes to Financial Statements

As of and for the years ended September 30, 2016 and 2015

### NOTE 1. Summary of Significant Accounting Policies

#### Reporting Entity

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

These financial statements include the USPTO's 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 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.

#### 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. The 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.

Certain prior year balances were reclassified to conform with current year presentation.

## **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 20.

### **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). 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 received, with an adjustment to defer revenue for services that have not been performed. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

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

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 cash. 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 some customers. 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, 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.

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

**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.

**Cash**

The USPTO's cash 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 cash balance also consists of undeposited checks for fees that were not processed at the *Balance Sheet* date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. Cash is also held outside the Treasury to be used as imprest funds. Additional details are provided in Note 4.

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

The USPTO's capitalization policies are summarized below:

<b>Classes of Property, Plant, and Equipment</b>	<b>Capitalization Threshold for Individual Purchases</b>	<b>Capitalization Threshold for Bulk Purchases</b>
IT Equipment	\$50 thousand or greater	\$250 thousand or greater
Software	\$50 thousand or greater	\$250 thousand or greater
Software in Progress	\$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.

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

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

**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.

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

*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 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.

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

For the years ended September 30, 2016 and 2015, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 22.3 percent and 22.0 percent of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2016 and 2015, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 13.5 percent and 13.0 percent 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 calculated 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 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, 2016 and 2015, Fund Balance with Treasury consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
Fund Balances by Treasury Fund Type:		
Special Funds	\$ 233,529	\$ 233,529
General Funds	1,989,103	2,113,456
Deposit Funds	135,595	147,282
Total Fund Balance with Treasury	<u>\$ 2,358,227</u>	<u>\$ 2,494,267</u>
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	\$ 590,047	\$ 671,285
Unobligated Balance Available	461,238	504,284
Unobligated Balance Unavailable	-	69
Temporarily Not Available Pursuant to Public Law	937,818	937,818
Non-Budgetary Fund Balance with Treasury	<u>369,124</u>	<u>380,811</u>
Total Fund Balance with Treasury	<u>\$ 2,358,227</u>	<u>\$ 2,494,267</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 been reserving a portion of the amount Congress makes available annually through appropriations to the USPTO Salaries and Expense fund as a designated operating reserve that will be carried over for use in future years. As of September 30, 2016, the total Patent reserve was \$354,239 thousand and the total Trademark reserve was \$106,999 thousand. As of September 30, 2015, the total Patent reserve was \$402,556 thousand and the total Trademark reserve was \$101,797 thousand.

As of September 30, 2014, \$148,236 thousand of fee collections in excess of appropriated levels were deposited into the Patent and Trademark Fee Reserve Fund. Of this amount, \$128,692 thousand was related to excess patent fee collections and \$19,544 thousand were related to excess trademark fee collections. After successfully working through the reprogramming process with congressional appropriators early in FY 2015, the USPTO was able to gain access to these funds, which were transferred into our operating reserve, where they remain available to support the Agency's future needs. As of September 30, 2016, 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. Additional details are provided in Note 14.

As of September 30, 2016 and 2015, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts of \$233,529 thousand for each year presented and non-entity customer deposit accounts of \$135,595 thousand and \$147,282 thousand, respectively.

### NOTE 3. Accounts Receivable, Net

As of September 30, 2016, USPTO entity accounts receivables consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	<u>\$ 52</u>	<u>\$ -</u>	<u>\$ 52</u>
With the Public	<u>\$ 565</u>	<u>\$ (143)</u>	<u>\$ 422</u>

As of September 30, 2015, USPTO entity accounts receivables consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	<u>\$ 56</u>	<u>\$ -</u>	<u>\$ 56</u>
With the Public	<u>\$ 362</u>	<u>\$ (120)</u>	<u>\$ 242</u>

### NOTE 4. Cash

As of September 30, 2016 and 2015, cash consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
Deposits in Transit	<u>\$ 5,450</u>	<u>\$ 3,928</u>
Undeposited Collections	<u>112</u>	<u>80</u>
Total	<u>\$ 5,562</u>	<u>\$ 4,008</u>



## NOTE 5. Property, Plant, and Equipment, Net

As of September 30, 2016, property, plant, and equipment, net consisted of the following:

*(Dollars in Thousands)*

<b>Classes of Property, Plant, and Equipment</b>	<b>Service Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/ Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 358,537	\$ 263,565	\$ 94,972
Software	3-5	650,408	423,911	226,497
Software in Progress	-	103,312	-	103,312
Furniture	5-7	14,726	3,157	11,569
Equipment	3-8	9,966	7,768	2,198
Leasehold Improvements	5-20	132,627	67,150	65,477
Total Property, Plant, and Equipment		<u>\$ 1,269,576</u>	<u>\$ 765,551</u>	<u>\$ 504,025</u>

As of September 30, 2015, property, plant, and equipment, net consisted of the following:

*(Dollars in Thousands)*

<b>Classes of Property, Plant, and Equipment</b>	<b>Service Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/ Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 435,662	\$ 356,910	\$ 78,752
Software	3-5	500,282	348,678	151,604
Software in Progress	-	109,967	-	109,967
Furniture	5-7	7,757	1,442	6,315
Equipment	3-8	12,021	9,459	2,562
Leasehold Improvements	5-20	115,460	58,920	56,540
Total Property, Plant, and Equipment		<u>\$ 1,181,149</u>	<u>\$ 775,409</u>	<u>\$ 405,740</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, 2016 and 2015, other assets consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
Intragovernmental		
Advances and Prepayments	<u>\$ 7,722</u>	<u>\$ 2,224</u>
With the Public		
Advances and Prepayments	<u>\$ 17,454</u>	<u>\$ 17,386</u>
Total	<u>\$ 25,176</u>	<u>\$ 19,610</u>

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, and the Department of Commerce for centralized services.

The largest prepayments with the public as of September 30, 2016 and 2015 were \$14,128 thousand and \$13,653 thousand, respectively, for various hardware and software maintenance agreements and \$3,323 thousand and \$3,733 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 to use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds.

As of September 30, 2016 and 2015, entity and non-entity assets consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
Fund Balance with Treasury:		
Intragovernmental Customer Deposit Accounts	<u>\$ 7,626</u>	<u>\$ 7,687</u>
Customer Deposit Accounts with the Public	<u>127,969</u>	<u>139,595</u>
Total Fund Balance with Treasury	<u>135,595</u>	<u>147,282</u>
Cash:		
Customer Deposit Accounts with the Public	<u>1,750</u>	<u>644</u>
Total Non-Entity Assets	<u>137,345</u>	<u>147,926</u>
Total Entity Assets (Note 14)	<u>2,756,119</u>	<u>2,775,997</u>
Total Assets	<u>\$ 2,893,464</u>	<u>\$ 2,923,923</u>

## 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 considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances (operating reserve) as of September 30, 2016. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2016, but become available for spending on October 1, 2016 once apportioned by the OMB. In addition, cash and Fund Balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, and undeposited collections.

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

As of September 30, 2016 and 2015, liabilities covered and not covered by budgetary resources were as follows:

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	\$ 8,265	\$ 7,026
Accrued Payroll and Benefits	15,542	11,635
Accrued Unemployment Compensation	90	18
Customer Deposit Accounts	7,626	7,687
Total Intragovernmental	31,523	26,366
Accounts Payable	85,196	109,185
Accrued Payroll and Benefits	60,541	46,341
Customer Deposit Accounts	129,719	140,239
Deferred Revenue	461,202	504,196
Total Liabilities Covered by Resources	<u>\$ 768,181</u>	<u>\$ 826,327</u>
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	\$ 1,772	\$ 1,912
Total Intragovernmental	1,772	1,912
Accrued Payroll and Benefits	57,535	58,050
Accrued Leave	107,529	101,640
Deferred Revenue	499,196	523,264
Actuarial FECA Liability	11,729	11,003
Contingent Liability	-	570
Total Liabilities Not Covered by Resources	<u>\$ 677,761</u>	<u>\$ 696,439</u>
Total Liabilities	<u>\$ 1,445,942</u>	<u>\$ 1,522,766</u>

## NOTE 9. Deferred Revenue

As of September 30, 2016, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Total</b>
Unearned Fees	\$ 888,367	\$ 71,919	\$ 960,286
Undeposited Checks	102	10	112
Total Deferred Revenue	<u>\$ 888,469</u>	<u>\$ 71,929</u>	<u>\$ 960,398</u>

As of September 30, 2015, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Total</b>
Unearned Fees	\$ 954,994	\$ 72,386	\$ 1,027,380
Undeposited Checks	73	7	80
Total Deferred Revenue	<u>\$ 955,067</u>	<u>\$ 72,393</u>	<u>\$ 1,027,460</u>

## NOTE 10. Actuarial FECA Liability

The FECA actuarial liability is calculated annually, as of September 30th by the DOL. For FY 2016 and 2015, 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:

<b>2016</b>	<b>2015</b>
<b>For wage benefits:</b> 2.78% in year 1, and thereafter	<b>For wage benefits:</b> 3.13% in year 1, and thereafter
<b>For medical benefits:</b> 2.26% in year 1, and thereafter	<b>For medical benefits:</b> 2.50% 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, 2016 and 2015 was \$11,729 thousand and \$11,003 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 2017 and FY 2035. During the years ended September 30, 2016 and 2015, the USPTO paid \$93,417 thousand and \$96,258 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2016 are as follows:

<b>Fiscal Year</b>	<i>(Dollars in Thousands)</i>
2017	\$ 64,974
2018	64,746
2019	61,246
2020	60,783
2021	63,017
Thereafter	240,032
Total Future Minimum Lease Payments	<u>\$ 554,798</u>

The commitments shown above relate primarily to the operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in FY 2004 and extending to FY 2026. The operating lease commitments for the USPTO offices in Shirlington, Virginia and the regional offices are also included above. The operating leases in Shirlington, Virginia and Detroit, Michigan will expire in FY 2019 and FY 2022, respectively. When the operating lease in Shirlington, Virginia expires in FY 2019, a new lease will begin and will expire in FY 2035. The operating lease in Denver, Colorado began in FY 2014 and will expire in FY 2024. The operating lease in San Jose, California began in FY 2015 and will expire in FY 2025. The operating lease in Dallas, Texas began in early FY 2016 and will expire in 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, 2016, management expects it is reasonably possible that approximately \$2,400 thousand may be owed for awards or damages involving labor relations claims. Also, it is reasonably possible that an adverse outcome will result from an additional claim with no stated amount and a range of loss cannot be determined. As of September 30, 2015, management expects it is reasonably possible that approximately \$2,700 thousand may be owed for awards or damages involving labor relations claims. Also, it is reasonably possible that an adverse outcome will result from an additional claim with no stated amount and a range of loss cannot be determined.

As of September 30, 2016, the USPTO was not subject to any suits where adverse outcomes are probable. As of September 30, 2015, the USPTO was subject to a suit where an adverse outcome was probable and the claim was \$570 thousand. This suit was settled for a lower amount and the payment was made in FY 2016.

For the years ended September 30, 2016 and 2015, the USPTO was not required to make any payments to the Judgment Fund.

As of September 30, 2016 and 2015, the USPTO did not have any major long-term commitments.

## NOTE 13. Post-employment Benefits

For the years ended September 30, 2016 and 2015, the post-employment benefit expenses were as follows:

(Dollars in Thousands)

	2016			2015		
	Funded	Imputed	Total	Funded	Imputed	Total
CSRS	\$ 9,146	\$ 1,655	\$ 10,801	\$ 10,700	\$ 1,918	\$ 12,618
FERS	186,445	6,965	193,410	171,349	10,489	181,838
FEHB	60,181	9,855	70,036	53,278	7,637	60,915
FEGLI	238	-	238	229	-	229
FICA	102,241	-	102,241	99,299	-	99,299
<b>Total Cost</b>	<b>\$ 358,251</b>	<b>\$ 18,475</b>	<b>\$ 376,726</b>	<b>\$ 334,855</b>	<b>\$ 20,044</b>	<b>\$ 354,899</b>

## 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, 2016 and 2015, 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, 2016, the salaries and expenses fund includes the Patent operating reserve of \$354,239 thousand and the Trademark operating reserve of \$106,999 thousand. As of September 30, 2015, the salaries and expenses fund includes the Patent operating reserve of \$402,556 thousand and the Trademark operating reserve of \$101,797 thousand.

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2016</b>				
Fund Balance with Treasury	\$ 1,989,103	\$ -	\$ 233,529	\$ 2,222,632
Cash	3,812	-	-	3,812
Accounts Receivable, Net	474	-	-	474
Other Assets	529,201	-	-	529,201
Total Assets	<u>\$ 2,522,590</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,756,119</u>
Total Liabilities	<u>\$ 1,308,597</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,308,597</u>
Cumulative Results of Operations	<u>1,213,993</u>	<u>-</u>	<u>233,529</u>	<u>1,447,522</u>
Total Liabilities and Net Position	<u>\$ 2,522,590</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,756,119</u>
<b>Statement of Net Cost For the Year Ended September 30, 2016</b>				
Total Program Cost	\$ 3,119,584	\$ -	\$ -	\$ 3,119,584
Less Program Earned Revenue	(3,133,370)	-	-	(3,133,370)
Net Income from Operations	<u>\$ (13,786)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (13,786)</u>
<b>Statement of Changes in Net Position For the Year Ended September 30, 2016</b>				
Net Position, Beginning of Year	<u>\$ 1,167,628</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,401,157</u>
Budgetary Financing Sources:				
Transfers Out Without Reimbursement	(2,100)	-	-	(2,100)
Other Financing Sources:				
Imputed Financing	34,679	-	-	34,679
Net Income from Operations	<u>13,786</u>	<u>-</u>	<u>-</u>	<u>13,786</u>
Change in Net Position	<u>46,365</u>	<u>-</u>	<u>-</u>	<u>46,365</u>
Net Position, End of Year	<u>\$ 1,213,993</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,447,522</u>

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

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2015</b>				
Fund Balance with Treasury	\$ 2,113,456	\$ -	\$ 233,529	\$ 2,346,985
Cash	3,364	-	-	3,364
Accounts Receivable, Net	298	-	-	298
Other Assets	425,350	-	-	425,350
Total Assets	<u>\$ 2,542,468</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,775,997</u>
Total Liabilities	\$ 1,374,840	\$ -	\$ -	\$ 1,374,840
Cumulative Results of Operations	1,167,628	-	233,529	1,401,157
Total Liabilities and Net Position	<u>\$ 2,542,468</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,775,997</u>
<b>Statement of Net Cost For the Year Ended September 30, 2015</b>				
Total Program Cost	\$ 3,012,833	\$ -	\$ -	\$ 3,012,833
Less Program Earned Revenue	(3,074,001)	-	-	(3,074,001)
Net Income from Operations	<u>\$ (61,168)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (61,168)</u>
<b>Statement of Changes in Net Position For the Year Ended September 30, 2015</b>				
Net Position, Beginning of Year	\$ 971,517	\$ 90,362	\$ 233,529	\$ 1,295,408
Budgetary Financing Sources:				
Transfers In/(Out) Without Reimbursement	146,236	(148,236)	-	(2,000)
Other Financing Sources:				
Imputed Financing	46,581	-	-	46,581
Transfers In/(Out) Without Reimbursement	(57,874)	57,874	-	-
Net Income from Operations	61,168	-	-	61,168
Change in Net Position	196,111	(90,362)	-	105,749
Net Position, End of Year	<u>\$ 1,167,628</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,401,157</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. The USPTO may use moneys from this account only as authorized by Congress via appropriations.

## NOTE 15. Intragovernmental Costs and Exchange Revenue

Total intragovernmental costs and exchange revenue, by Strategic Goal, for the years ended September 30, 2016 and 2015 were as follows:

	<b>2016</b>			
	<b>PATENT</b>	<b>TRADEMARK</b>	<b>INTELLECTUAL PROPERTY PROTECTION</b>	<b>TOTAL</b>
<i>(Dollars in Thousands)</i>				
<b>Strategic Goal 1: Optimize Patent Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ 569,287	\$ -	\$ -	\$ 569,287
Gross Cost with the Public	2,225,554	-	-	2,225,554
Total Program Cost	2,794,841	-	-	2,794,841
Intragovernmental Earned Revenue	(8,533)	-	-	(8,533)
Earned Revenue from the Public	(2,847,440)	-	-	(2,847,440)
Total Program Earned Revenue	(2,855,973)	-	-	(2,855,973)
Net Program Income	\$ (61,132)	\$ -	\$ -	\$ (61,132)
<b>Strategic Goal 2: Optimize Trademark Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ -	\$ 55,303	\$ -	\$ 55,303
Gross Cost with the Public	-	216,200	-	216,200
Total Program Cost	-	271,503	-	271,503
Intragovernmental Earned Revenue	-	(424)	-	(424)
Earned Revenue from the Public	-	(276,973)	-	(276,973)
Total Program Earned Revenue	-	(277,397)	-	(277,397)
Net Program Income	\$ -	\$ (5,894)	\$ -	\$ (5,894)
<b>Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b>				
Intragovernmental Gross Cost	\$ -	\$ -	\$ 10,845	\$ 10,845
Gross Cost with the Public	-	-	42,395	42,395
Total Program Cost	-	-	53,240	53,240
Net (Income)/Cost from Operations	\$ (61,132)	\$ (5,894)	\$ 53,240	\$ (13,786)
<b>Total Entity</b>				
Total Program Cost (Notes 16 and 17)	\$ 2,794,841	\$ 271,503	\$ 53,240	\$ 3,119,584
Total Program Earned Revenue	(2,855,973)	(277,397)	-	(3,133,370)
Net (Income)/Cost from Operations	\$ (61,132)	\$ (5,894)	\$ 53,240	\$ (13,786)

**NOTE 15. Intragovernmental Costs and Exchange Revenue** (continued)

	<b>2015</b>			
<i>(Dollars in Thousands)</i>	<b>PATENT</b>	<b>TRADEMARK</b>	<b>INTELLECTUAL PROPERTY PROTECTION</b>	<b>TOTAL</b>
<b>Strategic Goal 1: Optimize Patent Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ 553,063	\$ -	\$ -	\$ 553,063
Gross Cost with the Public	2,130,459	-	-	2,130,459
Total Program Cost	2,683,522	-	-	2,683,522
Intragovernmental Earned Revenue	(8,658)	-	-	(8,658)
Earned Revenue from the Public	(2,792,134)	-	-	(2,792,134)
Total Program Earned Revenue	(2,800,792)	-	-	(2,800,792)
Net Program Income	\$ (117,270)	\$ -	\$ -	\$ (117,270)
<b>Strategic Goal 2: Optimize Trademark Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ -	\$ 57,005	\$ -	\$ 57,005
Gross Cost with the Public	-	219,588	-	219,588
Total Program Cost	-	276,593	-	276,593
Intragovernmental Earned Revenue	-	(567)	-	(567)
Earned Revenue from the Public	-	(272,642)	-	(272,642)
Total Program Earned Revenue	-	(273,209)	-	(273,209)
Net Program Cost	\$ -	\$ 3,384	\$ -	\$ 3,384
<b>Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b>				
Intragovernmental Gross Cost	\$ -	\$ -	\$ 10,865	\$ 10,865
Gross Cost with the Public	-	-	41,853	41,853
Total Program Cost	-	-	52,718	52,718
Net (Income)/Cost from Operations	\$ (117,270)	\$ 3,384	\$ 52,718	\$ (61,168)
<b>Total Entity</b>				
Total Program Cost (Notes 16 and 17)	\$ 2,683,522	\$ 276,593	\$ 52,718	\$ 3,012,833
Total Program Earned Revenue	(2,800,792)	(273,209)	-	(3,074,001)
Net (Income)/Cost from Operations	\$ (117,270)	\$ 3,384	\$ 52,718	\$ (61,168)

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

## NOTE 16. 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, 2016 and 2015 by cost category were as follows:

<i>(Dollars in Thousands)</i>	<b>2016</b>		
	<b>Direct</b>	<b>Allocated</b>	<b>Total</b>
Personnel Services and Benefits	\$ 1,964,754	\$ 164,656	\$ 2,129,410
Travel and Transportation	3,190	1,154	4,344
Rent, Communications, and Utilities	90,629	33,650	124,279
Printing and Reproduction	135,365	220	135,585
Contractual Services	213,222	254,026	467,248
Training	3,002	2,601	5,603
Maintenance and Repairs	4,916	45,715	50,631
Supplies and Materials	40,923	1,200	42,123
Equipment not Capitalized	6,407	14,702	21,109
Insurance Claims and Indemnities	92	176	268
Depreciation, Amortization, or Loss on Asset Dispositions	81,258	57,726	138,984
Total Program Costs	<u>\$ 2,543,758</u>	<u>\$ 575,826</u>	<u>\$ 3,119,584</u>
	<b>2015</b>		
<i>(Dollars in Thousands)</i>	<b>Direct</b>	<b>Allocated</b>	<b>Total</b>
Personnel Services and Benefits	\$ 1,893,845	\$ 163,355	\$ 2,057,200
Travel and Transportation	4,305	1,060	5,365
Rent, Communications, and Utilities	90,757	36,189	126,946
Printing and Reproduction	129,185	218	129,403
Contractual Services	227,407	246,952	474,359
Training	2,506	1,928	4,434
Maintenance and Repairs	2,001	38,868	40,869
Supplies and Materials	39,050	1,083	40,133
Equipment not Capitalized	6,059	22,730	28,789
Insurance Claims and Indemnities	26	11	37
Depreciation, Amortization, or Loss on Asset Dispositions	45,775	59,523	105,298
Total Program Costs	<u>\$ 2,440,916</u>	<u>\$ 571,917</u>	<u>\$ 3,012,833</u>

## NOTE 17. Program Costs by Category and Responsibility Segment

The program costs for the years ended September 30, 2016 and 2015 by cost category and business line were as follows:

<i>(Dollars in Thousands)</i>	<b>2016</b>			
	<b>PATENT</b>	<b>TRADEMARK</b>	<b>INTELLECTUAL PROPERTY PROTECTION</b>	<b>TOTAL</b>
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 1,788,949	\$ 148,897	\$ 26,908	\$ 1,964,754
Travel and Transportation	1,722	85	1,383	3,190
Rent, Communications, and Utilities	80,661	7,012	2,956	90,629
Printing and Reproduction	135,331	16	18	135,365
Contractual Services	181,428	20,585	11,209	213,222
Training	2,736	178	88	3,002
Maintenance and Repairs	3,607	1,216	93	4,916
Supplies and Materials	38,986	1,413	524	40,923
Equipment not Capitalized	5,520	685	202	6,407
Insurance Claims and Indemnities	79	12	1	92
Depreciation, Amortization, or Loss on Asset Dispositions	58,875	22,001	382	81,258
<b>Subtotal Direct Costs</b>	<b>\$ 2,297,894</b>	<b>\$ 202,100</b>	<b>\$ 43,764</b>	<b>\$ 2,543,758</b>
<b>Allocated Costs</b>				
Automation	\$ 268,328	\$ 33,595	\$ 4,031	\$ 305,954
Resource Management	228,619	35,808	5,445	269,872
<b>Subtotal Allocated Costs</b>	<b>\$ 496,947</b>	<b>\$ 69,403</b>	<b>\$ 9,476</b>	<b>\$ 575,826</b>
<b>Total Program Costs</b>	<b>\$ 2,794,841</b>	<b>\$ 271,503</b>	<b>\$ 53,240</b>	<b>\$ 3,119,584</b>

**NOTE 17. Program Costs by Category and Responsibility Segment** *(continued)*

	<b>2015</b>			
	<b>PATENT</b>	<b>TRADEMARK</b>	<b>INTELLECTUAL PROPERTY PROTECTION</b>	<b>TOTAL</b>
<i>(Dollars in Thousands)</i>				
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 1,732,622	\$ 136,107	\$ 25,116	\$ 1,893,845
Travel and Transportation	2,538	137	1,630	4,305
Rent, Communications, and Utilities	80,562	7,141	3,054	90,757
Printing and Reproduction	129,149	27	9	129,185
Contractual Services	190,446	25,636	11,325	227,407
Training	2,124	315	67	2,506
Maintenance and Repairs	1,490	485	26	2,001
Supplies and Materials	36,954	1,297	799	39,050
Equipment not Capitalized	3,607	2,299	153	6,059
Insurance Claims and Indemnities	23	-	3	26
Depreciation, Amortization, or Loss on Asset Dispositions	31,726	13,799	250	45,775
<b>Subtotal Direct Costs</b>	<b>\$ 2,211,241</b>	<b>\$ 187,243</b>	<b>\$ 42,432</b>	<b>\$ 2,440,916</b>
<b>Allocated Costs</b>				
Automation	\$ 244,405	\$ 54,122	\$ 4,502	\$ 303,029
Resource Management	227,876	35,228	5,784	268,888
<b>Subtotal Allocated Costs</b>	<b>\$ 472,281</b>	<b>\$ 89,350</b>	<b>\$ 10,286</b>	<b>\$ 571,917</b>
<b>Total Program Costs</b>	<b>\$ 2,683,522</b>	<b>\$ 276,593</b>	<b>\$ 52,718</b>	<b>\$ 3,012,833</b>

## **NOTE 18. 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 2016, the USPTO was appropriated up to \$3,272,000 thousand for fees collected during the fiscal year. For FY 2015, the USPTO was appropriated up to \$3,458,000 thousand for fees collected during the fiscal year. For the year ended September 30, 2016, the USPTO collected \$218,559 thousand less than the amount apportioned through September 30, 2016 (under-collections of fees of \$206,653 thousand and under-collections of other budgetary resources of \$11,906 thousand). For the year ended September 30, 2015, the USPTO collected \$449,518 thousand less than the amount apportioned through September 30, 2015 (under-collections of fees of \$449,244 thousand and net under-collections of other budgetary resources of \$274 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 2016, the carryover amount that was brought into the fiscal year from FY 2015 was \$504,353 thousand. For FY 2015, the carryover amount that was brought into the fiscal year from FY 2014 was \$650,957 thousand.

As of September 30, 2016 and 2015, reimbursable obligations incurred were \$3,146,607 thousand and \$3,176,085 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, 2016 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.

### **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. Total reimbursable undelivered orders for all of the USPTO's activities were \$445,791 thousand and \$516,915 thousand as of September 30, 2016 and 2015, respectively. Of these amounts, \$420,615 thousand and \$497,305 thousand, respectively, were unpaid.

## NOTE 19. 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.

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
<b>Revenue Activity:</b>		
Sources of Collections:		
Miscellaneous	\$ 887	\$ 602
Total Cash Collections	887	602
Accrual Adjustments	-	-
Total Custodial Revenue	887	602
<b>Disposition of Collections:</b>		
Transferred to Others:		
Treasury	(887)	(602)
(Increase)/Decrease in Amounts Yet to be Transferred	-	-
Net Custodial Activity	\$ -	\$ -



## NOTE 20. 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.

	<b>2016</b>		
<i>(Dollars in Thousands)</i>	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Schedule of Fiduciary Activity For the Year Ended September 30, 2016</b>			
Fiduciary Net Assets, Beginning of Year	\$ 16,168	\$ 615	\$ 16,783
Contributions	154,474	22,572	177,046
Disbursements to and on Behalf of Beneficiaries	<u>(156,183)</u>	<u>(22,736)</u>	<u>(178,919)</u>
Decrease in Fiduciary Net Assets	<u>(1,709)</u>	<u>(164)</u>	<u>(1,873)</u>
Fiduciary Net Assets, End of Year	<u>\$ 14,459</u>	<u>\$ 451</u>	<u>\$ 14,910</u>

### **Fiduciary Net Assets As of September 30, 2016**

<i>(Dollars in Thousands)</i>	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
Cash and Cash Equivalents	<u>\$ 14,459</u>	<u>\$ 451</u>	<u>\$ 14,910</u>
Total Fiduciary Net Assets	<u>\$ 14,459</u>	<u>\$ 451</u>	<u>\$ 14,910</u>

**NOTE 20. Fiduciary Activities** *(continued)*

	<b>2015</b>		
<i>(Dollars in Thousands)</i>	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Schedule of Fiduciary Activity For the Year Ended September 30, 2015</b>			
Fiduciary Net Assets, Beginning of Year	\$ 15,795	\$ 512	\$ 16,307
Contributions	159,753	22,274	182,027
Disbursements to and on Behalf of Beneficiaries	(159,380)	(22,171)	(181,551)
Increase in Fiduciary Net Assets	373	103	476
Fiduciary Net Assets, End of Year	<u>\$ 16,168</u>	<u>\$ 615</u>	<u>\$ 16,783</u>
 <b>Fiduciary Net Assets As of September 30, 2015</b>			
<i>(Dollars in Thousands)</i>	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
Cash and Cash Equivalents	\$ 16,168	\$ 615	\$ 16,783
Total Fiduciary Net Assets	<u>\$ 16,168</u>	<u>\$ 615</u>	<u>\$ 16,783</u>

## NOTE 21. 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, 2016 and 2015 is as follows:

<i>(Dollars in Thousands)</i>	<b>2016</b>	<b>2015</b>
<b>RESOURCES USED TO FINANCE ACTIVITIES</b>		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 3,146,607	\$ 3,176,085
Spending Authority from Offsetting Collections and Recoveries	(3,103,492)	(3,029,481)
Net Obligations	43,115	146,604
Other Resources		
Imputed Financing from Cost Absorbed by Others	34,679	46,581
Total Resources Generated to Finance Activities	77,794	193,185
<b>RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS</b>		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered but not yet Provided	71,123	(120,128)
Resources that Fund Costs Recognized in Prior Periods	(1,243)	(171)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	(69,610)	(63,393)
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(237,269)	(182,748)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	(236,999)	(366,440)
<b>COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD</b>		
Components Requiring or Generating Resources in Future Periods:		
Costs that will be Funded by Resources in Future Periods	6,615	6,897
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	6,615	6,897
Components not Requiring or Generating Resources:		
Depreciation, Amortization, or Loss on Asset Dispositions	138,984	105,298
Other Costs that will not Require Resources	(180)	(108)
Total Components of Net Cost of Operations that will not Require or Generate Resources	138,804	105,190
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	145,419	112,087
Net Income from Operations	\$ (13,786)	\$ (61,168)

## 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 internal use 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.

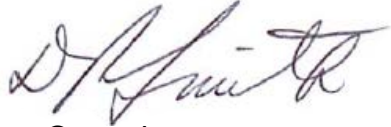


INDEPENDENT  
AUDITORS'  
REPORT



November 15, 2016

**MEMORANDUM FOR:** Michelle K. Lee  
Under Secretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office

**FROM:** David Smith   
Deputy Inspector General

**SUBJECT:** *U.S. Patent and Trademark Office FY 2016 Financial Statements*  
Final Report No. OIG-17-002-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 2016 financial statements.

KPMG LLP, 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 15-02, *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 one significant deficiency in internal control over financial reporting related to weaknesses surrounding information technology general controls in the areas of access controls and configuration management; and
- identified no instances of reportable noncompliance with applicable laws, regulations, and contracts.

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, 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

Deputy 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, 2016 and 2015, 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. 15-02, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 15-02 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 on the Financial Statements

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, 2016 and 2015,





United States Patent and Trademark Office  
Independent Auditors' Report  
November 14, 2016  
Page 2 of 3

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 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 Chief Financial Officer, Other Information, Glossary of Acronyms and Abbreviation List, and the Index of URLs, as listed in the Table of Contents, are presented for purposes of additional analysis and are not a required part of the basic consolidated financial statements.

The information in the Message, Introduction, Performance Information, Message from the Chief Financial Officer, Other Information, Glossary of Acronyms and Abbreviation List, and the Index of URLs, as listed in the Table of Contents, have 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, 2016, 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, 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, and contracts, 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. 15-02.

#### ***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 result 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**

## **Exhibit I – Significant Deficiency**

### **Information Technology Access and Configuration Management Controls Need Improvement**

During fiscal year (FY) 2016, we noted certain deficiencies surrounding information technology (IT) general controls associated with the USPTO's financial management systems and supporting infrastructure that we considered collectively to be a significant deficiency under the standards issued by the American Institute of Certified Public Accountants. The U.S. Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government* defines general controls as "the policies and procedures that apply to all or a large segment of an entity's information systems" and which "include security management, logical and physical access, configuration management segregation of duties, and contingency planning." Specifically, the USPTO needs to make improvements in its access controls and configuration management controls, described below, to support management's ability to provide assurance that transactions are complete, accurate, and valid.

**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; and that employees are restricted from performing incompatible functions or duties beyond their responsibility. During FY 2016, we noted deficiencies in the areas of (1) database and operating system password controls, (2) access administration controls, and (3) logical access 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. During FY 2016, we noted deficiencies in configuration and patch management.

When performing our procedures, we considered DOC and USPTO policies and various Federal standards and guidance such as (1) 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, (3) NIST SP 800-53 Rev. 4, *Security and Privacy Controls for Federal Information Systems and Organizations*, and (4) NIST Special Publication 800-34 Rev. 1, *Contingency Planning Guide for Federal Information Systems*.

Due to the nature of IT general controls, certain information has been omitted from this report. We will provide the USPTO management with a separate limited distribution IT report that includes specific information about our findings, the criteria used, our understanding of the cause of the findings, and our recommendations. We recognize that the USPTO has certain compensating controls in place to help reduce the risk of the identified deficiencies, and we have considered such compensating controls as part of our USPTO consolidated financial statement audit.

### **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 distribution IT general controls report.



# OTHER INFORMATION

*Unaudited, please see the accompanying auditors' report.*

# COMBINED SCHEDULE OF SPENDING

The Schedule of Spending provides an overview of how and where the USPTO is spending (i.e., obligating) money. The Schedule of Spending presents amounts agreed to be spent for the current year, how the money was spent, and who received the money. The Schedule of Spending is presented on a budgetary basis, the same as the Statement of Budgetary Resources. The *Total Amounts Agreed to be Spent* lines agree with *Obligations Incurred* during the current year, as presented on the Statement of Budgetary Resources.

**For the years ended September 30, 2016 and 2015**  
**(Dollars in Thousands)**

**2016**

**2015**

## What Money is Available to Spend?

*This section presents resources that were available to spend by the USPTO.*

Total Resources	\$ 3,607,845	\$ 3,680,438
Less Amount Not Agreed to be Spent	461,238	504,284
Less Amount Not Available to be Spent	-	69
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,146,607</b>	<b>\$ 3,176,085</b>

## How was the Money Spent?

*This section presents services or items purchased; the items in this section align to OMB budget object class definitions found in OMB Circular No. A-11.*

Personnel Compensation and Benefits	\$ 2,103,891	\$ 2,015,302
Travel	4,868	6,501
Rent, Communication, and Utilities	127,583	128,197
Printing	139,742	134,626
Contractual Services	543,891	594,102
Supplies	43,934	41,197
Equipment	178,985	252,468
Land, Building, and Structures	-	538
Other	3,713	3,154
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,146,607</b>	<b>\$ 3,176,085</b>

## Who did the Money go to?

*This section presents with whom the USPTO is spending money.*

Federal Government	\$ 679,307	\$ 648,657
Non-Federal	2,467,300	2,527,428
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,146,607</b>	<b>\$ 3,176,085</b>

# INSPECTOR GENERAL'S TOP MANAGEMENT CHALLENGES FACING THE USPTO



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

## OIG's Assessment of the Top Management and Performance Challenges Facing the U.S. Patent and Trademark Office in FY 2017

The Reports Consolidation Act of 2000 requires federal inspectors general to identify the top management and performance challenges facing their departments. OIG's *Top Management and Performance Challenges Facing the Department of Commerce* report for fiscal year (FY) 2017 is aligned with the Department's FYs 2014-2018 Strategic Plan and identifies challenges that must be addressed to attain each of the plan's strategic goals. Two of the plan's strategic goals include challenges facing the U.S. Patent and Trademark Office. The full report can be found at [www.oig.doc.gov](http://www.oig.doc.gov).

**INNOVATION: Foster a more innovative U.S. economy—one that is better at inventing, improving, and commercializing products and technologies that lead to higher productivity and competitiveness.**

- *Improving process time and quality of patent application examinations.* Despite the increase in the number of patent examiners and the increase in spending on patent examination, USPTO still faces challenges in meeting its targets for patent processing time. For average total pendency, USPTO has made improvements; however, USPTO still faces challenges in meeting its long-term goals of reducing the average first action pendency and the average total pendency. In addition, USPTO continues to face challenges for enhancing patent quality and developing more effective patent quality metrics that encompass statutory compliance and clarity of decision making by patent examiners.
- *Transitioning from legacy IT systems to next-generation IT systems.* For FY 2017, USPTO requested almost \$600 million from Congress for its IT portfolios. As stated in its FY 2014-2018 Strategic Plan, USPTO continues to transform its operations with next-generation technology and services, such as Patent End-to-End, Trademark Next Generation, and Patent Trial and Appeal Board End-to-End. In the interim, USPTO must rely on more than 67 legacy systems that support nearly every aspect of its business operations. USPTO will therefore continue to be challenged to deploy in a timely manner all projects within its IT portfolios.

**OPERATIONAL EXCELLENCE: Strengthen the Department's capacity to achieve its objectives, maximize return on program investments, and deliver quality, timely service.**

- *Continuing to implement basic information security measures and expeditiously remediate critical and high-risk vulnerabilities.* In February 2011, OMB directed federal agencies to evaluate their technology sourcing strategy so that cloud computing options are fully considered, consistent with its Cloud First policy. Since then, Departmental bureaus have started using cloud computing services to support their missions. While cloud computing has the potential to significantly help the Department provide reliable and innovative services, it will be challenged to ensure that basic security measures are in place. This is underscored in OIG's ongoing IT security work at USPTO.

- *Managing high-risk contracts.* In a report issued in June 2016, OIG found that USPTO contracting and program officials did not follow best practices—Office of Federal Procurement Policy, Federal Acquisition Regulation (FAR), the Commerce Acquisition Manual, and relevant USPTO policies—for justifying and awarding noncompetitive contracts and task orders. USPTO did not adequately justify sole source contracts. OIG determined that USPTO did not have adequate acquisition planning processes in place, both to leverage competition as well as assure that it is received fair and reasonable prices.
- *Improving IT controls over financial data.* A significant deficiency related to IT access and configuration management control weaknesses was identified in the USPTO’s annual financial statement audit in FY 2015. These are substantial weaknesses that require management’s attention. As a result, USPTO has ongoing efforts in place to implement corrective actions for the deficiencies identified.
- *Creating a Department-wide culture of accountability.* In 2016, OIG conducted several investigations into time and attendance abuse by employees, with significant findings in operating units across the Department. This concern is not limited to one operating unit, as we have investigated issues at the Census Bureau, USPTO, and NOAA, as well as referred some instances back to other bureaus for appropriate action.

# SUMMARY OF FINANCIAL STATEMENT AUDIT & MANAGEMENT ASSURANCES

**TABLE 1. SUMMARY OF FINANCIAL STATEMENT AUDIT**

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

**TABLE 2. SUMMARY OF MANAGEMENT ASSURANCES**

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



# IMPROPER PAYMENTS INFORMATION ACT (IPIA) OF 2002, AS AMENDED

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 2016 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 2016.

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 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 2016, the improper payments for all USPTO programs and activities amounted to \$0.1 million, or 0.002 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 2016, 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 2015, as FY 2011 was the first fiscal year for this reporting requirement. Amounts recaptured for current year reporting includes payment recaptures during FY 2016 of both improper payments reported in FY 2016 and improper payments previously reported in prior fiscal years.

Overpayments Recaptured Outside of Recapture Audits (Dollars in Millions)						
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	\$ 0.02	\$ 0.01	\$ 1.59	\$ 1.49	\$ 1.61	\$ 1.50
Audits and other reviews	-	-	0.03	-	0.03	-
Reported by vendors	0.04	0.04	4.72	4.72	4.76	4.76
<b>Total</b>	<b>\$ 0.06</b>	<b>\$ 0.05</b>	<b>\$ 6.34</b>	<b>\$ 6.21</b>	<b>\$ 6.40</b>	<b>\$ 6.26</b>

The USPTO continues to enhance its processes and identify and implement additional procedures to prevent and detect improper payments. In FY 2016, 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 2016 and FY 2015. 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 vendor records to reduce or prevent improper payments and awards. During FY 2016, the validation processes using the Do Not Pay Initiative databases have not resulted in the identification or reduction of any improper payments or awards.

<b>Results of the Do Not Pay Initiative in Preventing Improper Payments (\$ in millions)</b>						
	<b>Number (#) of payments reviewed for possible improper payments</b>	<b>Dollars (\$) of payments reviewed for possible improper payments</b>	<b>Number (#) of payments stopped</b>	<b>Dollars (\$) of payments stopped</b>	<b>Number (#) of potential improper payments reviewed and determined accurate</b>	<b>Dollars (\$) of potential improper payments reviewed and determined accurate</b>
Reviews with the IPERIA specified databases	24,028	\$971.5	0	\$0	0	\$0
Reviews with databases not listed in IPERIA	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

## FREEZE THE FOOTPRINT

The USPTO continues to grow in employee counts, with an increase of 1,194 employees since the FY 2012 baseline. 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 California office opened in October 2015 and the Texas office in November 2015.

Freeze the Footprint Baseline Comparison					
	<b>FY 2012 Baseline</b>	<b>FY 2013 (Change from FY 2012 Baseline)</b>	<b>FY 2014 (Change from FY 2012 Baseline)</b>	<b>FY 2015 (Change from FY 2012 Baseline)</b>	<b>FY 2016 (Change from FY 2012 Baseline)</b>
(square footage (SF) in millions)	3.1	3.1 (0.0 RSF increase from FY 2012)	3.3 (0.2 RSF increase from FY 2012)	3.3 (0.2 RSF increase from FY 2012)	3.2 (0.1 RSF increase from FY 2012)

Reporting of Operations and Maintenance Costs—Direct Lease Buildings					
	<b>FY 2012 Reported Cost</b>	<b>FY 2013 (Change from FY 2012 Baseline)</b>	<b>FY 2014 (Change from FY 2012 Baseline)</b>	<b>FY 2015 (Change from FY 2012 Baseline)</b>	<b>FY 2016 (Change from FY 2012 Baseline)</b>
(dollars in millions)	\$1.8	\$1.8 (\$0.0 million increase) from FY 2012)	\$1.8 (\$0.0 million increase from FY 2012)	\$1.9 (\$0.1 million increase from FY 2012)	\$2.0 (\$0.2 million increase from FY 2012)

## FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990 (FORMERLY KNOWN AS THE CIVIL MONETARY PENALTIES ACT)

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, 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 2016.

## FY 2016 OTHER ADMINISTRATIVE UPDATES

### **CUSTOMER EXPERIENCE EXCELLENCE PROGRAM**

USPTO engaged Deloitte Consulting to conduct a project to support the development of a best-in-class, comprehensive Customer Experience Excellence Program. This effort was led by the USPTO Customer Experience Team with support, guidance, and involvement of all major business units, working in close partnership with Deloitte. The project resulted in a baseline analysis of the current state of the USPTO's customer service delivery for the agency's major external customer groups in both the Patents and Trademarks areas. This analysis included all customer touch points and supporting programs (e.g., call centers, service centers, inter- and intranet web sites, and representative employee interactions, including interactions between patent examiners/managers, trademark attorneys/managers and patent and trademark applicants).

This baseline leveraged, where applicable, current customer satisfaction measures and historical data. The effort included the development of customer journey maps, customer segmentation frameworks, customer personas, and benchmarking against industry standards. The team also identified best practices in customer service from successful organizations in both public and private sectors that are applicable to the USPTO and benchmarked the USPTO against those organizations. A definition of "exceptional customer service" for Patents and Trademarks external customer groups was developed, which led to a USPTO vision for customer experience excellence and the desired future state. A comprehensive set of recommendations was produced as well as proposed metrics to track progress. Work was also initiated to drive internal customer experience excellence in the enabling service business units. Additional program enhancements and implementation is planned for FY 2017.

### **ENERGY EFFICIENCY AND ENVIRONMENTAL STEWARDSHIP**

The USPTO's Alexandria campus achieved the Environmental Protection Agency's (EPA) prestigious Energy Star award for the fifth year in a row for attaining strict building performance standards set by the EPA. Energy Star buildings use less energy, cost less to operate, produce fewer greenhouse gas emissions and perform better than 75 percent of similar office buildings nationwide.

The USPTO engaged in a number of projects to promote energy efficiency. One such notable project was the replacement of over 1,150 metal halide light fixtures with LED lights within two parking garages. This replacement garners significant savings on monthly utility bills, plus the USPTO received a substantial rebate of \$266,000 from the local utility company. The USPTO also replaced 32-watt T-8 office lights with more efficient 25-watt T-8 lights in eight buildings. The USPTO supported the president's renewable energy initiatives by purchasing at least 10 percent renewable energy credits and has participated in demand response programs to cut back demand on select peak energy usage days.

The USPTO is a strong proponent of protecting the environment and its natural resources. In FY 2015 the USPTO diverted 57 percent of its waste stream for the fifth consecutive year exceeding the president's goal of 50 percent minimum waste diversion. The Office Supply Exchange store also continues to support the reuse and redistribution of office and

equipment supplies. As part of its campaign to educate employees about sustainability, the USPTO hosted its seventh annual Green Fair in April to promote green practices at work, home, and in between. The Department has recognized the USPTO for its achievements in waste diversion and energy savings at its annual Energy and Environmental Stewardship Awards multiple times over the past few years.

### **SAFE, SECURE, AND WELL-MAINTAINED WORKPLACE**

The Office of Security successfully held its third agency-wide active shooter drill. The drill was sent to all employees' desktop computers via the agency's emergency notification system.

Based on the Office of Personnel Management's 2015 Employee Viewpoint Survey of more than 400,000 federal employees, the USPTO exceeded government-wide ratings in the areas of security, health and safety. Approximately 87 percent of USPTO employees believe they are sufficiently protected from health and safety hazards on the job versus the government-wide average response of 76 percent, and over 90 percent of USPTO employees believe the agency has prepared them for potential security threats versus the government-wide average response of 76 percent.

On a similar positive note, survey results indicate that the USPTO exceeded government-wide ratings with respect to a number of workplace conditions, involving lighting, noise level, cleanliness, etc. More specifically, 83 percent of USPTO employees believe that workplace conditions allow them to perform their jobs well versus the government-wide response of 65 percent.

The Safety staff implemented a comprehensive safety program for agency warehouse facilities that included safety and occupational health training, job orientation safety training, mishap reporting and abatement actions, and site familiarization safety training. The Safety staff also coordinates monthly blood donations through INOVA Blood Services. In June, we celebrated a three-year partnership with INOVA and blood collection of over 6,000 units.

### **FILE REPOSITORY**

The USPTO maintains a significant file repository with millions of files. In order to be better stewards of records management, file maintenance and to lessen our space holdings, the USPTO has embarked on a multi-year initiative that will transfer or dispose of all files currently stored at the repository in accordance with federal regulations and guidelines.

## THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS

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 2016. 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.

Training provides examiners with a working knowledge of the reforms under the AIA. The training covers several new statutory provisions of patent law including first-inventor-to-file, pre-issuance submissions, supplemental examination, and inventor's oath and declaration. The first-inventor-to-file in person or WebEx training was delivered in three phases: (1) introductory overview training with videos, (2) comprehensive training session with videos, and (3) a hands-on workshop designed to introduce examiners to situations that may arise in prosecution. A computer-based training library was developed to cover more nuanced first-inventor-to-file specific topics not covered in the live/WebEx sessions along with a specialized internal website housing lecture materials, slides, and frequently asked questions. For the other provisions of law, computer-based training is available.



## PATENT EXAMINER TRAINING

### U.S. Patent Training Academy

- Mandatory training for first year patent examiners

#### Training in the Academy

Two patent examiner training programs: Intellectual Property Experienced Examiner Training and an entry level training, a two-phased program complete in 12 months.

- **Intellectual Property Experienced Examiner Training Curriculum**

This curriculum includes enhanced instruction in legal, procedural, and automation training in areas such as more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications such as: USPC and CPC Classification Systems, Searching (classification, text), Claim Interpretation, Advanced Text Searching, Technology Center (TC) specific tools such as STN and Dialog, Writing an Effective Examiner's Answer, Appeal Procedure, and Practice (Appeal Conference and Pre-Conference; Prevent Administrative Remand).

- **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.

- **Individual Development Plan**

The Academy training program includes creating an Individual Development Plan (IDP) for each examiner. The IDP is composed of formal training courses, development assignments, and on-the-job training. The IDP is designed to assist the examiner from day one, through the first 12 months of employment. When the examiner graduates from the Academy, and is transferred to a TC, the IDP will continue to enable the examiner to acquire the competencies essential to perform assigned duties and to prepare for further development.

### Programs for all Patent Examiners

#### Legal Practice and Procedure Training

- **Patent Examiner Refresher Training**

Courses developed to enhance patent examiners' knowledge and skills in procedural and legal topics pertaining to patent examination. Participants may enroll in one or more courses in consultation with their supervisor.

- **Advanced Patent Examiner Training**

This is a program for examiners who have several years of patent examining experience. The program provides training in specific legal areas such as unexpected results and actual reduction to practice found in affidavit practice.

## PATENT EXAMINER TRAINING

- **Patent Corps Examination Training**

Patent Corps Examination Training is training on patent examination policy, practice, and procedures, including legal lectures, for examiners at any grade or level of experience.

- **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 have covered topics such as cloud computing, green technologies, and nanotechnologies from participants such as Boeing, Duke University, and Toyota. Technology experts from outside 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 U.S. to get updates on current and emerging technologies and see technology first-hand. Past visits have included Boeing, Google, IBM, Intel, NASA, Samsung, Syngenta Biotechnology, University of Texas at Austin, and Yahoo. Visits are bundled so examiners can compare and contrast experiences at multiple sites.

- **Continuing Education Series**

Training for patent examiners to enhance their technical and legal knowledge in the examination of patent applications.

Courses Offered:

- Non-Duty Hours Legal Studies Program (Budget Dependent)
- Non-Duty Hours Technical Training Program (Budget Dependent)
- Updated Automation Tools Training (in coordination with Office of Patent Information Management)
- Patent Administrative Professional Training
- Patent Examination for Non-Examiners
- Legal Secretaries and Administrators Conference

## 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 paired with an experienced examining attorney. Each law office typically would receive 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 14 attorneys working full-time at home and all of the GS 11s and 12s working the majority of time at headquarters. In the past fiscal year, a total of 60 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 to several existing law offices.

In FY 2016, 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 web cast training sessions and modules were developed and released covering the following list of topics:

- TMEP October 2015 Update Overview
- Form Paragraph Updates
- ID Manual Updates
- Nice 10th Edition Training
- INTA Training Day
- Recent Developments in Trademark Law
- TEALE—New Examining Attorney Training
- The U.S. Beer and Craft Beer Industries: Overview and Issues Related to Trademark Examination
- INTA GOET—USPTO Mini-Seminar
- INTA Hot Topics
- TORCH (Spring Training)—Using Trademark Office Resources
- TORCH (Spring Training)—Collaboration Tools Training
- TORCH (Spring Training)—“Getting to Excellent: Practical Tips For Your Office Actions”
- TORCH (Spring Training)—Role of the Office of the Solicitor
- TORCH (Spring Training)—“Can You Spot the Problem(s)? Practical Tips for Conducting Sufficient 2(d) Searches”
- TORCH (Spring Training)—Ethics Issues in Trademark Practice Before the USPTO
- Examining Attorney Peer-to-Peer Training—TORCH (Spring Training)—“Shape Up or Ship Out: Everything You Need to Know About Common Carriers”
- Trademark Next Generation (TMNG) ID Manual Training

One Exam Guide published:

- Disparaging and Scandalous/Immoral Marks (March 2016)

Three Exam Notes released:

- Post Publication Amendments (May 2016)
- Procedures for Actions Taken After Appeal (June 2016)
- Attaching Evidence (August 2016)

Other Guidance covering the following topics was also released:

- Four issues of guidance newsletter (Two Quick Reminders)

## TRADEMARK TRAINING LAW OFFICE PILOT

Trademarks continued to pilot a new way to onboard and train two classes of 23 new examining attorneys in FY 2016. The USPTO's objectives were to provide a new employee experience that promotes engagement, camaraderie, more consistent training among the class, more "real world" work experience earlier in the process, and a deeper understanding of examination and Trademark law. The new law office was established with an experienced manager and outstanding examining attorney volunteers to act as mentors, spending most of their time in that capacity. The initial results proved to be promising. Two more law offices will be added to continue to explore this concept in FY 2017. The USPTO will continue to study the impact of this new approach throughout FY 2017.

### Manager/mentor participation in TEALE:

- Immediate feedback/correction for presentations
- Ongoing, real-time evaluation of employees
- Unified message regarding how examination should be performed
- Stronger manager/employee engagement

### Elimination of tests/studying/fake files:

- Shorter classroom training—on production faster
- Teach to the job, not to the test

### Shortened presentations:

- Less stress on attention spans
- Wider variety of activities over course of a day

### Daily real-file examination:

- Increased sense of responsibility
- Less classroom burnout
- Better chance of immediately applying lessons learned
- Wider variety of topics covered

### Daily case chats:

- Deeper understanding of how presentations apply to real-life topics
- Mental "warm up" for day's activities
- Provides sense of how managers approach different situations
- Introduction to gray areas of decision-making
- Discussion with peers builds a sense of community

# FY 2016 USPTO

## WORKLOAD TABLES

### INDEX OF TABLES

Table 1	Summary of Patent Examining Activities (FY 2012–FY 2016) (Preliminary for FY 2016)
Table 2	Patent Applications Filed (FY 1996–FY 2016) (Preliminary for FY 2016)
Table 3	Patent Applications Pending Prior to Allowance (FY 1996–FY 2016)
Table 4	Patent Pendency Statistics (FY 2016)
Table 5	Summary of Total Pending Patent Applications (FY 2016)
Table 6	Patents Issued (FY 1996–FY 2016)
Table 7	Patent Applications Filed by Residents of the United States (FY 2012–FY 2016)
Table 8	Patents Issued to Residents of the United States (FY 2015–FY 2016)
Table 9	United States Patent Applications Filed by Residents of Foreign Countries (FY 2012–FY 2016)
Table 10	Patents Issued by the United States to Residents of Foreign Countries (FY 2012–FY 2016)
Table 11	Utility Patents Issued to Small Entities (FY 2012–FY 2016)
Table 12	United States Government Agency Patents (FY 2012–FY 2016)
Table 13a	Ex Parte Reexamination (FY 2012–FY 2016)
Table 13b	Supplemental Examination (SE) (FY 2012–FY 2016)
Table 14	Summary of Contested Patent Cases (Within the USPTO, as of September 30, 2016)
Table 15	Summary of Trademark Examining Activities (FY 2012–FY 2016)
Table 16	Trademark Applications Filed for Registration and Renewal and Trademark Affidavits Filed (FY 1996–FY 2016)
Table 17	Summary of Pending Trademark Applications (FY 2016)
Table 18	Trademarks Registered, Renewed, and Published Under Section 12(C) (FY 1996–FY 2016)
Table 19	Trademark Applications Filed by Residents of the United States (FY 2016)
Table 20	Trademarks Registered to Residents of the United States (FY 2016)
Table 21	Trademark Applications Filed by Residents of Foreign Countries (FY 2012–FY 2016)
Table 22	Trademarks Registered to Residents of Foreign Countries (FY 2012–FY 2016)
Table 23	Summary of Contested Trademark Cases (Within the USPTO, as of September 30, 2016)
Table 24	Actions on Petitions to the Director of the U.S. Patent and Trademark Office (FY 2012–FY 2016)
Table 25	Cases in Litigation (Selected Courts of the United States, as of September 30, 2016)
Table 26	Patent Classification Activity (FY 2012–FY 2016)
Table 27	Scientific and Technical Information Center Activity (FY 2016)
Table 28	End of Year Personnel (FY 2012–FY 2016)
Table 29a	Top 50 Trademark Applicants (FY 2016)
Table 29b	Top 50 Trademark Registrants (FY 2016)

**TABLE 1: Summary of Patent Examining Activities (FY 2012-FY 2016)** (Preliminary for FY 2016)<sup>1</sup>

Patent Examining Activity	2012	2013	2014	2015	2016
<b>Applications filed, total<sup>1,2</sup></b>	<b>565,566</b>	<b>601,464</b>	<b>618,457</b>	<b>618,062</b>	<b>650,411</b>
Utility <sup>3</sup>	530,915	564,007	579,873	578,121	607,753
Reissue	1,212	1,074	1,207	1,087	1,072
Plant	1,181	1,318	1,123	1,119	1,180
Design	32,258	35,065	36,254	37,735	40,406
<b>Provisional applications filed<sup>2,4</sup></b>	<b>163,031</b>	<b>177,942</b>	<b>169,173</b>	<b>170,676</b>	<b>167,390</b>
<b>First actions</b>					
Design	26,578	27,669	28,341	33,549	36,550
Utility, Plant, and Reissue	542,081	595,110	578,352	632,337	609,612
PCT/Chapter	18,400	15,060	19,787	22,193	20,485
<b>Patent application disposals, total</b>	<b>574,854</b>	<b>605,994</b>	<b>637,263</b>	<b>641,665</b>	<b>681,363</b>
<b>Allowed patent applications, total</b>	<b>305,840</b>	<b>334,560</b>	<b>346,909</b>	<b>353,700</b>	<b>363,022</b>
Design	24,231	24,967	24,695	28,663	30,741
Utility, Plant, and Reissue	281,609	309,593	322,214	325,037	332,281
<b>Abandoned, total</b>	<b>269,009</b>	<b>271,424</b>	<b>290,354</b>	<b>287,965</b>	<b>318,341</b>
Design	2,567	2,705	2,828	3,725	4,715
Utility, Plant, and Reissue	266,442	268,719	287,526	284,240	313,626
<b>Statutory invention registration disposals, total</b>	<b>5</b>	<b>10</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>PCT/Chapter II examinations completed</b>	<b>2,671</b>	<b>2,016</b>	<b>1,450</b>	<b>1,655</b>	<b>1,234</b>
<b>Applications published<sup>5</sup></b>	<b>328,620</b>	<b>339,775</b>	<b>382,056</b>	<b>362,536</b>	<b>397,190</b>
<b>Patents issued<sup>2,6</sup></b>	<b>270,258</b>	<b>290,083</b>	<b>329,612</b>	<b>322,448</b>	<b>334,107</b>
Utility	246,464	265,979	303,930	295,459	304,568
Reissue	921	809	661	531	459
Plant	920	842	1,013	1,020	1,250
Design	21,953	22,453	24,008	25,438	27,830
Pendency time of average patent application <sup>7</sup>	32.4	29.1	27.4	26.6	25.3
Reexamination certificates issued	893	819	790	764	499
PCT international applications received by USPTO as receiving office	52,417	56,226	62,697	56,480	56,339
National requirements received by USPTO as designated/elected office	67,573	73,488	78,213	85,387	85,988
Patents renewed under Public Law (Pub. L. No.) 102-204 <sup>8</sup>	308,812	348,658	419,563	401,647	430,935
Patents expired under Pub. L. No. 102-204 <sup>8</sup>	80,050	79,689	89,523	98,283	108,627

- Represents zero.

<sup>1</sup> FY 2016 filing data are preliminary and will be finalized in the FY 2017 PAR.

<sup>2</sup> FY 2015 application data have been updated with final end of year numbers.

<sup>3</sup> Utility patents include chemical, electrical and mechanical applications.

<sup>4</sup> Provisional applications provided for in Pub. L. No. 103-465.

<sup>5</sup> Eighteen-month publication of patent applications provided for the American Inventors Protection Act of 1999, Pub. L. No. 106-113.

<sup>6</sup> Excludes withdrawn numbers. Past years' data may have been revised from prior year reports.

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

<sup>8</sup> 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 1996–FY 2016)** *(Preliminary for FY 2016)<sup>1</sup>*

Year	Utility	Design	Plant	Reissue	Total
1996	189,922	15,160	557	637	206,276
1997	219,486	16,272	680	607	237,045
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004	353,319	23,457	1,212	996	378,984
2005	381,797	25,304	1,288	1,143	409,532
2006	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
<b>2016</b>	<b>607,753</b>	<b>40,406</b>	<b>1,180</b>	<b>1,072</b>	<b>650,411</b>

<sup>1</sup> FY 2016 data are preliminary and will be finalized in the FY 2017 PAR.

**TABLE 3: Patent Applications Pending Prior to Allowance<sup>1</sup> (FY 1996–FY 2016)**

Year	Awaiting Action by Examiner	Total Applications Pending <sup>2</sup>
1996	139,943	303,720
1997	112,430	275,295
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
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
<b>2016</b>	<b>579,074</b>	<b>1,070,163</b>

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

<sup>2</sup>Applications under examination, including those in preexamination processing.

**TABLE 4: Patent Pendency Statistics (FY 2016)**

UPR Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
<b>Total UPR Pendency</b>	<b>16.2</b>	<b>25.3</b>
Tech Center 1600—Biotechnology and Organic Chemistry	12.5	24.9
Tech Center 1700—Chemical and Materials Engineering	18.2	28.4
Tech Center 2100—Computer Architecture, Software, and Information Security	19.6	29.5
Tech Center 2400—Networks, Multiplexing, Cable, and Security	16.5	28.0
Tech Center 2600—Communications	13.4	23.6
Tech Center 2800—Semiconductor, Electrical, Optical Systems, and Components	14.2	23.1
Tech Center 3600—Transportation, Construction, Agriculture, and Electronic Commerce	16.6	25.3
Tech Center 3700—Mechanical Engineering, Manufacturing, and Products	19.2	30.0



**TABLE 5: Summary of Total Pending Patent Applications (FY 2016)**

Stage of Processing	Utility, Plant, and Reissue Applications	Design Applications	Total Patent Applications
<b>Pending patent applications, total</b>	<b>1,107,559</b>	<b>60,567</b>	<b>1,168,126</b>
<b>In preexamination processing, total</b>	<b>81,737</b>	<b>2,943</b>	<b>84,680</b>
<b>Under examination, total</b>	<b>926,584</b>	<b>48,707</b>	<b>975,291</b>
Undocketed	42,949	6,706	
Awaiting first action by examiner	412,969	31,770	
<i>Subtotal applications awaiting first action by examiner<sup>1</sup></i>	<i>537,655</i>	<i>41,419</i>	
RCE awaiting first action	27,394	-	
Rejected, awaiting response by applicant	319,640	8,254	
Amended, awaiting action by examiner	87,225	1,732	
In interference	57	-	
On appeal, and other <sup>2</sup>	36,350	245	
<b>In postexamination processing, total</b>	<b>99,238</b>	<b>8,917</b>	<b>108,155</b>
Awaiting issue fee	80,231	7,014	
Awaiting printing <sup>3</sup>	15,577	1,897	
D-10s (secret cases in condition for allowance)	3,430	6	

- Represents zero.

<sup>1</sup> Subtotal is not included in pending patent applications total.

<sup>2</sup> Includes cases on appeal and undergoing petitions.

<sup>3</sup> Includes withdrawn cases.

**TABLE 6: Patents Issued (FY 1996–FY 2016)<sup>1</sup>**

Year	Utility <sup>2</sup>	Design	Plant	Reissue	Total
1996	104,900	11,346	338	291	116,875
1997	111,977	10,331	400	267	122,975
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
<b>2016</b>	<b>304,568</b>	<b>27,830</b>	<b>1,250</b>	<b>459</b>	<b>334,107</b>

<sup>1</sup> Past year's data may have been revised from prior year reports.

<sup>2</sup> Includes chemical, electrical, and mechanical applications.

**TABLE 7: Patent Applications Filed by Residents of the United States<sup>1</sup> (FY 2012-FY 2016)<sup>2</sup>**

State/Territory	2012	2013	2014	2015 <sup>2</sup>	2016 <sup>3</sup>
<b>Total</b>	<b>282,466</b>	<b>306,413</b>	<b>307,985</b>	<b>304,651</b>	<b>N/A</b>
Alabama	988	1,016	1,089	1,042	N/A
Alaska	88	90	99	118	N/A
Arizona	4,544	5,023	5,039	5,047	N/A
Arkansas	502	633	601	596	N/A
California	77,273	85,932	87,709	83,861	N/A
Colorado	5,677	6,472	6,280	6,266	N/A
Connecticut	4,940	4,584	4,506	5,557	N/A
Delaware	947	930	833	727	N/A
District of Columbia	344	469	465	459	N/A
Florida	9,476	9,972	10,422	9,962	N/A
Georgia	5,390	6,097	6,066	5,870	N/A
Hawaii	330	294	344	328	N/A
Idaho	1,566	1,412	1,497	1,337	N/A
Illinois	10,450	11,155	11,540	11,218	N/A
Indiana	3,861	4,275	4,373	4,230	N/A
Iowa	1,577	1,749	1,771	1,870	N/A
Kansas	1,833	1,861	1,802	1,577	N/A
Kentucky	1,271	1,369	1,393	1,455	N/A
Louisiana	839	926	951	915	N/A
Maine	437	383	402	434	N/A
Maryland	3,786	4,118	4,108	4,218	N/A
Massachusetts	13,356	14,635	15,183	15,172	N/A
Michigan	8,956	9,808	10,295	10,481	N/A
Minnesota	7,981	9,051	8,317	8,382	N/A
Mississippi	313	330	337	366	N/A
Missouri	2,445	2,620	2,793	2,625	N/A
Montana	264	335	326	342	N/A
Nebraska	698	669	686	705	N/A

State/Territory	2012	2013	2014	2015 <sup>2</sup>	2016 <sup>3</sup>
Nevada	2,113	1,963	1,868	1,669	N/A
New Hampshire	1,656	1,693	1,895	1,843	N/A
New Jersey	9,919	10,271	10,206	9,783	N/A
New Mexico	850	929	984	982	N/A
New York	17,594	18,257	17,564	17,984	N/A
North Carolina	6,720	7,494	7,550	7,472	N/A
North Dakota	215	224	186	213	N/A
Ohio	7,934	8,611	8,394	8,696	N/A
Oklahoma	1,090	1,204	1,173	1,210	N/A
Oregon	4,686	5,721	4,907	5,692	N/A
Pennsylvania	8,297	8,729	8,883	8,732	N/A
Rhode Island	834	855	770	834	N/A
South Carolina	2,011	2,043	2,004	2,026	N/A
South Dakota	250	275	304	293	N/A
Tennessee	2,194	2,396	2,396	2,291	N/A
Texas	18,732	20,236	20,088	20,198	N/A
Utah	2,992	3,201	3,409	3,333	N/A
Vermont	791	810	683	645	N/A
Virginia	4,106	4,522	4,545	4,518	N/A
Washington	14,425	15,577	15,716	15,870	N/A
West Virginia	271	284	247	286	N/A
Wisconsin	4,337	4,558	4,615	4,562	N/A
Wyoming	218	248	244	238	N/A
Puerto Rico	84	83	93	100	N/A
Virgin Islands	12	13	14	14	N/A
U.S. Pacific Islands <sup>4</sup>	2	6	14	2	N/A
United States <sup>5</sup>	1	2	6	5	N/A
Other <sup>5</sup>	-	-	-	-	N/A

- Represents zero.

<sup>1</sup> Data include utility, plant, design, and reissue applications.

<sup>2</sup> Finalized data for FY 2010 to FY 2015 provided.

<sup>3</sup> FY 2016 preliminary data should be available January 2017 at [www.uspto.gov](http://www.uspto.gov), and finalized in the FY 2017 PAR.

<sup>4</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>5</sup> State/Territory information not available.

**TABLE 8: Patents Issued to Residents of the United States<sup>1</sup> (FY 2015-FY 2016)<sup>2</sup>**

State/Territory	2015	2016	State/Territory	2015	2016
<b>Total</b>	<b>154,399</b>	<b>160,506</b>	Nebraska	342	341
Alabama	533	556	Nevada	825	869
Alaska	46	58	New Hampshire	936	985
Arizona	2,707	2,911	New Jersey	5,094	4,915
Arkansas	287	317	New Mexico	437	507
California	42,964	45,175	New York	9,580	9,741
Colorado	3,421	3,481	North Carolina	3,706	3,834
Connecticut	2,366	2,437	North Dakota	128	109
Delaware	392	360	Ohio	4,252	4,164
District of Columbia	165	176	Oklahoma	593	591
Florida	4,820	5,102	Oregon	2,731	3,227
Georgia	2,822	2,856	Pennsylvania	4,165	4,330
Hawaii	152	186	Rhode Island	402	436
Idaho	894	879	South Carolina	1,058	1,140
Illinois	5,774	5,859	South Dakota	127	152
Indiana	2,198	2,352	Tennessee	1,116	1,207
Iowa	1,052	1,009	Texas	10,555	10,650
Kansas	994	975	Utah	1,561	1,588
Kentucky	706	775	Vermont	509	477
Louisiana	450	505	Virginia	2,181	2,217
Maine	218	188	Washington	6,864	7,501
Maryland	1,918	2,081	West Virginia	145	101
Massachusetts	7,158	7,335	Wisconsin	2,524	2,655
Michigan	5,967	6,511	Wyoming	112	116
Minnesota	4,755	4,803	Puerto Rico	37	51
Mississippi	178	193	Virgin Islands	6	6
Missouri	1,306	1,331	U.S. Pacific Islands <sup>3</sup>	5	2
Montana	164	181	United States <sup>4</sup>	1	2

<sup>1</sup> Data include utility, design, plant, and reissue patents.<sup>2</sup> Past year's data may have been revised from prior year reports.<sup>3</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.<sup>4</sup> No State indicated in database.

**TABLE 9: United States Patent Applications Filed by Residents of Foreign Countries<sup>1</sup> (FY 2012-FY 2016)**

Residence	2012	2013	2014	2015 <sup>2</sup>	2016	Residence	2012	2013	2014	2015 <sup>2</sup>	2016
<b>Total</b>	<b>283,100</b>	<b>295,051</b>	<b>310,472</b>	<b>313,411</b>	<b>N/A</b>	Curacao	1	1	-	-	N/A
Afghanistan	-	1	-	-	N/A	Cyprus	17	18	17	22	N/A
Albania	-	-	1	1	N/A	Czech Republic	398	403	481	480	N/A
Algeria	-	2	3	2	N/A	Denmark	2,323	2,276	2,443	2,383	N/A
Andorra	5	4	11	1	N/A	Dominican Republic	7	8	7	4	N/A
Angola	1	-	1	1	N/A	Ecuador	9	9	5	9	N/A
Anguilla	-	-	-	1	N/A	Egypt	59	72	93	70	N/A
Antigua and Barbuda	2	2	-	-	N/A	El Salvador	5	2	3	4	N/A
Argentina	167	170	149	154	N/A	Estonia	79	95	70	61	N/A
Armenia	11	14	18	17	N/A	Ethiopia	1	-	-	-	N/A
Aruba	-	-	1	-	N/A	Faroe Islands	-	1	-	2	N/A
Australia	3,964	4,115	4,029	3,909	N/A	Fiji	-	-	-	-	N/A
Austria	2,124	2,242	2,586	2,502	N/A	Finland	2,819	3,037	3,167	3,325	N/A
Azerbaijan	1	3	2	-	N/A	French Polynesia	-	-	1	1	N/A
Bahamas	13	8	26	10	N/A	France	11,310	11,972	12,423	12,715	N/A
Bahrain	5	6	7	4	N/A	Gabon	1	-	-	1	N/A
Bangladesh	2	9	6	13	N/A	Georgia	5	3	7	2	N/A
Barbados	-	7	6	7	N/A	Germany	30,250	31,531	31,997	31,132	N/A
Belarus	12	35	47	16	N/A	Ghana	1	4	2	2	N/A
Belgium	2,262	2,455	2,660	2,456	N/A	Gibraltar	8	4	14	15	N/A
Belize	-	-	-	1	N/A	Greece	168	154	171	234	N/A
Benin	-	-	-	-	N/A	Greenland	1	-	-	-	N/A
Bermuda	11	3	3	9	N/A	Guadeloupe <sup>3</sup>	-	-	2	-	N/A
Bolivia	3	4	1	3	N/A	Guatemala	2	5	2	5	N/A
Bonaire, Sint Eustatius, and Saba	-	-	1	-	N/A	Guernsey	5	4	1	4	N/A
Bosnia and Herzegovina	1	2	3	3	N/A	Guinea	1	-	-	-	N/A
Botswana	-	2	-	-	N/A	Guyana <sup>4</sup>	-	-	-	1	N/A
Brazil	683	829	901	893	N/A	Haiti	-	-	-	-	N/A
British Virgin Islands	2	12	6	4	N/A	Honduras	-	1	2	2	N/A
Brunei Darussalam	-	1	6	-	N/A	Hungary	285	303	327	302	N/A
Bulgaria	72	88	89	87	N/A	Iceland	80	79	105	103	N/A
Burkina Faso	-	-	-	-	N/A	India	5,515	6,411	7,082	7,835	N/A
Burundi	-	-	-	-	N/A	Indonesia	29	43	41	49	N/A
Cambodia <sup>3</sup>	-	-	1	-	N/A	Iran	69	39	58	64	N/A
Cameroon	4	-	9	1	N/A	Iraq	3	1	3	2	N/A
Canada	14,256	14,730	14,074	13,877	N/A	Ireland	913	1,088	1,087	1,245	N/A
Cayman Islands	10	31	24	26	N/A	Isle of Man	9	21	22	12	N/A
Chad	-	-	1	-	N/A	Israel	6,414	7,320	7,543	7,876	N/A
Chile	117	143	156	125	N/A	Italy	5,086	5,139	5,374	5,353	N/A
China (Hong Kong)	1,380	1,465	1,500	1,453	N/A	Jamaica	14	9	10	12	N/A
China (Macau)	10	20	43	40	N/A	Japan	90,240	87,369	89,255	89,028	N/A
China (People's Republic)	13,371	15,496	19,006	22,374	N/A	Jersey	5	13	11	11	N/A
Colombia	49	62	86	109	N/A	Jordan	16	26	22	29	N/A
Costa Rica	24	35	44	39	N/A	Kazakhstan	5	15	6	13	N/A
Cote d'Ivoire <sup>3</sup>	-	-	8	2	N/A	Kenya	7	19	6	16	N/A
Croatia	38	39	38	32	N/A	Korea, Dem. Republic of	-	-	-	-	N/A
Cuba	18	18	23	17	N/A	Korea, Republic of	30,618	34,795	39,535	39,941	N/A
						Kuwait	98	132	89	71	N/A

**TABLE 9: United States Patent Applications Filed by Residents of Foreign Countries<sup>1</sup> (FY 2012-FY 2016)** (continued)

Residence	2012	2013	2014	2015 <sup>2</sup>	2016	Residence	2012	2013	2014	2015 <sup>2</sup>	2016
Kyrgyzstan	-	1	-	-	N/A	Senegal	1	-	-	-	N/A
Latvia	8	13	16	19	N/A	Serbia	22	26	33	44	N/A
Lebanon	23	21	28	22	N/A	Seychelles	9	9	8	4	N/A
Lesotho <sup>3</sup>	-	-	1	-	N/A	Singapore	1,710	1,812	1,931	1,879	N/A
Liberia	1	-	2	-	N/A	Sint Maartin <sup>3</sup>	-	1	-	-	N/A
Libya	-	-	-	1	N/A	Slovakia	42	45	67	54	N/A
Liechtenstein	47	48	59	46	N/A	Slovenia	107	97	113	104	N/A
Lithuania	15	27	30	43	N/A	South Africa	338	463	416	385	N/A
Luxembourg	125	110	108	116	N/A	Spain	1,704	1,820	1,765	1,840	N/A
Madagascar	1	-	-	2	N/A	Sri Lanka	13	16	16	16	N/A
Macedonia	-	3	3	-	N/A	Sudan <sup>4</sup>	-	-	-	1	N/A
Malawi	-	1	-	-	N/A	Swaziland <sup>3</sup>	-	-	1	-	N/A
Malaysia	375	485	545	514	N/A	Sweden	4,576	4,641	5,170	5,510	N/A
Mali <sup>4</sup>	-	-	-	1	N/A	Switzerland	4,583	4,840	5,362	5,315	N/A
Malta	12	19	25	20	N/A	Syria Arab Republic	3	-	1	3	N/A
Martinique <sup>3</sup>	-	-	1	-	N/A	Taiwan	21,310	21,949	21,915	20,561	N/A
Mauritius	-	-	1	1	N/A	Tajikistan	-	1	-	-	N/A
Mexico	407	430	494	613	N/A	Tanzania <sup>3</sup>	-	-	2	1	N/A
Moldova	-	1	2	4	N/A	Thailand	173	242	172	193	N/A
Monaco	37	36	44	27	N/A	Trinidad and Tobago	12	14	8	6	N/A
Mongolia	-	2	-	1	N/A	Tunisia	10	15	10	13	N/A
Montenegro <sup>3</sup>	-	-	3	-	N/A	Turkey	231	253	317	315	N/A
Morocco	3	3	2	8	N/A	Turkmenistan	1	-	1	-	N/A
Namibia	1	7	4	4	N/A	Turks and Caicos Islands	3	1	2	1	N/A
Nepal	2	1	1	1	N/A	Uganda	1	1	-	-	N/A
Netherlands	4,764	4,764	5,328	5,443	N/A	Ukraine	132	131	152	150	N/A
Netherlands Antilles	-	-	-	-	N/A	United Arab Emirates	91	122	151	172	N/A
New Caledonia <sup>3</sup>	-	-	1	-	N/A	United Kingdom	13,015	13,680	14,304	14,290	N/A
New Zealand	600	707	744	771	N/A	Uruguay	23	20	22	20	N/A
Nicaragua	1	1	2	1	N/A	Uzbekistan	1	1	3	3	N/A
Niger	-	-	-	-	N/A	Vanuatu (New Hebrides)	2	1	1	-	N/A
Nigeria	2	4	12	4	N/A	Venezuela	51	35	33	33	N/A
Norway	1,151	1,166	1,282	1,202	N/A	Vietnam	26	17	24	42	N/A
Oman	5	5	5	8	N/A	West Bank/Gaza	1	-	3	2	N/A
Pakistan	14	42	35	47	N/A	Yemen <sup>4</sup>	-	-	-	1	N/A
Panama	6	6	11	15	N/A	Zimbabwe	3	1	1	-	N/A
Paraguay	1	3	-	1	N/A	Other <sup>5</sup>	-	-	-	-	N/A
Peru	3	11	12	16	N/A						
Philippines	76	87	120	116	N/A						
Poland	279	397	481	535	N/A						
Portugal	114	134	183	184	N/A						
Qatar	17	20	36	57	N/A						
Romania	86	117	140	166	N/A						
Russian Federation	837	1,001	1,025	1,064	N/A						
Saint Kitts and Nevis	1	1	-	-	N/A						
Saint Lucia <sup>4</sup>	-	-	-	1	N/A						
Samoa	-	-	-	1	N/A						
San Marino	1	-	-	3	N/A						
Saudi Arabia	397	648	622	747	N/A						

- Represents zero.

<sup>1</sup> 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.<sup>2</sup> Finalized data for FY 2010 to FY 2015 provided.<sup>3</sup> FY 2016 preliminary data should be available in January 2017 at [www.uspto.gov](http://www.uspto.gov), and finalized in the FY 2017 PAR.<sup>4</sup> Countries/territories not previously reported.<sup>5</sup> Country of origin information not available.

**TABLE 10: Patents Issued by the United States to Residents of Foreign Countries<sup>1,3</sup> (FY 2012-FY 2016)<sup>2</sup>**

Residence	2012	2013	2014	2015	2016
<b>Total</b>	<b>138,607</b>	<b>150,014</b>	<b>167,937</b>	<b>168,050</b>	<b>173,598</b>
Afghanistan	-	1	1	-	-
Albania	-	1	-	-	-
Algeria	-	-	-	1	-
Andorra	2	1	2	8	1
Angola	1	1	-	1	1
Anguilla	1	-	-	-	-
Antigua and Barbuda	6	1	1	-	1
Argentina	58	76	83	74	89
Armenia	5	4	5	8	5
Aruba	-	2	-	-	-
Australia	1,777	1,878	2,062	1,937	1,888
Austria	986	1,065	1,296	1,248	1,415
Azerbaijan	2	1	2	1	1
Bahamas	8	5	4	15	6
Bahrain	1	1	4	1	3
Bangladesh	1	2	3	2	1
Barbados	-	-	3	5	2
Belarus	6	10	7	16	30
Belgium	996	1,111	1,267	1,234	1,315
Belize	-	-	-	-	-
Bermuda	4	2	4	3	-
Bolivia	-	-	3	-	2
Bosnia and Herzegovina	2	1	-	-	2
Brazil	261	265	352	372	398
British Virgin Islands	-	2	1	3	1
Brunei Darussalam	-	-	-	1	4
Bulgaria	30	23	52	37	52
Burkina Faso	-	-	-	-	-
Cambodia <sup>4</sup>	-	-	-	-	1
Cameroon	2	5	1	1	1
Canada	6,197	6,915	7,922	7,487	7,227
Cayman Islands	7	18	7	18	8
Chad	-	-	-	-	-
Chile	41	55	57	85	47
China (Hong Kong)	715	733	828	805	824
China (Macau)	2	7	14	15	26
China (Mainland)	5,044	6,181	7,715	8,598	10,985
Colombia	18	22	22	37	39
Costa Rica	12	14	17	17	27
Cote d'Ivoire <sup>4</sup>	-	-	-	-	10
Croatia	23	17	30	16	14
Cuba	5	12	19	11	9
Curacao	-	-	1	-	-
Cyprus	2	10	10	11	14
Czech Republic	137	174	196	197	219
Denmark	941	1,009	1,309	1,186	1,221
Dominican Republic	2	6	3	2	2
Ecuador	4	9	4	1	3
Egypt	32	32	40	32	41
El Salvador	-	2	-	1	2
Estonia	37	37	38	37	51
Ethiopia	-	-	1	-	-
Faroe Islands	-	1	-	1	1
Finland	1,111	1,205	1,499	1,437	1,604
France	5,616	6,245	7,144	7,034	6,907
French Polynesia	-	-	-	1	-
Gabon	-	-	1	-	-
Georgia	2	3	5	2	2
Germany	14,569	15,798	17,926	17,485	17,564
Ghana	3	2	1	1	-
Gibraltar	6	4	2	2	1
Greece	80	81	70	66	87
Greenland	-	-	1	-	-
Guadeloupe <sup>4</sup>	-	-	-	-	1
Guatemala	2	-	1	4	1
Guernsey	5	3	2	2	-
Guinea	-	-	1	-	-
Haiti	1	1	-	-	-
Honduras	-	1	-	-	-
Hungary	107	135	167	146	193
Iceland	26	17	39	67	42
India	1,599	2,222	2,937	3,328	3,679
Indonesia	12	15	10	25	26
Iran	26	37	33	26	32
Iraq	-	-	-	1	-
Ireland	329	435	486	523	570
Isle of Man	19	14	9	15	12
Israel	2,432	2,948	3,561	3,839	3,814
Italy	2,458	2,834	3,043	3,060	3,157
Jamaica	2	4	4	9	5
Japan	51,609	53,359	56,639	54,487	53,046
Jersey	5	8	4	10	7
Jordan	5	3	8	9	8
Kazakhstan	1	2	3	5	2
Kenya	2	2	7	2	5
Korea, Democratic People's Republic of	1	-	-	-	-
Korea, Republic of	13,956	15,058	17,815	19,615	21,867
Kuwait	26	72	97	78	54
Kyrgyzstan	-	-	-	-	-
Latvia	5	4	6	9	8
Lebanon	21	8	10	14	19
Liechtenstein	16	22	37	37	27

**TABLE 10: Patents Issued by the United States to Residents of Foreign Countries<sup>1,3</sup> (FY 2012-FY 2016)<sup>2</sup> (continued)**

Residence	2012	2013	2014	2015	2016
Lithuania	3	7	7	10	20
Luxembourg	51	56	60	63	62
Macedonia	1	-	1	2	1
Madagascar	-	-	-	1	-
Malawi	-	-	-	1	-
Malaysia	199	247	242	266	301
Mali <sup>4</sup>	-	-	-	-	1
Malta	2	9	8	17	13
Mauritius	-	-	-	-	1
Mexico	138	190	227	215	246
Moldova <sup>4</sup>	-	-	1	-	1
Monaco	9	11	23	19	17
Mongolia	-	1	-	1	1
Montenegro <sup>4</sup>	-	-	-	1	-
Morocco	3	2	1	3	1
Namibia	-	-	-	-	1
Nepal, Federal Democratic Republic of	-	-	2	1	-
Netherlands	2,205	2,391	2,883	2,732	2,942
Netherlands Antilles	-	-	-	-	-
New Caledonia <sup>4</sup>	-	-	-	-	1
New Zealand	295	285	308	342	349
Nicaragua	-	1	1	1	-
Nigeria	1	3	-	-	1
Norway	441	510	601	625	720
Oman	1	5	3	5	1
Pakistan	11	14	8	17	19
Panama	4	3	1	2	5
Paraguay	1	2	-	1	-
Peru	4	1	4	4	9
Philippines	38	35	45	43	46
Poland	108	101	172	201	265
Portugal	47	58	52	68	83
Qatar	3	6	7	8	9
Romania	47	52	68	72	82
Russian Federation	335	409	438	457	542
Saint Barthelemy	-	-	-	1	-
Saint Kitts and Nevis	-	-	1	-	1
Samoa	-	-	-	-	-
San Marino	-	1	1	-	-
Saudi Arabia	152	206	273	339	443
Senegal	-	-	1	-	-

Residence	2012	2013	2014	2015	2016
Serbia	11	8	12	7	15
Seychelles	1	1	4	2	2
Singapore	800	840	963	1,074	1,018
Sint Maarten <sup>4</sup>	-	-	-	-	1
Slovakia	21	14	26	25	26
Slovenia	42	47	50	40	65
South Africa	156	179	179	198	207
Spain	708	739	862	857	939
Sri Lanka	3	5	6	6	6
Sweden	2,207	2,309	2,905	2,828	3,044
Switzerland	2,016	2,278	2,660	2,745	2,906
Syrian Arab Republic	-	1	1	2	-
Taiwan	11,309	12,169	12,271	12,317	12,737
Tanzania	-	-	-	-	1
Thailand	57	87	121	129	106
Trinidad and Tobago	3	9	7	6	7
Tunisia	5	2	8	4	3
Turkey	48	78	103	128	149
Turkmenistan <sup>4</sup>	-	-	-	1	-
Turks and Caicos Islands	-	2	-	-	-
Ukraine	42	35	42	62	64
United Arab Emirates	22	20	53	57	60
United Kingdom	5,605	6,292	7,232	7,143	7,288
Uruguay	7	9	10	4	8
Uzbekistan	1	-	-	1	-
Vanuatu	-	-	-	-	-
Venezuela	22	16	21	24	15
Vietnam	1	11	8	6	18
West Bank/Gaza	-	-	-	1	-
Zimbabwe	1	3	-	1	-

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> Countries/territories not previously reported.

**TABLE 11: Utility Patents Issued to Small Entities (FY 2012-FY 2016)**

<b>Fiscal Year of Grant</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>Percentage Micro Entity*</b>	<b>-</b>	<b>0.53%</b>	<b>1.54%</b>	<b>1.80%</b>	<b>2.16%</b>
US origin**	-	0.98%	2.82%	3.26%	3.81%
Foreign origin**	-	0.12%	0.34%	0.49%	0.68%
<b>Percentage Small Entity</b>	<b>20.32%</b>	<b>20.54%</b>	<b>19.47%</b>	<b>19.40%</b>	<b>19.24%</b>
US origin**	28.21%	28.03%	25.84%	25.79%	25.45%
Foreign origin**	13.04%	13.75%	13.47%	13.66%	13.65%
<b>Percentage Large Entity</b>	<b>79.68%</b>	<b>78.93%</b>	<b>78.99%</b>	<b>78.80%</b>	<b>78.60%</b>
US origin**	71.79%	70.99%	71.37%	70.96%	70.74%
Foreign origin**	86.96%	86.13%	86.19%	85.85%	85.67%

- Represents zero.

\*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 Patents<sup>1</sup> (FY 2012-FY 2016)<sup>3</sup>**

Agency	2012	2013	2014	2015	2016	Total
Agriculture	52	54	66	59	43	<b>274</b>
Air Force	51	44	72	53	55	<b>275</b>
Army	146	155	166	161	144	<b>772</b>
Attorney General	-	-	-	-	-	<b>-</b>
Commerce	11	12	14	13	12	<b>62</b>
DHS <sup>4</sup>	-	-	3	4	3	<b>10</b>
Energy	36	41	33	29	24	<b>163</b>
EPA	16	17	5	7	3	<b>48</b>
HEW/HHS	137	131	182	147	161	<b>758</b>
Interior	3	2	2	3	2	<b>12</b>
NASA	106	95	108	114	107	<b>530</b>
Navy	366	383	357	394	320	<b>1,821</b>
NSA	10	11	4	2	3	<b>30</b>
NSF	1	2	1	1	3	<b>8</b>
Postal Service	39	27	32	20	20	<b>138</b>
State Department	1	-	-	-	-	<b>1</b>
Transportation	-	-	1	-	1	<b>2</b>
TVA	-	-	-	-	-	<b>-</b>
USA <sup>2</sup>	6	7	5	3	2	<b>23</b>
VA	9	8	7	18	13	<b>55</b>
<b>Total</b>	<b>990</b>	<b>989</b>	<b>1,058</b>	<b>1,028</b>	<b>916</b>	<b>4,982</b>

- Represents zero.

<sup>1</sup> Data in this table represent utility patents assigned to agencies at the time of patent issue. Data subject to minor revisions.

<sup>2</sup> United States of America—no agency indicated in database.

<sup>3</sup> 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 2012–FY 2016)**

	2012	2013	2014	2015	2016
<b>Requests filed, total</b>	<b>781</b>	<b>305</b>	<b>356</b>	<b>243</b>	<b>219</b>
By patent owner	49	19	23	14	8
By third party	731	286	324	229	211
Commissioner ordered	1	-	9	-	-
<b>Determinations on requests, total</b>	<b>756</b>	<b>302</b>	<b>344</b>	<b>245</b>	<b>218</b>
Requests granted:					
By examiner	704	283	322	230	201
By petition	2	0	3	2	4
Requests denied	50	19	19	13	13
<b>Requests known to have related litigation</b>	<b>402</b>	<b>169</b>	<b>183</b>	<b>135</b>	<b>100</b>
<b>Filings by discipline, total</b>	<b>781</b>	<b>305</b>	<b>355</b>	<b>243</b>	<b>219</b>
Chemical	149	57	77	55	40
Electrical	431	183	169	105	98
Mechanical	193	56	96	80	77
Design	8	9	13	3	4

- Represents zero.

**TABLE 13B: Supplemental Examination (SE) (FY 2014–FY 2016)**

	2014	2015	2016
<b>SEs filed, total</b>	<b>43</b>	<b>53</b>	<b>45</b>
<b>SEs granted a filing date, total</b>	<b>33</b>	<b>35</b>	<b>30</b>
<b>Determinations on SE granted a filing date, total</b>	<b>33</b>	<b>38</b>	<b>40</b>
SNQ found:	22	26	25
SNQ not found:	11	12	15
<b>Requests known to have related litigation</b>	<b>1</b>	<b>-</b>	<b>-</b>
<b>Filings by discipline, total</b>	<b>44</b>	<b>53</b>	<b>45</b>
Chemical	13	7	14
Electrical	22	34	18
Mechanical	7	12	13
Design	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.

**TABLE 14: Summary of Contested Patent Cases (Within the USPTO, as of September 30, 2016)**

Item	Total
<b>Ex parte cases</b>	
Appeals	
Cases pending as of 9/30/15 (as audited by PTAB during FY 2016)	21,372
Cases filed during FY 2016	8,544
<b>Disposals during FY 2016, total</b>	
Decided	14,468
<b>Cases pending as of 9/30/16</b>	<b>15,448</b>
<b>Rehearings</b>	
Cases pending as of 9/30/16	36
<b>Interference cases</b>	
Cases pending as of 9/30/15	22
Cases declared during FY 2016	28
<b>Interference cases, FY 2016 total</b>	<b>50</b>
Cases terminated during FY 2016	24
<b>Cases pending as of 9/30/16</b>	<b>26</b>
<b>Inter Partes Review cases*</b>	
Cases pending as of 9/30/15	1,539
Cases filed during FY 2016	1,565
Cases reinstated during FY 2016**	5
<b>Inter partes review cases, FY 2016 total</b>	<b>3,109</b>
Cases not instituted, terminated, decided during FY 2016	1,618
<b>Cases pending as of 9/30/16</b>	<b>1,491</b>
<b>Transitional Program for Covered Business Method cases</b>	
Cases pending as of 9/30/15	135
Cases filed during FY 2016	94
Cases reinstated during FY 2016**	-
<b>Transitional Program for Covered Business Method cases, FY 2016 total</b>	<b>229</b>
Cases not instituted, terminated, decided during FY 2016	149
<b>Cases pending as of 9/30/16</b>	<b>80</b>
<b>Post Grant Review cases</b>	
Cases pending as of 9/30/15	11
Cases filed during FY 2016	24
Cases reinstated during FY 2016**	-
<b>Post Grant Review cases, FY 2016 total</b>	<b>35</b>
Cases not instituted, terminated, decided during FY 2016	11
<b>Cases pending as of 9/30/16</b>	<b>24</b>
<b>Derivation Proceeding cases</b>	
Cases pending as of 9/30/15	8
Cases filed during FY 2016	13
Cases reinstated during FY 2016**	-
<b>Derivation Proceeding cases, FY 2016 total</b>	<b>21</b>
Cases not instituted, terminated, decided during FY 2016	2
<b>Cases pending as of 9/30/16</b>	<b>19</b>

- Represents zero.

\*The Inter Partes Reexamination process had been replaced as a part of AIA implementation by the Inter Partes Review process in FY 2013 and Inter Partes Reexamination cases are no longer counted at USPTO.

\*\* New measure added to reflect the total number of reinstated cases in Inter Partes Review, Covered Business Methods and Post Grant Review proceedings.

**TABLE 15: Summary of Trademark Examining Activities (FY 2012-FY 2016)**

Item	2012	2013	2014	2015	2016
<b>Applications for Registration:</b>					
Applications including Additional Classes	415,026	433,654	455,017	503,889	530,270
Applications Filed	311,627	321,055	336,275	369,877	391,837
<b>Disposal of Trademark Applications:</b>					
Registrations including Additional Classes	243,459	259,681	279,282	282,091	309,188
Abandonments including Additional Classes	139,832	145,731	150,587	156,929	170,469
Trademark First Actions including Additional Classes	420,621	441,615	458,162	500,368	536,830
Applications Approved for Publication including Additional Classes	345,649	360,958	374,870	403,570	432,454
<b>Certificates of Registration Issued:<sup>1</sup></b>					
1946 Act Principal Register	110,000	116,420	123,086	126,359	142,300
Principal Register					
ITU-Statements of Use Registered	64,057	67,952	73,914	72,594	74,796
1946 Act Supplemental Register	8,704	8,749	9,555	9,707	10,311
Total Certificates of Registration	182,761	193,121	206,555	208,660	227,407
<b>Renewal of Registration:<sup>*</sup></b>					
Section 9 Applications Filed	63,636	74,280	67,865	63,981	72,744
Section 8 Applications Filed <sup>**</sup>	63,642	74,283	67,869	64,010	72,708
Registrations Renewed	59,871	63,709	56,166	58,284	62,604
Affidavits, Sec. 8/15:					
Affidavits Filed	76,646	93,174	107,823	88,486	87,447
Affidavits Disposed	72,346	76,731	93,711	80,593	77,105
Amendments to Allege Use Filed	7,999	7,721	7,927	8,241	8,167
Statements of Use Filed	86,935	85,004	71,685	75,461	76,943
Notice of Allowance Issued	172,122	183,030	192,609	198,349	215,764
<b>Total Active Certificates of Registration</b>	<b>1,838,007</b>	<b>1,903,849</b>	<b>2,013,462</b>	<b>2,074,702</b>	<b>2,138,546</b>
Pendency—Average Months:					
Between Filing and Examiner's First Action	3.2	3.1	3.0	2.9	3.1
Between Filing, Registration (Use Applications) Abandonments, and NOAs—including suspended and inter partes proceedings	12.0	11.7	11.5	11.5	11.3
Between Filing, Registration (Use Applications) Abandonments, and NOAs—excluding suspended and inter partes proceedings	10.2	10.0	9.8	10.1	9.8

<sup>1</sup> 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.

<sup>\*</sup>Renewal of registration is required beginning 10 years following registration concurrent with 20-year renewals coming due.

<sup>\*\*</sup>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 1996–FY 2016)**

Year	For Registration	For Renewal <sup>1</sup>	Section 8 Affidavit
1996	200,640	7,543	22,169
1997	224,355	6,720	20,781
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
<b>2016</b>	<b>530,270</b>	<b>72,744</b>	<b>87,447</b>

<sup>1</sup> 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 2016)**

Stage of processing	Application Files	Classes
<b>Pending applications, total</b>	<b>525,875</b>	<b>747,951</b>
<b>In preexamination processing</b>	<b>89,443</b>	<b>115,377</b>
<b>Under examination, total</b>	<b>333,132</b>	<b>489,166</b>
<b>Applications under initial examination</b>	<b>110,537</b>	<b>162,154</b>
Amended, awaiting action by Examiner	105,243	155,069
Awaiting first action by Examiner	5,294	7,085
<b>Intent-to-Use applications pending Use</b>	<b>173,657</b>	<b>252,139</b>
<b>Applications under second examination</b>	<b>10,364</b>	<b>14,804</b>
Administrative processing of Statements of Use	53	73
Undergoing second examination	3,280	4,422
Amended, awaiting action by Examiner	7,031	10,309
<b>Other pending applications<sup>1</sup></b>	<b>38,574</b>	<b>60,069</b>
<b>In postexamination processing</b> (Includes all applications in all phases of publication and issue and registration)	<b>103,300</b>	<b>143,408</b>

<sup>1</sup> Includes applications pending before the Trademark Trial and Appeal Board, and suspended cases.

**TABLE 18: Trademarks Registered, Renewed, and Published Under Section 12(C)<sup>1</sup> (FY 1996–FY 2016)**

Year	Certificates of Registration Issued	Renewed <sup>2</sup>	Registrations (Incl. Classes)
1996	78,674	7,346	91,339
1997	97,294	7,389	112,509
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
<b>2016</b>	<b>227,407</b>	<b>62,604</b>	<b>309,188</b>

<sup>1</sup> Includes withdrawn numbers.<sup>2</sup> Includes Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub.L. 100–667) beginning November 16, 1989 (FY 1990).

**TABLE 19: Trademark Applications Filed by Residents of the United States (FY 2016)**

State/Territory	2016	State/Territory	2016	State/Territory	2016
<b>Total</b>	<b>388,982</b>	Kentucky	2,155	Oklahoma	1,955
		Louisiana	2,188	Oregon	4,215
Alabama	2,241	Maine	945	Pennsylvania	10,917
Alaska	354	Maryland	6,512	Rhode Island	1,273
Arizona	7,132	Massachusetts	10,121	South Carolina	3,135
Arkansas	1,490	Michigan	8,025	South Dakota	450
California	84,460	Minnesota	6,519	Tennessee	5,646
Colorado	9,289	Mississippi	884	Texas	26,107
Connecticut	4,910	Missouri	4,711	Utah	4,830
Delaware	3,912	Montana	862	Vermont	775
District of Columbia	3,318	Nebraska	1,227	Virginia	9,138
Florida	29,259	Nevada	5,928	Washington	8,790
Georgia	11,035	New Hampshire	1,338	West Virginia	327
Hawaii	1,229	New Jersey	13,799	Wisconsin	4,803
Idaho	1,276	New Mexico	1,040	Wyoming	728
Illinois	14,552	New York	39,189	Puerto Rico	621
Indiana	3,911	North Carolina	8,055	Virgin Islands	59
Iowa	1,688	North Dakota	306	U.S. Pacific Islands <sup>1</sup>	95
Kansas	1,807	Ohio	9,261	United States <sup>2</sup>	190

<sup>1</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>2</sup> No State indicated in database, includes Army Post Office filings.

**TABLE 20: Trademarks Registered to Residents of the United States<sup>1</sup> (FY 2016)**

State/Territory	2016	State/Territory	2016	State/Territory	2016
<b>Total</b>	<b>176,427</b>	Kentucky	1,080	Oklahoma	941
		Louisiana	1,166	Oregon	2,173
Alabama	1,089	Maine	479	Pennsylvania	5,342
Alaska	141	Maryland	2,814	Rhode Island	564
Arizona	3,211	Massachusetts	4,365	South Carolina	1,481
Arkansas	684	Michigan	3,820	South Dakota	223
California	35,578	Minnesota	3,436	Tennessee	2,651
Colorado	4,214	Mississippi	392	Texas	11,814
Connecticut	2,371	Missouri	2,354	Utah	2,224
Delaware	1,478	Montana	403	Vermont	371
District of Columbia	1,523	Nebraska	693	Virginia	4,151
Florida	13,208	Nevada	2,779	Washington	3,671
Georgia	5,166	New Hampshire	639	West Virginia	169
Hawaii	574	New Jersey	6,001	Wisconsin	2,391
Idaho	647	New Mexico	502	Wyoming	286
Illinois	7,029	New York	17,423	Puerto Rico	252
Indiana	2,020	North Carolina	3,803	Virgin Islands	18
Iowa	885	North Dakota	159	U.S. Pacific Islands <sup>2</sup>	34
Kansas	925	Ohio	4,533	United States <sup>3</sup>	87

<sup>1</sup> When a trademark is registered, the trademark database is corrected to indicate the home state of the entity registering the trademark.

<sup>2</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>3</sup> No State indicated in database, includes APO filings.

**TABLE 21: Trademark Applications Filed by Residents of Foreign Countries (FY 2012–FY 2016)**

Residence	2012	2013	2014	2015	2016
<b>Total</b>	<b>89,100</b>	<b>99,949</b>	<b>99,913</b>	<b>125,461</b>	<b>141,285</b>
Afghanistan	4	8	6	4	1
Albania	1	2	5	6	8
Algeria	2	-	1	1	-
Andorra	20	3	13	3	17
Angola	1	3	4	4	9
Anguilla	34	22	22	4	7
Antarctica	-	-	-	-	-
Antigua & Barbuda	6	-	2	2	2
Argentina	268	266	217	280	263
Armenia	16	32	47	25	19
Aruba	3	4	5	18	9
Australia	3,381	3,960	4,011	5,144	5,484
Austria	1,155	1,292	1,281	1,328	1,351
Azerbaijan	3	1	4	6	17
Bahamas	331	191	138	132	146
Bahrain	21	10	9	12	9
Bangladesh	6	1	3	1	6
Barbados	198	116	162	122	105
Belarus	43	30	20	29	71
Belgium	917	1,093	976	944	1,063
Belize	33	32	47	34	40
Benin	1	-	-	-	-
Bermuda	222	253	353	245	278
Bolivia	5	1	2	6	12
Bosnia & Herzegovina	-	1	5	5	5
Botswana	6	-	7	-	-
Brazil	608	676	779	856	870
British Virgin Islands	825	1,087	985	908	886
Brunei Darussalam	4	8	1	3	11
Bulgaria	109	178	218	150	163
Burkina Faso	-	-	-	-	-
Cambodia	-	-	2	2	4
Cameroon	1	-	-	-	-
Canada	9,823	9,984	10,268	11,585	12,435
Cayman Islands	400	351	504	836	920
Channel Islands	58	-	-	-	-
Chile	178	170	205	300	312
China (Hong Kong)	1,768	1,785	2,430	2,926	3,464
China (Macau)	8	-	23	-	-
China (mainland)	3,735	4,756	6,323	14,144	28,779
Colombia	300	296	272	344	256
Cook Islands	-	-	5	-	11
Costa Rica	59	44	36	31	52
Cote D'Ivoire	-	-	11	-	2
Croatia	40	64	62	65	75
Cuba	5	2	2	15	28
Curacao	65	41	63	170	74
Cyprus	718	333	375	393	354
Czech Republic	201	307	274	315	332
Denmark	869	1,120	1,095	1,387	1,399
Dominica	-	6	12	1	3
Dominican Republic	71	63	86	84	113
Ecuador	34	35	36	36	56
Egypt	18	58	32	33	31
El Salvador	25	56	34	44	68
Estonia	56	86	114	73	142
Ethiopia	4	3	5	1	2
Faroe Islands	-	4	3	-	-
Fiji	15	26	2	7	9
Finland	714	1,117	797	959	1,191
France	6,375	6,575	5,959	6,983	7,159
French Polynesia	-	4	7	2	9
Gabon	-	-	-	-	1
Georgia	9	18	25	24	26
Germany	10,525	11,504	10,042	12,310	12,796
Ghana	1	4	13	2	1
Gibraltar	63	49	89	57	41
Greece	135	203	173	188	166
Grenada	4	3	-	-	4
Guadeloupe	-	1	2	-	-
Guatemala	44	44	31	55	43
Guernsey	-	-	51	67	40
Guinea	-	-	-	-	-
Guyana	5	4	5	10	4
Haiti	8	3	2	-	2
Honduras	4	7	9	7	8
Hungary	102	161	147	112	114
Iceland	65	100	84	156	98
India	606	684	824	963	983
Indonesia	91	70	99	65	80
Iran	11	31	69	41	59
Iraq	-	1	1	12	4
Ireland	619	699	1,036	1,117	942
Isle of Man	48	113	53	79	75
Israel	795	1,025	1,133	1,287	1,231
Italy	3,960	4,382	4,502	5,200	4,766
Jamaica	42	46	27	43	43
Japan	5,358	6,110	5,786	6,521	6,201
Jordan	30	32	42	89	77
Kazakhstan	-	12	10	49	15
Kenya	12	2	8	18	5
Korea, Dem. Republic of	-	-	-	1	1
Korea, Republic of	2,323	3,160	2,729	4,111	4,463
Kuwait	14	21	32	23	49



**TABLE 21: Trademark Applications Filed by Residents of Foreign Countries (FY 2012-FY 2016)** (continued)

Residence	2012	2013	2014	2015	2016	Residence	2012	2013	2014	2015	2016
Kyrgyzstan	3	2	2	1	-	Saint Kitts & Nevis	18	22	30	15	17
Lao, People's Dem. Republic of	-	-	1	-	-	Saint Lucia	8	15	26	48	28
Latvia	40	45	33	72	86	Saint Marten	3	5	3	-	-
Lebanon	32	57	57	84	89	Saint Vincent/ Grenadines	4	5	5	1	2
Liberia	1	1	2	21	3	Samoa	11	10	17	21	35
Liechtenstein	152	105	106	178	105	San Marino	13	16	2	18	26
Lithuania	26	41	51	65	76	Sao Tome/ Principe	-	-	-	-	-
Luxembourg	831	1,044	887	945	1,168	Saudi Arabia	108	71	141	109	105
Macao	-	126	-	66	32	Scotland	57	46	48	76	45
Macedonia	27	11	14	9	18	Senegal, Republic of	-	-	-	3	-
Madagascar	1	-	-	2	-	Serbia/ Montenegro	38	30	40	58	55
Malaysia	89	131	148	201	183	Seychelles	27	37	72	77	60
Malta	99	424	519	283	308	Singapore	627	880	769	1,132	1,077
Marshall Island	7	3	3	21	8	Slovakia	84	90	227	115	114
Martinique	1	-	1	-	-	Slovenia	89	98	68	123	101
Mauritania	-	-	3	-	-	South Africa	271	294	278	268	243
Mauritius	29	74	45	46	58	Spain	2,097	1,881	2,133	2,326	2,277
Mexico	1,990	1,898	2,124	2,285	2,438	Sri Lanka	21	13	45	44	40
Micronesia	1	-	-	-	-	Suriname	2	-	1	-	1
Monaco	135	144	178	283	94	Swaziland	-	-	-	1	-
Mongolia	3	1	11	6	4	Sweden	1,709	1,804	1,760	2,168	2,074
Montserrat	-	-	-	2	2	Switzerland	4,901	5,613	4,836	5,561	5,287
Morocco	50	43	66	74	52	Syria	-	-	2	1	5
Myanmar	-	-	-	-	2	Taiwan	1,661	1,464	1,673	1,782	1,611
Namibia	4	-	-	5	48	Tanzania	-	3	-	-	2
N. Marianas Island	7	4	5	-	-	Thailand	190	167	134	146	147
Nepal	1	1	5	1	-	Timor-Leste	-	-	-	-	-
Netherlands	1,851	2,419	2,418	2,851	2,824	Togo	2	14	2	-	-
Netherlands Antilles	-	-	1	-	-	Trinidad & Tobago	13	10	23	64	49
New Zealand	522	520	674	733	922	Tunisia	6	30	1	19	3
Nicaragua	16	6	8	13	20	Turkey	610	868	570	1,052	967
Nigeria	6	11	4	6	22	Turkmenistan	6	-	-	-	-
Norway	434	813	629	733	568	Turks and Caicos Islands	48	34	24	23	29
Oman	-	-	8	-	9	Uganda	2	1	1	-	9
Pakistan	12	31	79	87	36	Ukraine	118	155	171	194	147
Palau	-	-	1	-	1	United Arab Emirates	224	192	254	517	422
Panama	126	159	193	261	222	United Kingdom	8,939	10,629	10,779	14,061	14,254
Papua New Guinea	-	3	-	-	-	Uruguay	14	53	59	38	72
Paraguay	6	18	14	11	5	Uzbekistan	2	3	1	4	-
Peru	62	84	42	92	78	Vanuatu (New Hebrides)	1	9	1	-	-
Philippines	128	88	85	78	80	Venezuela	46	52	94	100	64
Poland	330	381	354	563	463	Vietnam	99	108	98	126	124
Portugal	232	301	384	373	369	West Bank/Gaza	2	-	-	-	2
Qatar	26	56	89	77	73	Yemen	1	2	1	-	-
Republic Moldova	7	15	24	36	19	Yugoslavia	-	-	-	-	-
Romania	61	94	73	129	153	Zambia	-	1	-	3	-
Russian Federation	1,036	1,025	799	850	674	Zimbabwe	4	-	-	-	1
Rwanda	-	-	-	-	1	Other <sup>1</sup>	3	-	-	9	7
Saint Christ-Nevis	-	-	-	-	-						

- Represents zero.

<sup>1</sup> 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 2012-FY 2016)**

Residence	2012	2013	2014	2015	2016
<b>Total</b>	<b>34,003</b>	<b>36,916</b>	<b>38,498</b>	<b>40,864</b>	<b>50,980</b>
Afghanistan	2	8	3	-	1
Albania	3	-	3	1	3
Algeria	1	2	2	-	1
Andorra	3	4	-	-	4
Angola, Republic of	2	1	-	1	1
Anguilla	25	17	8	16	1
Antigua & Barbuda	4	5	1	-	1
Argentina	150	158	126	140	135
Armenia	11	12	20	1	7
Aruba	2	-	1	-	5
Australia	1,331	1,385	1,564	1,445	1,940
Austria	361	361	369	305	406
Azerbaijan	2	1	1	-	-
Bahamas	71	60	56	63	56
Bahrain	6	9	4	10	6
Bangladesh	6	1	1	3	1
Barbados	67	51	51	82	48
Belarus	17	18	15	3	12
Belgium	302	362	408	161	372
Belize	29	25	16	20	16
Benelux Convention	8	12	-	-	-
Benin	-	1	-	-	-
Bermuda	95	128	171	194	76
Bhutan	1	-	-	-	-
Bolivia	3	2	4	1	1
Bosnia & Herzegovina	2	1	-	1	2
Botswana	2	1	2	2	-
Brazil	209	242	236	346	257
British Virgin Islands	258	396	295	445	286
Brunei Darussalam	-	3	3	5	2
Bulgaria	28	45	59	23	67
Burkina Faso	-	-	-	-	-
Burundi	-	-	-	-	-
Cambodia	1	-	2	1	2
Cameroon	2	4	-	-	-
Canada	3,888	3,944	4,010	6,420	4,288
Cape Verde	-	-	-	-	-
Cayman Islands	124	155	123	250	169
Channel Islands	29	-	-	-	-
Chile	122	92	92	128	111
China (Hong Kong)	601	775	883	1,472	1,268
China (Macau)	1	1	9	2	6
China (mainland)	2,024	2,444	2,901	4,016	10,582
Colombia	134	132	94	118	128
Congo	-	-	-	-	-
Cook Islands	1	2	-	-	1
Costa Rica	25	51	16	36	21
Cote D'Ivoire	4	1	-	2	1
Croatia	7	16	11	4	18
Cuba	4	8	1	2	11
Curacao	9	18	8	56	28
Cyprus	80	135	159	67	117
Czech Republic	94	107	80	85	115
Denmark	333	377	393	275	472
Djibouti	1	-	-	-	-
Dominica	1	1	2	3	3
Dominican Republic	29	24	26	29	44
East Timor	-	-	-	-	-
Ecuador	19	14	23	20	16
Egypt	16	16	12	14	18
El Salvador	26	17	26	20	28
Estonia	14	33	28	30	36
Ethiopia	-	1	1	-	-
Faroe Islands	1	1	-	3	-
Fiji	2	1	4	1	1
Finland	212	217	263	190	292
France	2,160	2,390	2,338	1,488	2,358
French Guiana	-	-	-	-	-
French Polynesia	-	2	-	4	3
Gabon	1	1	-	-	-
Georgia	14	8	10	9	17
Germany	3,660	3,641	3,702	2,478	3,875
Ghana	5	5	4	3	-
Gibraltar	38	43	45	39	33
Greece	67	55	55	63	79
Greenland	-	-	-	-	-
Grenada	-	1	-	4	1
Guatemala	-	-	-	-	-
Guernsey	-	-	12	23	13
Guinea	1	-	-	-	-
Guinea (Equatorial)	1	-	-	-	-
Guinea-Bissau	3	1	-	-	-
Guyana	3	3	4	3	4
Haiti	4	3	3	-	3
Honduras	7	5	1	8	5
Hungary	34	52	42	50	41
Iceland	29	37	26	9	36
India	259	294	249	364	315
Indonesia	40	34	40	37	28
Iran	17	8	1	-	9
Iraq	-	-	-	-	5
Ireland	227	257	275	464	365
Isle of Man	13	25	31	58	-
Israel	412	462	443	470	596
Italy	1,657	1,821	1,843	730	1,994
Jamaica	28	27	19	12	24
Japan	2,198	2,568	2,770	2,433	2,982
Jordan	20	14	21	20	41
Kazakhstan	1	3	1	-	4
Kenya	1	4	5	-	11
Korea, Dem. Republic of	9	7	-	6	-

**TABLE 22: Trademarks Registered to Residents of Foreign Countries (FY 2012-FY 2016) (continued)**

Residence	2012	2013	2014	2015	2016
Korea, Republic of	1,043	1,153	1,272	1,997	1,724
Kuwait	7	8	12	5	12
Kyrgyzstan	1	2	-	-	2
Laos	-	-	-	1	-
Latvia	10	18	20	8	20
Lebanon	15	16	17	33	40
Liberia	6	4	-	1	4
Liechtenstein	45	56	60	23	68
Lithuania	16	15	25	2	28
Luxembourg	270	271	312	343	375
Macao	-	-	-	-	-
Macedonia	2	3	8	-	1
Madagascar	-	1	-	-	-
Malawi	-	-	-	-	-
Malaysia	76	45	60	53	54
Mali	-	-	-	-	-
Malta	24	28	55	368	122
Martinique	-	2	-	1	-
Marshall Islands	5	3	10	2	12
Mauritius	28	15	31	26	20
Mexico	897	1,040	921	1,123	1,005
Micronesia	-	-	-	-	-
Monaco	19	29	37	14	55
Mongolia	1	1	-	1	-
Montenegro	1	2	16	43	19
Montserrat	1	-	-	-	-
Morocco	8	10	4	3	12
Mozambique	-	-	-	-	-
Myanmar	-	-	-	-	-
N. Mariana Island	1	2	1	2	-
Namibia	1	3	1	-	1
Nauru	-	1	-	-	-
Nepal	2	1	1	3	-
Netherlands	897	810	891	582	1,017
Netherlands Antilles	21	8	1	-	-
New Zealand	223	219	283	299	375
Nicaragua	10	7	4	8	5
Nigeria	12	14	5	2	3
Niue	-	-	-	-	-
Norway	195	167	197	122	217
Oman	2	-	-	2	1
Pakistan	11	12	4	31	24
Palestinian Authority	-	2	-	-	-
Panama	53	92	79	107	82
Papua New Guinea	-	-	1	-	-
Paraguay	2	3	3	5	1
Peru	33	32	33	37	32
Philippines	34	37	54	51	43
Poland	98	102	124	100	150
Portugal	91	106	135	136	194
Qatar	1	9	10	36	19
Republic Moldova	1	6	3	3	7
Romania	15	28	35	23	45
Rwanda	-	-	-	-	-
Russian Federation	252	281	246	122	251

Residence	2012	2013	2014	2015	2016
Saint Christ & Nevis	31	36	15	16	12
Saint Lucia	1	10	9	16	9
Saint Martin	3	1	1	-	1
Saint Vincent/ Grenadines	2	2	4	1	-
San Marino	1	1	6	-	8
Saudi Arabia	38	22	23	58	46
Scotland	12	16	19	23	-
Senegal	1	1	-	6	-
Serbia	9	7	6	6	10
Serbia/Montenegro	-	2	-	-	-
Seychelles	18	17	14	31	17
Sierra Leone	1	1	-	-	-
Singapore	239	324	277	311	385
Slovakia	17	17	29	6	33
Slovenia	31	30	18	11	32
South Africa	93	138	119	189	94
Spain	885	965	914	786	1,151
Sri Lanka	12	15	8	33	14
St Kitts & Nevis	-	36	-	-	-
Sudan	-	-	-	-	-
Swaziland	3	1	-	-	1
Sweden	655	661	636	604	744
Switzerland	1,560	1,623	1,735	1,268	2,060
Syria	3	1	1	1	-
Taiwan	820	957	926	1,172	902
Tajikistan	-	-	-	-	-
Tanzania	1	1	3	-	-
Thailand	67	74	91	92	70
Timor-Leste	1	-	-	-	-
Togo	2	1	-	11	-
Trinidad & Tobago	6	7	2	12	5
Tunisia	3	2	3	-	4
Turkey	194	250	294	99	369
Turks and Caicos Islands	8	11	20	15	17
Uganda	2	2	-	2	-
Ukraine	33	38	46	12	80
United Arab Emirates	62	90	75	121	137
United Kingdom	2,905	3,092	3,607	4,836	4,299
Uruguay	19	16	22	22	13
Uzbekistan	-	1	-	-	1
Vanuatu (New Hebrides)	-	2	1	-	-
Vatican City	1	-	-	3	-
Venezuela	49	37	19	51	26
Vietnam	43	52	49	23	60
Western Samoa/ Samoa	4	1	7	17	13
Yemen	4	1	1	-	-
Yugoslavia	2	-	-	-	-
Zambia	-	-	-	1	-
Zimbabwe	2	1	-	-	-
Other <sup>1</sup>	16	20	1	4	2

- Represents zero.

<sup>1</sup> Country of Origin information not available.

**TABLE 23: Summary of Contested Trademark Cases (Within the USPTO, as of September 30, 2016)**

Activity	Ex parte	Opposition	Cancellations	Concurrent Use	Interference	Total
<b>Cases pending as of 9/30/15, total</b>	<b>1,284</b>	<b>5,250</b>	<b>1,760</b>	<b>37</b>	<b>-</b>	<b>8,331</b>
<b>Cases filed during FY 2016</b>	<b>3,121</b>	<b>5,881</b>	<b>1,848</b>	<b>24</b>	<b>-</b>	<b>10,874</b>
<b>Disposals during FY 2016, total</b>	<b>3,089</b>	<b>5,895</b>	<b>1,914</b>	<b>25</b>	<b>-</b>	<b>10,923</b>
Before oral hearing or briefing	2,561	5,779	1,871	24	-	10,235
After hearing (no oral hearing)	477	82	36	1	-	596
After oral hearing	51	34	7	-	-	92
<b>Cases pending as of 9/30/16, total</b>	<b>1,361</b>	<b>5,236</b>	<b>1,694</b>	<b>36</b>	<b>-</b>	<b>8,282</b>
Awaiting decision	56	22	5	-	-	83
In process before hearing or final briefing <sup>1</sup>	1,260	5,214	1,689	36	-	8,199
<b>Requests for extension of time to oppose FY 2016</b>	19,055	-	-	-	-	-

- Represents zero.

<sup>1</sup> Includes suspended cases.

**TABLE 24: Actions on Petitions to the Director of the U.S. Patent and Trademark Office (FY 2012–FY 2016)**

Nature of petition	2012	2013	2014	2015	2016
<b>Patent matters</b>					
<b>Actions on patent petitions, total</b>	<b>51,323</b>	<b>48,109</b>	<b>48,204</b>	<b>45,381</b>	<b>49,467</b>
Acceptance of:					
Late assignments	739	804	698	631	846
Late issue fees	1,529	1,765	1,500	1,498	2,242
Late priority papers	6	5	74	75	289
Access	4	3	1	1	12
Certificates of correction	25,441	24,738	25,088	26,443	26,319
Deferment of issue	9	9	8	13	14
Entity Status Change	3,016	2,874	2,831	2,425	2,813
Filing date	413	432	276	104	222
Maintenance fees	1,984	1,702	2,154	1,976	2,359
Revivals	8,202	8,660	6,701	5,330	7,621
Rule 47 (37 CFR 1.47)	2,748	1,648	977	354	131
Supervisory authority	439	461	404	708	360
Suspend rules	162	120	214	126	117
Withdrawal from issue	2,196	3,363	4,417	4,859	4,783
Withdrawals of holding of aband	4,435	1,525	2,861	838	1,339
Late Claim for Priority	1,298	1,254	1,755	2,139	4,051
Withdraw as Attorney	3,922	3,846	5,344	2,390	3,440
Matters Not Provided For (37 CFR 1.182)	1,775	1,338	1,100	1,012	1,601
To Make Special	12,832	17,805	20,283	19,026	23,672
Patent Term Adjustment/Extension	1,298	964	9,957	4,900	688
<b>Trademark matters</b>					
<b>Actions on trademark petitions, total</b>	<b>22,577</b>	<b>23,962</b>	<b>26,686</b>	<b>26,768</b>	<b>28,194</b>
Filing date restorations <sup>1</sup>	19	8	4	3	4
Inadvertently issued registrations	81	118	192	76	54
Letters of Protest	1,490	1,595	1,776	2,161	2,258
Madrid Petitions	43	61	79	87	68
Make special	302	244	371	343	391
Reinstatements <sup>2</sup>	354	319	366	150	564
Revive (reviewed on paper)	698	324	623	713	629
Revive (granted electronically) <sup>3</sup>	16,913	18,165	19,900	19,857	20,432
Waive fees/refunds	18	7	8	15	13
Miscellaneous Petitions to the Director	967	1,223	1,208	1,271	1,143
Board Matters	15	25	51	37	27
Post Registration Matters	136	179	309	145	270
Post Publication Amendments <sup>4</sup>	1,541	1,694	1,799	1,910	2,341
<b>Petitions awaiting action as of 9/30</b>					
Trademark petitions awaiting response	26	29	41	36	46
Trademark petitions awaiting action	5	17	-	8	-
Trademark pending filing date issues	-	-	-	-	-

- Represents zero.

<sup>1</sup> Trademark Applications entitled to a particular filing date; based on clear evidence of Trademark organization error.

<sup>2</sup> Trademark Applications restored to pendency; inadvertently abandoned by the Trademark organization.

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

<sup>4</sup> This is new data for FY 2016 with prior year data added

**TABLE 25: Cases in Litigation (Selected Courts of the United States, as of September 30, 2016)**

	Patents	Trademarks	OED	Total
<b>United States District Courts</b>				
<b>Civil actions pending as of 9/30/15, total</b>	65	1	2	68
<b>Filed during FY 2016</b>	14	3	7	24
<b>Disposals, total</b>	<b>25</b>	<b>1</b>	<b>5</b>	<b>31</b>
Affirmed	-	-	2	2
Reversed	1	-	-	1
Remanded	2	-	-	2
Dismissed	19	-	3	22
SJ Granted—USPTO	3	1	-	4
SJ Granted—Opposing Party	-	-	-	-
Transfer	-	-	-	-
<b>Civil actions pending as of 9/30/16, total</b>	<b>54</b>	<b>3</b>	<b>4</b>	<b>61</b>
<b>United States Courts of Appeals<sup>1</sup></b>				
<b>Ex parte cases</b>				
<b>Cases pending as of 9/30/15</b>	39	8	-	<b>47</b>
<b>Cases filed during FY 2016</b>	63	22	9	94
<b>Disposals, total</b>	<b>54</b>	<b>9</b>	<b>5</b>	<b>68</b>
USPTO Affirmed	31	2	-	33
Affirmed-In-Part	1	-	-	1
District Court Affirmed	2	-	-	2
Reversed	3	-	-	3
Remanded	4	1	-	5
Dismissed	9	5	1	15
Vacated	-	-	-	-
Transfer	2	-	3	5
Mandamus Denied	2	1	1	4
Mandamus Granted	-	-	-	-
<b>Total ex partes cases pending as of 9/30/16</b>	<b>48</b>	<b>21</b>	<b>4</b>	<b>73</b>
<b>United States Courts of Appeals<sup>2</sup></b>				
<b>Inter partes cases Intervened</b>				
<b>Cases pending as of 9/30/15</b>	45	2	-	<b>47</b>
<b>Cases filed during FY 2016</b>	55	1	-	56
<b>Disposals, total</b>	<b>54</b>	<b>1</b>	<b>-</b>	<b>55</b>
USPTO Affirmed	29	-	-	29
Affirmed-In-Part	9	-	-	9
Reversed	2	1	-	3
Remanded	3	-	-	3
Dismissed	11	-	-	11
<b>Total inter partes cases intervened pending as of 9/30/16</b>	<b>46</b>	<b>2</b>	<b>-</b>	<b>48</b>
<b>Inter partes cases</b>				
<b>Cases pending as of 9/30/15</b>	199	5	-	<b>204</b>
<b>Cases filed during FY 2016</b>	480	17	-	497
<b>Disposals, total</b>	<b>298</b>	<b>10</b>	<b>-</b>	<b>308</b>
Affirmed	-	-	-	-
Affirmed-In-Part	-	-	-	-
Reversed	-	-	-	-
Remanded	-	-	-	-
Dismissed	-	-	-	-
Transferred	-	-	-	-

**TABLE 25: Cases in Litigation (Selected Courts of the United States, as of September 30, 2016) (continued)**

	<b>Patents</b>	<b>Trademarks</b>	<b>OED</b>	<b>Total</b>
<b>Total inter partes cases intervened pending as of 9/30/16</b>	<b>381</b>	<b>12</b>	<b>-</b>	<b>393</b>
<b>Total United States Courts of Appeals cases pending as of 9/30/16</b>	<b>475</b>	<b>35</b>	<b>4</b>	<b>514</b>
<b>Supreme Court</b>				
<b>Ex parte cases</b>				
<b>Cases pending as of 9/30/15</b>	-	-	-	-
<b>Cases filed during FY 2016</b>	10	3	-	13
<b>Disposals, total</b>	7	1	-	8
<b>Cases pending as of 9/30/16, total</b>	<b>3</b>	<b>2</b>	<b>-</b>	<b>5</b>

- Represents zero.

<sup>1</sup> Includes Federal Circuit and Other Appellate Courts.

<sup>2</sup> New Case Type Reported - Previously Reported Under Ex Parte Appeals.

**TABLE 26: Patent Classification Activity (FY 2012-FY 2016)**

Activity	2012	2013	2014	2015	2016
Subgroups established in CPC	-	-	-	1,297	1,883
Subgroups established in USPC	311	349	137	-	-
<b>Reclassification of CPF families</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>67,947</b>	<b>58,357</b>
<b>Reclassification of USPC documents</b>	<b>31,232</b>	<b>40,007</b>	<b>10,812</b>	<b>-</b>	<b>-</b>

- Represents zero.

**TABLE 27: Scientific and Technical Information Center Activity (FY 2016)**

Activity	Quantity
<b>Prior Art Search Services Provided</b>	
Commercial Database Searches Completed	27,591
Genetic Sequence Searches Completed	6,407
Number of Genetic Sequences Searched	27,559
CRF Submissions Processed	18,817
PLUS Searches Completed	45,164
Foreign Patent Searches Completed	4,357
<b>Document Delivery Services Provided</b>	
Document Delivery/Interlibrary Loan Requests Processed	12,486
Copies of Foreign Patents Provided	8,765
<b>Information Assistance and Automation Services</b>	
One-on-One Examiner Information Assistance	30,197
One-on-One Examiner Automation Assistance	27,367
Patents Employee Attendance at Automation Classes	11,511
Patents Employee Attendance for PTA Classes and Customized Training Classes Coordinated via STIC	15,800
Patent Employee Attendance for Examiner Training on STIC Information Sources and Services	15,226
Foreign Patents Assistance for Examiners and Public	6,254
<b>Translation Services Provided for Examiners</b>	
Written Translations of Documents	2,775
Documents Orally Translated*	4,865
Machine Translations	2,575
Number of Words Translated (Written)	9,746,639
<b>Total Number of Examiner Service Contacts</b>	<b>271,429</b>
<b>Collection Usage and Growth</b>	
Print/Electronic Non-Patent Literature (NPL) Collection Usage	1,602,149
Print Books/Subscriptions Purchased	3,713
Full Text Electronic Journal Titles Available	70,902
Full Text Electronic Book Titles Available	376,394
NPL Databases Available for Searching (est.)	1,586

\* Includes orally translated requests for Trademarks.



**TABLE 28: End of Year Personnel<sup>1</sup> (FY 2012-FY 2016)**

<b>Activity</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Patent Business Line	10,632	10,847	11,484	11,855	11,654
Trademark Business Line	899	926	966	812	1,071
<b>Total USPTO</b>	<b>11,531</b>	<b>11,773</b>	<b>12,450</b>	<b>12,667</b>	<b>12,725</b>
<b>Examination Staff</b>					
<b>Patent Examiners</b>					
UPR Examiners	7,831	7,928	8,466	8,255	8,160
Design Examiners	104	123	145	171	191
<b>Total UPR and Design Examiners</b>	<b>7,935</b>	<b>8,051</b>	<b>8,611</b>	<b>8,426</b>	<b>8,351</b>
Patent Examiner Attrition Rate	3.07%	4.23%	3.40%	4.32%	3.02%
<b>Trademark Examining Attorneys</b>	386	409	429	456	570
Trademark Examining Attorneys Attrition Rate	3.98%	1.92%	2.40%	3.51%	2.10%

<sup>1</sup> Number of positions.

**TABLE 29A: Top 50 Trademark Applicants (FY 2016)**

Name of Applicant	Classes <sup>1</sup>
LG Electronics, Inc.	1,062
Novartis AG	326
GXI, LLC	314
Glaxo Group Limited	298
Lidl Stiftung & Co. KG	289
Mattel, Inc.	287
Disney Enterprises, Inc.	284
Amazon Technologies, Inc.	259
Johnson & Johnson	248
Google Inc.	247
Universal City Studios LLC	237
Bally Gaming, Inc.	235
Koninklijke Philips N.V.	232
Aristocrat Technologies Australia Pty Limited	221
Wal-Mart Stores, Inc.	220
Samsung Electronics Co., Ltd.	216
Magic Leap, Inc.	209
Huawei Technologies Co., Ltd.	202
Moomin Characters Oy Ltd.	196
Le Holdings Ltd.	195
Eli Lilly and Company	183
Deutsche Telekom AG	173
Merck Sharp & Dohme Corp.	172
IGT Canada Solutions ULC	168
Twentieth Century Fox Film Corporation	167
Merck KGaA	154
Everage, Kevin D.	153
S. C. Johnson & Son, Inc.	153
World Wrestling Entertainment, Inc.	152
Ainsworth Game Technology Limited	148
CVS Pharmacy, Inc.	142
Board of Regents of the University System	141
SMS Construction and Mining Systems Inc.	140
Target Brands, Inc.	139
The Procter & Gamble Company	138
Bristol-Myers Squibb Company	135
L'Oreal	135
Bayer Intellectual Property GmbH	134
Modelo MKT de México, S. de R.L. de C.V.	133
Aldi Inc.	132
Conopco, Inc.	132
Dr. Seuss Enterprises, L.P.	128
Lockheed Martin Corporation	128
Bayerische Motoren Werke Aktiengesellschaft	127
Colgate-Palmolive Company	125
E. & J. Gallo Winery	125
IGT	125
Init, LLC	120
Hotel RevUp, LLC	116
DreamWorks Animation L.L.C.	114

<sup>1</sup> Applications with Additional Classes.

**TABLE 29B: Top 50 Trademark Registrants (FY 2016)**

Name of Applicant	Registrations
Novartis AG	282
Yiwu Prudential Network Technology Co., Ltd.	214
Mattel, Inc.	205
LG Electronics Inc.	197
Samsung Electronics Co., Ltd.	180
Bally Gaming, Inc.	155
Disney Enterprises, Inc.	126
Daimler AG	103
Glaxo Group Limited	101
A&E Television Networks, LLC	95
Lidl Stiftung & Co. KG	88
Societe des Produits Nestle S.A.	83
Johnson & Johnson	80
Koninklijke Philips N.V.	79
L'Oreal USA Creative, Inc.	78
Konami Gaming, Inc.	76
Marvel Characters, Inc.	75
L'Oreal	74
Sanrio Company, Ltd.	73
Apple Inc.	69
The Procter & Gamble Company	68
Aldi Inc.	65
Everi Games Inc.	65
Televisa, S.A. de C.V.	64
Changchun Chengji Technology Co., Ltd.	61
Syngenta Participations AG	60
Discovery Communications, LLC	59
IGT	57
Columbia Insurance Company	56
IT Cosmetics, LLC	55
AstraZeneca AB	54
Penton Business Media, Inc.	52
Twentieth Century Fox Film Corporation	52
Universal Entertainment Corporation	52
U.S. Marine Corps, a component of the U.S. Navy	51
Viacom International Inc.	50
Hallmark Licensing, LLC	49
Home Box Office, Inc.	49
World Wrestling Entertainment, Inc.	48
Lucasfilm Ltd. LLC	47
Nachurs Alpine Solutions, Corp.	47
Amazon Technologies, Inc.	46
The Sherwin-Williams Company	45
Cadillac Jack, Inc.	44
Dongguan Prometaltech Co., Ltd.	44
Dr. Seuss Enterprises, L.P.	44
Qingdao Phoenix Network Technology Corp.	44
Baker Hughes Incorporated	43
Penton Media, Inc.	43
Shiseido Company, Limited	43



# GLOSSARY OF ACRONYMS AND ABBREVIATIONS

*Unaudited, please see the accompanying auditors' report.*

For more information about these acronyms and abbreviations, please consult the agency's limited glossary containing some USPTO-specific definitions: <http://www.uspto.gov/learning-and-resources/glossary>.

<b>ABC</b>	Activity Based Costing	<b>EL4FMS</b>	Electronic Library for Financial Management Systems
<b>ABI</b>	Activity-Based Information	<b>eMod</b>	eCommerce Modernization
<b>AFCP 2.0</b>	After Final Consideration Program 2.0	<b>EPA</b>	Environmental Protection Agency
<b>AGA</b>	Association of Government Accountants	<b>EPO</b>	European Patent Office
<b>AIA</b>	Leahy-Smith America Invents Act	<b>EPQI</b>	Enhanced Patent Quality Initiative
<b>AIPA</b>	American Inventors Protection Act	<b>EUIPO</b>	European Union Intellectual Property Office
<b>APEX</b>	Administrative Professionals Excellence (Program)	<b>FECA</b>	Federal Employees' Compensation Act
<b>APDU</b>	Association of Public Data Users	<b>FEGLI</b>	Federal Employees Group Life Insurance Program
<b>API</b>	Application Programming Interface	<b>FEHB</b>	Federal Employees Health Benefit Program
<b>AWE</b>	After Work Education (Program)	<b>FERS</b>	Federal Employees Retirement System
<b>BFS</b>	Bureau of the Fiscal Service	<b>FEVS</b>	Federal Employee Viewpoint Survey
<b>CES</b>	Consumer Electronics Show	<b>FFMIA</b>	Federal Financial Management Improvement Act
<b>CFO</b>	Chief Financial Officer	<b>FICA</b>	Federal Insurance Contributions Act
<b>CFS</b>	Consolidated Financial System	<b>FIRST®</b>	Foundation for Inspiration and Recognition of Science and Technology
<b>CIO</b>	Chief Information Officer	<b>FISMA</b>	Federal Information Security Management Act
<b>CMS</b>	Content Management System	<b>FMFIA</b>	Federal Managers' Financial Integrity Act
<b>COTS</b>	Commercial-Off-the-Shelf	<b>FPNG</b>	Fee-Processing Next Generation
<b>CPC</b>	Cooperative Patent Classification	<b>FY</b>	Fiscal Year
<b>CSP</b>	Collaborative Search Pilot	<b>GAAP</b>	Generally Accepted Accounting Principles
<b>CSRS</b>	Civil Service Retirement System	<b>GDP</b>	Gross Domestic Product
<b>DATA</b>	Digital Accountability and Transparency Act	<b>GIPA</b>	Global Intellectual Property Academy
<b>DAV</b>	Docket and Application Viewer	<b>GIs</b>	Geographical Indications
<b>DM&amp;R</b>	Deferred Maintenance and Repairs	<b>GOET</b>	Government Officials Education and Training
<b>DOC</b>	Department of Commerce	<b>GOTS</b>	Government-Off-the-Shelf
<b>DOL</b>	Department of Labor	<b>GSA</b>	General Services Administration
<b>DSBD</b>	Digital Service and Big Data	<b>GUI</b>	Graphical User Interface
<b>E2E</b>	End-to-End	<b>ID</b>	Identification
<b>eDAN</b>	Electronic Desktop Application Navigator	<b>ID5</b>	Industrial Design Five (Five Largest Design Patent Offices Worldwide)
<b>EFS</b>	Electronic Filing System		
<b>EFT</b>	Electronic Funds Transfer		

<b>IDP</b>	Individual Development Plan	<b>OHIM</b>	European Union's Office for Harmonization in the Internal Market
<b>IG</b>	Inspector General	<b>OHR</b>	Office of Human Resources
<b>INPI-BR</b>	Brazil's National Institute for Industrial Property	<b>OIG</b>	Office of Inspector General
<b>INTA</b>	International Trademark Association	<b>OMB</b>	Office of Management and Budget
<b>IP</b>	Intellectual Property	<b>OPD</b>	One Portal Dossier
<b>IPS</b>	Five Largest Intellectual Property Offices Worldwide	<b>OPIA</b>	Office of Policy and International Affairs
<b>IPERA</b>	Improper Payments Elimination and Recovery Act	<b>OPM</b>	Office of Personnel Management
<b>IPERIA</b>	Improper Payments Elimination and Recovery Improvement Act	<b>OSTP</b>	Office of Science and Technology Policy
<b>IPTF</b>	Internet Policy Task Force	<b>P3</b>	Post Prosecution Pilot
<b>IT</b>	Information Technology	<b>PALM</b>	Patent Application Location Monitoring
<b>ITP</b>	Individual Training Plan	<b>PAR</b>	Performance and Accountability Report
<b>JPO</b>	Japan Patent Office	<b>PCT</b>	Patent Cooperation Treaty
<b>KIPO</b>	Korean Intellectual Property Office	<b>PDF</b>	Portable Document Format
<b>LA</b>	Leadership Academy	<b>PE2E</b>	Patents End-to-End
<b>LDP</b>	Leadership Development Program	<b>PETTP</b>	Patent Examiner Technical Training
<b>LMF</b>	Labor Management Forum	<b>POA&amp;M</b>	Plan of Actions and Milestones
<b>NASA</b>	National Aeronautics Space Administration	<b>PP&amp;E</b>	Property, Plant, and Equipment
<b>NPRM</b>	Notice of Proposed Rulemaking	<b>PPAC</b>	Patent Public Advisory Committee
<b>NSTI</b>	National Summer Teacher Institute on Innovation, STEM, and Intellectual Property	<b>PPH</b>	Patent Prosecution Highway
<b>OBRA</b>	Omnibus Budget Reconciliation Act	<b>PRPS</b>	Patent Review Processing System
<b>OCAO</b>	Office of the Chief Administrative Officer	<b>PTAB</b>	Patent Trial and Appeal Board
<b>OCCO</b>	Office of the Chief Communications Officer	<b>PTFRF</b>	Patent and Trademark Fee Reserve Fund
<b>OCE</b>	Office of Chief Economist	<b>PTRC</b>	Patent and Trademark Resource Centers
<b>OCFO</b>	Office of the Chief Financial Officer	<b>PU</b>	Production Units
<b>OCIO</b>	Office of the Chief Information Officer	<b>QIR</b>	Quality Index Report
<b>OEEOD</b>	Office of Equal Employment Opportunity and Diversity	<b>QPIDS</b>	Quick Path Information Disclosure Statement
<b>OEO</b>	Office of Education and Outreach	<b>RAM</b>	Revenue Accounting and Management
<b>OFIS</b>	Office of Finance Imaging System	<b>RCE</b>	Request for Continued Examination
<b>OGC</b>	Office of the General Counsel	<b>SAIC</b>	State Administration for Industry and Commerce of the People's Republic of China
		<b>SCP</b>	Supervisor Certificate Program
		<b>SEE</b>	Site Experience Education
		<b>SES</b>	Senior Executive Service

<b>SIPO</b>	State Intellectual Property Office of the People's Republic of China	<b>TRIPS</b>	Trade-Related Aspects of Intellectual Property Rights
<b>SMEs</b>	Small- and Medium-Sized Enterprises	<b>TSDR</b>	Trademark Status and Document Retrieval
<b>STEM</b>	Science, Technology, Engineering, and Mathematics	<b>TTAB</b>	Trademark Trial and Appeal Board
<b>STEPP</b>	Stakeholder Training on Examination Practice and Procedure	<b>TTABVUE</b>	Trademark Trial and Appeal Board Inquiry System
<b>STIC</b>	Scientific and Technical Information Center	<b>U.S.C.</b>	United States Code
<b>TBMP</b>	Trademark Board Manual of Procedure	<b>UMP</b>	Upward Mobility Program
<b>TC</b>	Technology Center	<b>UPOV</b>	Union for the Protection of New Varieties of Plants
<b>TEALE</b>	New Examining Attorney Training	<b>UPOV91</b>	1991 Act of the UPOV Convention
<b>TEAPP</b>	Telework Enhancement Act Pilot Program	<b>UPR</b>	Utility, Plant, and Reissue
<b>TEAS</b>	Trademark Electronic Application System	<b>URL</b>	Uniform Resource Locator
<b>TM5</b>	Five Largest Trademark Offices Worldwide	<b>USPC</b>	U.S. Patent Classification
<b>TMNG</b>	Trademark Next Generation	<b>USPTO</b>	U.S. Patent and Trademark Office
<b>TNC</b>	Treasury's Yield Curve for Treasury Nominal Coupon	<b>VHP</b>	Veterans Hiring Program
<b>TORCH</b>	Trademark Organization Reconnect and Collaboration Home	<b>vILT</b>	Virtual Instructor-Led Training
<b>TPAC</b>	Trademark Public Advisory Committee	<b>WIPO</b>	World Intellectual Property Organization
<b>TPP</b>	Trans-Pacific Partnership	<b>WTO</b>	World Trade Organization
		<b>XML</b>	Extensible Markup Language
		<b>YMCA</b>	Young Men's Christian Association



# INDEX OF URLS

*Unaudited, please see the accompanying auditors' report.*

## MESSAGE

Intellectual Property and the U.S. Economy: 2016 Update  
<https://www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf> 2

White Paper on Remixes, First Sale, and Statutory Damages  
<https://www.uspto.gov/sites/default/files/documents/copyrightwhitepaper.pdf> 5

## INTRODUCTION

Agency's Strategic Plan  
[https://www.uspto.gov/sites/default/files/documents/USPTO\\_2014-2018\\_Strategic\\_Plan.pdf](https://www.uspto.gov/sites/default/files/documents/USPTO_2014-2018_Strategic_Plan.pdf) 11

## MANAGEMENT'S DISCUSSION AND ANALYSIS

FY 2014-2018 Strategic Plan  
[http://www.uspto.gov/sites/default/files/documents/USPTO\\_2014-2018\\_Strategic\\_Plan.pdf](http://www.uspto.gov/sites/default/files/documents/USPTO_2014-2018_Strategic_Plan.pdf) 22

USPTO's Performance Dashboard  
<https://www.uspto.gov/about-us/performance-and-planning/data-visualization-center> 23

Data Visualization Center  
<http://www.uspto.gov/about-us/performance-and-planning/data-visualization-center> 25

## PERFORMANCE INFORMATION

Audit of Trademark's Activity-Based Information System  
<https://www.oig.doc.gov/OIGPublications/OIG-16-020-A.pdf> 54

USPTO Needs to Improve Assessment of Attaché Program  
<https://www.oig.doc.gov/OIGPublications/OIG-16-042-A.pdf> 54

USPTO Should Improve Controls Related to Equipment Used by Full-Time Teleworkers  
<https://www.oig.doc.gov/OIGPublications/OIG-16-039-A.pdf> 54

Awarding of U.S. Patent and Trademark Office Noncompetitive Contracts Did Not Consistently Follow Guidelines and Best Practices  
<https://www.oig.doc.gov/OIGPublications/OIG-16-033-A.pdf> 55

Analysis of Patent Examiners' Time and Attendance  
<https://www.oig.doc.gov/OIGPublications/14-0990.pdf> 55

## INTELLECTUAL PROPERTY: STRATEGIC GOAL III

Global Intellectual Property Academy  
<https://www.uspto.gov/learning-and-resources/global-intellectual-property-academy> 88

USPTO Data Visualization Center  
<https://www.uspto.gov/about-us/performance-and-planning/data-visualization-center> 88

Distance-Learning Modules  
<http://www.uspto.gov/learning-and-resources/global-intellectual-property-academy-gipa/uspto-webinars-and-ip-e-learning> 88

PatentsView  
<http://www.patentsview.org/web/> 89

## MANAGEMENT GOAL

We're All In: Celebrating Women in STEM at the USPTO  
<http://www.uspto.gov/sites/default/files/documents/All%20in%20STEM%20brochure.pdf> 108

USPTO Careers Website  
<http://www.uspto.gov/jobs/join-us> 109

Federal Register  
<https://www.gpo.gov/fdsys/pkg/FR-2016-05-27/pdf/2016-12571.pdf> 114



## ACKNOWLEDGEMENTS

This Performance and Accountability Report was produced with the energies and talents of the USPTO staff.

To these individuals we would like to offer our sincerest thanks and acknowledgement. In particular, we would like to recognize the following organizations and individuals for their contributions:

Office of the Under Secretary and Director – Vikrum Aiyer, Tom Beach, Bridget Petruczok, and Robert Houser; Office of the Chief Communications Office – Paul Rosenthal, Jeffrey Isaacs, and Eric Atkisson; Office of the Chief Administrative Officer – Chris Gambill; Office of the Chief Financial Officer – Sarah Brown; Office of Planning and Budget – Bonita Royall, Dianne Buie, Michael Shaver, Walter Schlueter, and Ali Emgushov; Office of Finance – Shana Willard, Dennis Detar, and Mark Krieger; Office of Policy and International Affairs – Ari Leifman, John Ward, and Shannon Chowdhury; Office of the Chief Information Officer – Maureen Brown; Office of the General Counsel – Mary Kelly; Patent Trial and Appeal Board – Erica Swift; Trademark Trial and Appeal Board – Karen Smith and Latoya Brown; Office of the Commissioner for Patents – Greg Mills and David Fitzpatrick; Office of the Commissioner for Trademarks – Patrick Washington and Karen Strohecker.

We would also like to acknowledge the Office of the Inspector General and KPMG LLP for the professional manner in which they conducted the audit of the FY 2016 Financial Statements.

We offer special thanks to AOC Solutions, Inc., and Woodward Communications, Inc., for their outstanding contributions in the design and production of this report.

*To send comments or provide feedback about this report, please contact:*

**Office of Planning and Budget**

600 Dulany Street  
Alexandria, VA 22314

[PARmail@uspto.gov](mailto:PARmail@uspto.gov)

Phone: 571-272-3333

Fax: 571-273-0127



UNITED STATES PATENT AND  
TRADEMARK OFFICE

600 Dulany Street Alexandria, Virginia 22314  
[www.uspto.gov](http://www.uspto.gov)



For electronic versions of USPTO PARs, scan barcode.

