

United States Patent and Trademark Office
2007–2012 Strategic Plan



innovate



protect

share

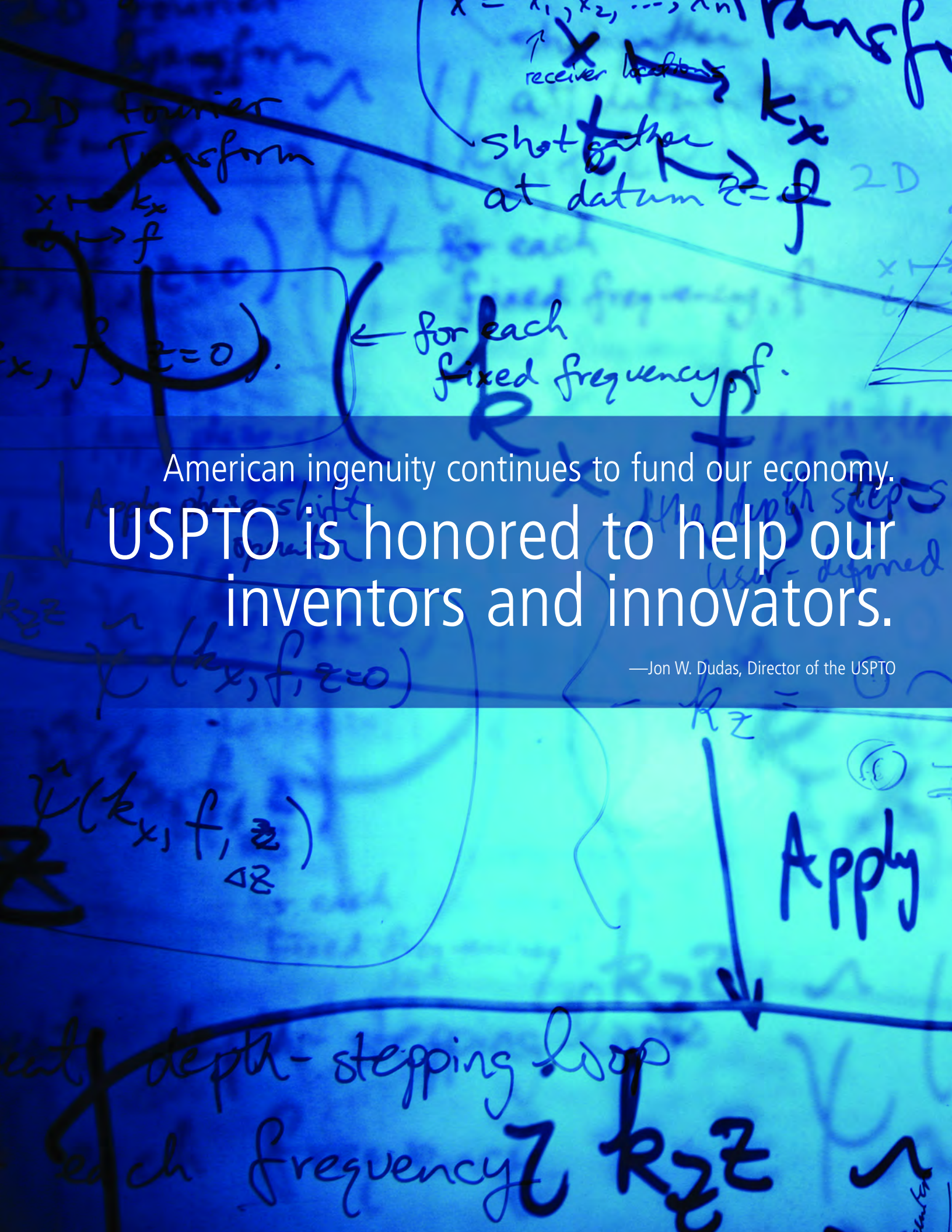
communicate



inspire



Leading the World in Intellectual Property Protection and Policy



American ingenuity continues to fund our economy.

USPTO is honored to help our inventors and innovators.

—Jon W. Dudas, Director of the USPTO

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Strategic Framework of the USPTO

MISSION

To foster innovation and competitiveness by:
Providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide.

VISION

USPTO: Leading the World in Intellectual Property Protection and Policy

GUIDING PRINCIPLES

- Quality
- Timeliness
- Cost-Effectiveness
- Transparency



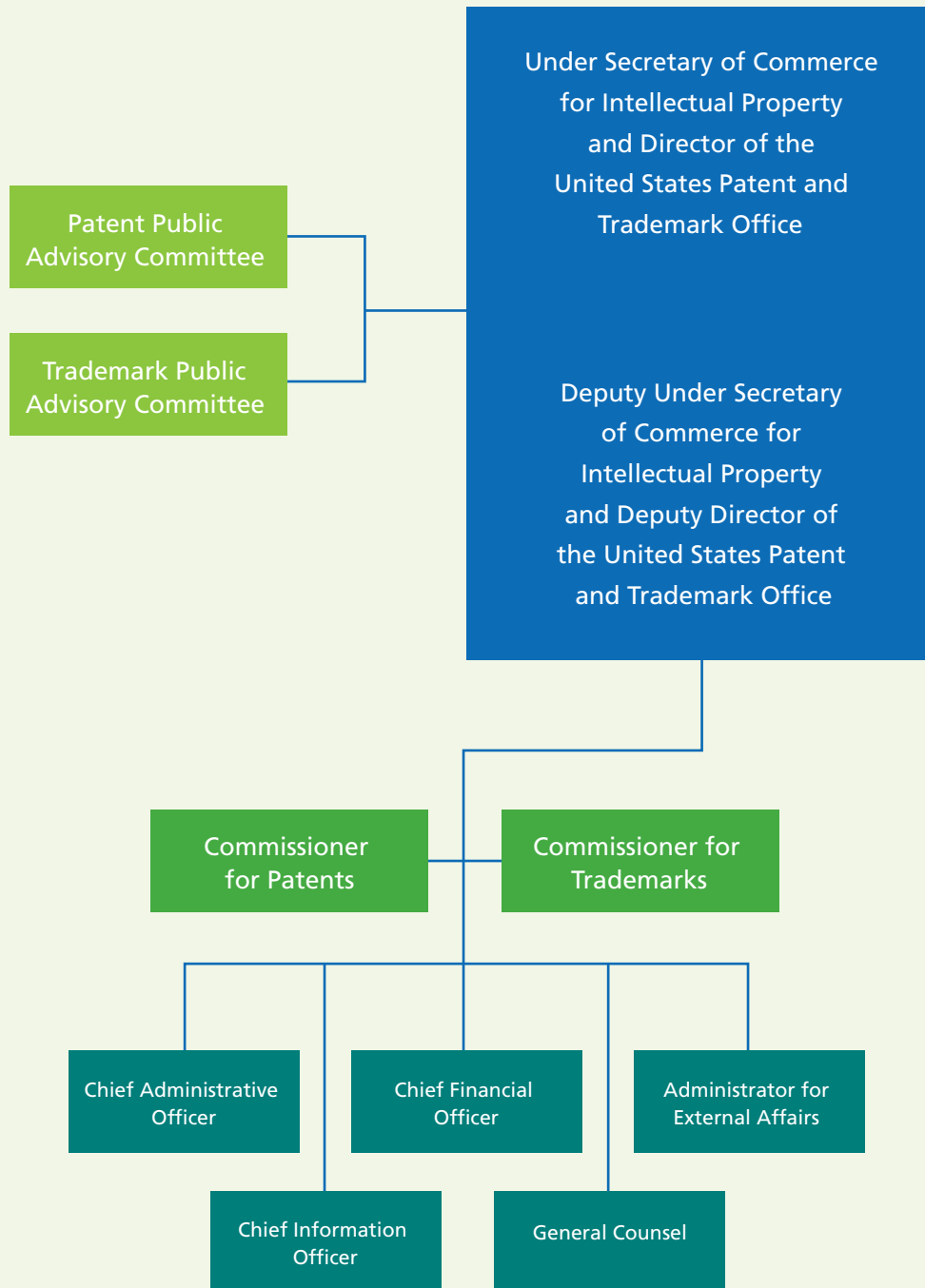
STRATEGIC GOALS

- Optimize Patent Quality and Timeliness
- Optimize Trademark Quality and Timeliness
- Improve Intellectual Property Protection and Enforcement Domestically and Abroad

MANAGEMENT GOAL

- Achieve Organizational Excellence

UNITED STATES PATENT AND TRADEMARK OFFICE **ORGANIZATION CHART**



The United States Patent and Trademark Office

Introduction

WHO WE ARE

The United States Patent and Trademark Office (USPTO) is the Federal agency responsible for granting U.S. patents and registering trademarks. In doing this, the USPTO fulfills the mandate of Article I, Section 8, Clause 8, of the Constitution that the Executive branch “promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.” The USPTO registers trademarks based on the Commerce Clause of the Constitution (Article 1, Section 8, Clause 3).

The USPTO advises the President of the United States, the Secretary of Commerce, and U.S. Government agencies on intellectual property (IP) policy, protection, and enforcement; and promotes stronger and more effective IP protection around the world. The USPTO furthers effective IP protection for U.S. innovators and entrepreneurs worldwide by working with other agencies to secure strong IP provisions in free trade and other international agreements. It also provides training, education, and capacity building programs designed to foster respect for IP and encourage the development of strong IP enforcement regimes by U.S. trading partners.

- The USPTO is headquartered in Alexandria, Virginia.
- The USPTO’s Internet address is <http://www.uspto.gov>.
- The USPTO has over 8,000 employees—including engineers, scientists, attorneys, analysts, computer specialists—all dedicated to protecting U.S. IP rights.

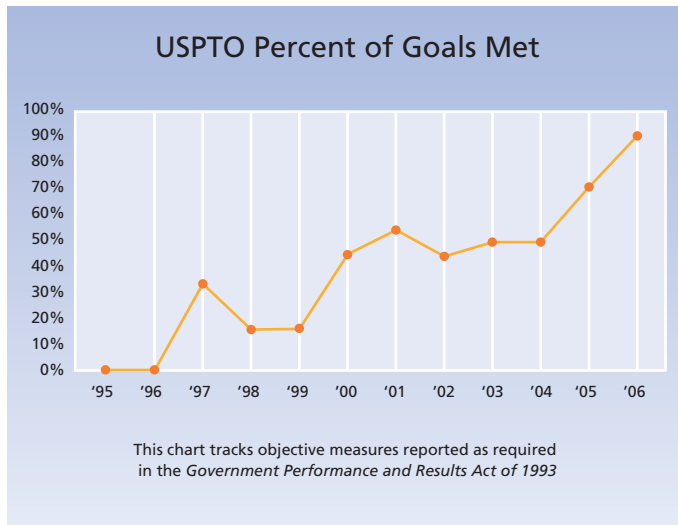


Overview

FISCAL YEAR 2006: OUR RECORD-BREAKING YEAR

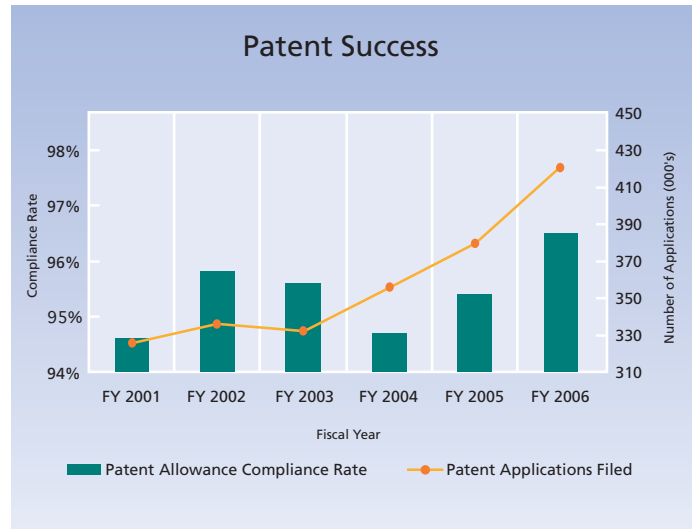
The year 2006 was a banner year for the USPTO. We continued to improve enforcement of IP rights in our nation and around the world. We led several initiatives to make our own country's system of IP protection even better. And we educated thousands of individuals, businesses, and other governments on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

Fiscal year 2006 was a record-breaking year for the USPTO, in terms of quality, production, electronic filing, teleworking, electronic processing, and hiring. As the chart below illustrates, the USPTO met 90 percent of the performance goals established pursuant to the *Government Performance and Results Act of 1993* (GPRA), providing its best record to date for achieving important measures of performance and results.



LEADING WITH PATENTS

Our Patent organization broke virtually every record in 2006—by improving quality, efficiency, e-filing, hiring, training, and hoteling. Improvements in quality were particularly noteworthy. USPTO received a historic high-water mark of 419,760 utility, plant and reissue (UPR) patent applications, while achieving the highest patent allowance compliance rate* in 20 years—96.5 percent. As



part of our new strategic plan, we will continue to work with all interested parties to find new ways to improve and measure quality even more effectively.

One remaining challenge is that the volume of patent applications continues to outpace our capacity to examine them. We have a pending application backlog of historic proportions. Patent pendency—the amount of time an application is waiting before a patent is issued or abandoned—now averages more than 31 months. To turn the corner and reduce the backlog of patent applications and the amount of wait-time for a patent examination, the USPTO is exploring necessary changes to the patent system.

Hire, train, retain, and hotel

The USPTO hired a record 1,193 patent examiners in 2006, exceeding our hiring goal by nearly 200 people. We plan to hire 1,200 new examiners in 2007, representing another large increase. To assimilate this number of new hires, we introduced a new way of training: we implemented a university approach to training new examiners by teaching them in a classroom setting for eight months, rather than using our traditional one-on-one training model. This allowed us to deliver intensive training to the newly-hired examiners, leaving more experienced examiners and supervisors to focus on quality examination. We also implemented recruitment bonuses to hire and retain the

* The percentage of applications allowed by examiners with no errors after being reviewed by the Office of Patent Quality Assurance.

talented engineers and scientists we need to examine our increasingly complex applications. A pioneer group of 500 examiners joined our hoteling program, and we provided them with the electronic access and equipment they need to do their jobs from remote locations. This freed space to add new examiners more quickly and cost-effectively. A benefit for those hoteling has been the reduction of time spent commuting. We plan to add 500 more examiners to the hoteling program in 2007, and we are piloting a work-at-home program for our technical support staff.

The Patent Hoteling Program (PHP) work arrangement is a voluntary program designed to help employees improve working standards by reducing commuting costs and daily travel time. PHP participants can remotely access USPTO automated systems, on-line resources, and other information from an alternative worksite. PHP participants can also remotely reserve office space one day per week in a "hotel office suite" located at USPTO headquarters to conduct in-person business activities. The PHP work arrangement allows employees more options in selecting work locations and schedules to better manage work and family responsibilities.

Implementing the Electronic Filing System-Web

Patents implemented the Electronic Filing System-Web (EFS-Web), a user-friendly, Internet-based patent application and document submission solution. This system dramatically increased the electronic filing of patent applications from 1.5 percent per month to 33 percent per month at the end of fiscal year 2006. We believe this easy to use system will continue to encourage applicants to file electronically.

Optimizing the patent process

In 2006, the USPTO proposed rules changes regarding the examination of patent application claims, continuations, and information disclosure statements. Our executive team traveled the nation presenting the proposed rules to interested groups, such as stakeholders, applicants, and independent inventors, asking for feedback and alternative

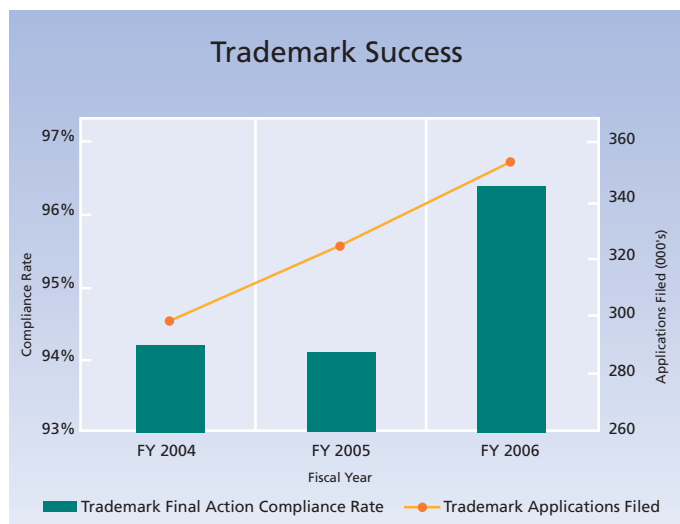
solutions. Our purpose is to identify a way to produce a more focused, higher-quality, and efficient examination and to ensure that patent examiners receive the most relevant information as early in the examination process as possible.

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

As part of this strategic plan, we will continue to work with all interested parties to ensure that we maintain and improve the world's best patent processes and procedures.

LEADING WITH TRADEMARKS

In 2006, the Trademark organization also broke records in quality while increasing production. With more than 354,000 application classes filed, we had a final compliance rate of 96.4 percent. In fact, the Trademark organization exceeded all of its agency performance targets for the first time since the GPRA mandated establishing performance goals. These performance goals include first and final action quality, production, application pendency, and efficiency.



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

Enhancing trademark e-filing

Ninety-four percent of trademark applications were filed electronically in 2006, compared with 88 percent in the previous year. We continued to enhance electronic filing by expanding the number and type of transactions offered on-line and by offering reduced fees to any applicant who files a complete application using our newer system, the Trademark Electronic Application System-Plus (TEAS-Plus).

Improving customer service and communications

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

Expanding the successful Trademark work-at-home program

The Trademark organization’s work-at-home program for examining attorneys received the “Telework Program with Maximum Impact on Government Award” from the Telework Exchange. The Trademark work-at-home program is considered a “best practice” because of its success in addressing budgetary, space, retention, recruitment, and job satisfaction issues. During 2006, we expanded this program to include 85 percent of all eligible employees.

LEADING WITH INTERNATIONAL RELATIONS AND ENFORCEMENT

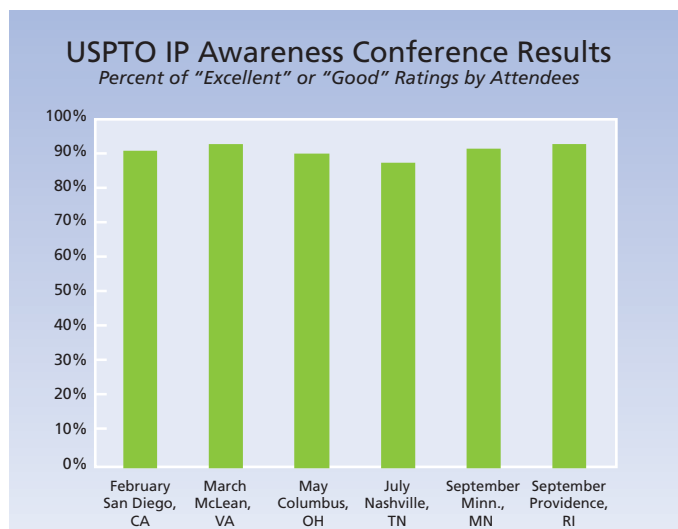
In 2006, the USPTO communicated the importance of protecting and respecting IP, both domestically and internationally.

Working with other U.S. Government agencies

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

Working with individuals and businesses

As part of STOP!, the USPTO continued a communications campaign to educate small businesses about protecting their IP in the United States and abroad. As shown in the chart below, we offered small-business conferences throughout the country. Other USPTO conferences focused exclusively on the IP challenges of doing business in China. All conferences had strong attendance, and more than 90 percent of attendees rated them “Excellent” or “Good.”



FOREIGN POSTINGS OF IP EXPERTS



The USPTO also continued to staff the STOP! hotline, 1-866-999-HALT, which lets callers receive information on IP rights and enforcement from our attorneys with regional and subject matter expertise. In 2006, the hotline received 1,460 phone calls from people across America with a range of IP questions—a 52 percent increase over 2005. The STOP! gateway Web site, www.stopfakes.gov, was expanded to provide more specialized information, including the USPTO-designed “IP toolkits” which help businesses protect their rights in other countries.

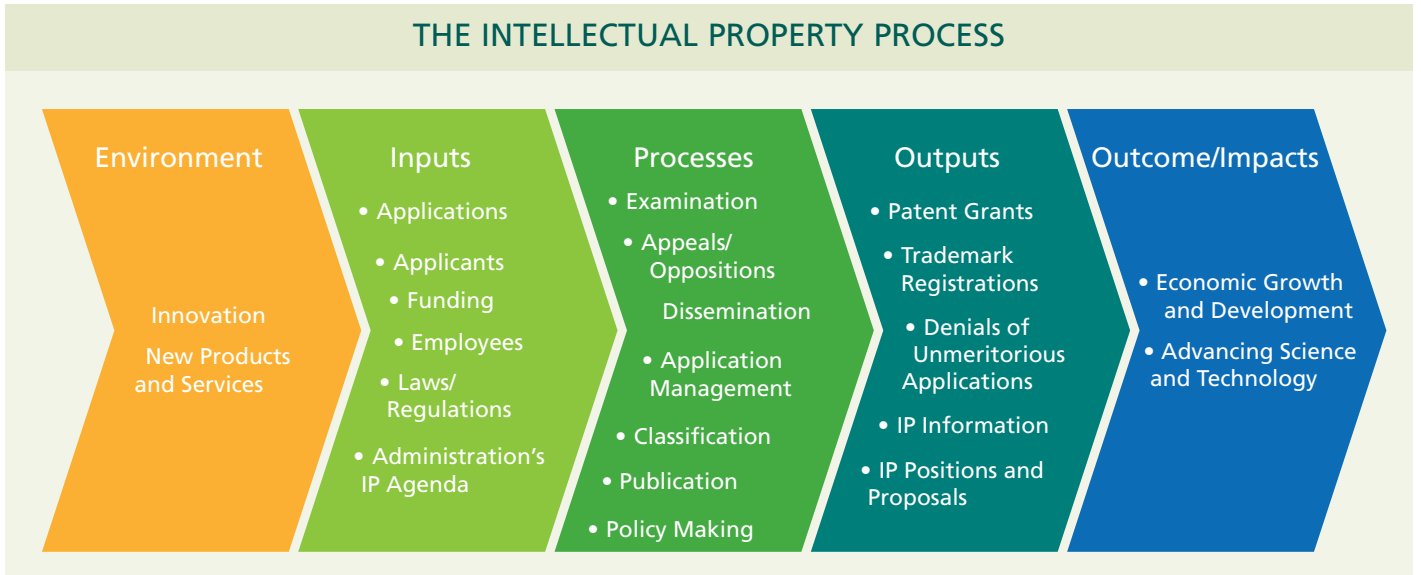
Working with other governments

To strengthen global IP protection, the USPTO represented the United States in discussions and negotiations at the World Intellectual Property Organization (WIPO) throughout the year. Most notably, the USPTO led a delegation to the WIPO Diplomatic Conference, which culminated in the adoption of the Singapore Treaty on the Law of Trademarks.

The new treaty will help trademark owners around the world file applications and renew registrations with fewer formality requirements.

The USPTO also promoted IP protection in China. Through the Joint Commission on Commerce and Trade and its Intellectual Property Rights Working Group, the USPTO and USTR negotiated another set of commitments from the Chinese Government to reduce counterfeiting and piracy. The USPTO conducted Global Intellectual Property Academies (GIPA) and IP Rights programs for foreign government officials and private sector representatives around the world. Additionally, we placed IP experts in Brazil, China, Egypt, India, Thailand, and Geneva (WIPO/World Trade Organization (WTO)) to advocate improved IP protection for American businesses and to coordinate training to help stop piracy and counterfeiting abroad.

THE INTELLECTUAL PROPERTY PROCESS



Our Challenges/Our Response

As represented by the model above, our strategic planning process encompasses end-to-end examination of all components of our core responsibilities.

Innovation—both in the United States and throughout the world—is growing at a record pace. The United States is the fastest growing major industrialized economy in the world, with a Gross Domestic Product (GDP) value of about \$12 trillion in 2005. GDP grew 3.2 percent in 2005, which is above average relative to annual rates since 2000. Research and development (R&D) expenditures are estimated to have increased by 4.7 percent in 2004, when adjusted for inflation. Since August 2003, more than 6.8 million jobs have been created—more jobs than in all the other major industrialized countries combined. Between October 2005 and October 2006, the U.S. economy grew 2.9 percent—faster than any other major industrialized country. And, as of October 2006, U. S. productivity has grown at an annual rate of three percent since the first quarter of 2001.

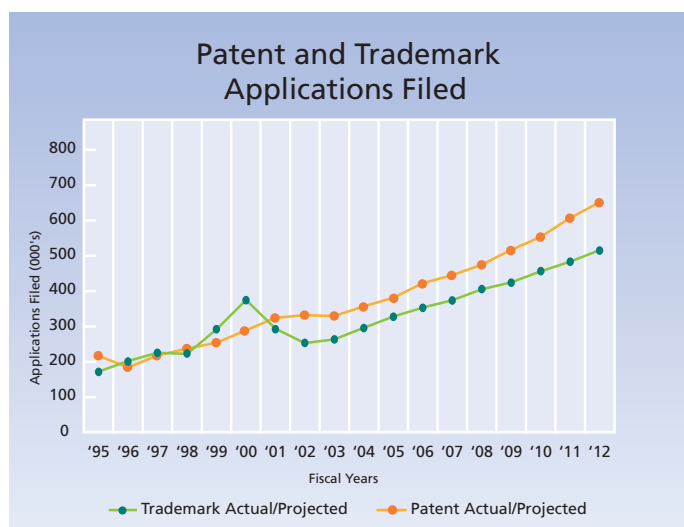
This growth makes the United States an attractive market for both domestic and foreign companies. Our stable economy, our commitments to the rule of law, our business

values—and our strong IP system—combine to create the most favorable trade environment in the world. American innovators have consistently broken U.S. patent filing records—filing 218,472 patent applications in 2005 or 56 percent more than the number filed in 1995. Trademark applications filed by U.S. residents have followed a more circuitous trajectory in recent years, but the general trend from 1995 through 2005 is positive, with filings consistently growing every year after 2002 by an average rate of 8.1 percent.

The United States is not the only country experiencing dramatic economic growth and prosperity. A trend that we anticipate will grow—possibly at historic rates—is the large percentage of foreign applicants who file patent and trademark applications in the United States. A recent study conducted by WIPO noted that the United States, through the USPTO, receives more foreign patent applications than does any other patent office in the world—for example, 182,866 patent utility applications in 2005 or 107 percent more than in 1995.

For the past decade, patent application filings have consistently risen, sometimes at rates of 10 percent over the previous year. In fact, this strategic plan anticipates that patent application filings will continue to rise at the

rate of eight percent per year, through 2012. This growth is not a surprise, nor is it new. The various proposals the USPTO has put forward in the past, and most recently with draft proposed rules changes, have stemmed from a recognition of the need to handle growth. They have focused on encouraging more complete applications and urging “finality” to the patent process, with the objective of promoting certainty in a timely manner.



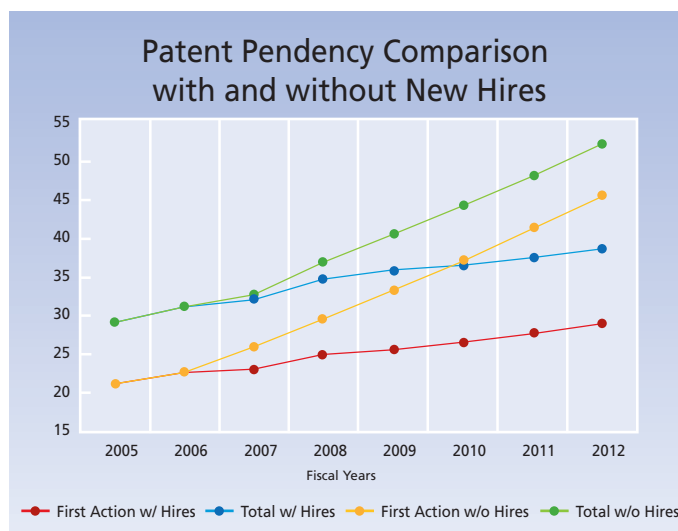
The chart above illustrates our planning assumptions with respect to projected filings of patent and trademark applications.

It is an unchallenged reality that the rate at which patent applications are being filed has increased beyond the rate at which the USPTO is presently able to examine them, resulting in an increasing backlog (cases that have not been examined). It is possible that this backlog could approach about 1.4 million by 2012—unless something is done.

It is fair to say that the USPTO’s more recent patent pendency proposals have met with mixed, even negative, response. Many commentators recommend that the USPTO simply continue to hire patent examiners at record

rates to ensure timely examination. Hiring is certainly an aspect of the ultimate answer to reducing pendency. Between 2005 and 2012, we will have hired over 9,000 new examiners.

A key question throughout the life of this strategic plan will continue to be, “How do we handle record growth in patent applications, consistent with our guiding principles of quality, timeliness, cost-effectiveness, and transparency?” We respectfully submit that hiring, while important, will not be the only answer to this critical question. As shown in the chart below, hiring will reduce the rate of increase in pendency time, but will not be sufficient to drive pendency time downward during the six years of this strategic plan.



Public confidence in the quality of our patent grants and trademark registrations is also a critical issue. Confidence is earned, and we do not take it for granted. We believe the essential components of quality are accuracy and consistency. We must ensure that allowed applications meet both statutory and regulatory standards, thus providing the certainty that enhances competition in the marketplace. We must not allow the need for timeliness to impact the requirement for quality.

HOW DO WE MEASURE QUALITY?

Quality begins with the fundamentals—a high-performing workforce that is properly trained and given the tools and information technology (IT) systems needed to accomplish the job. Most people are surprised to find that USPTO monitors quality quite precisely by measuring:

- In-process compliance with published statutory, regulatory, and practice standards;
- End-of-process compliance with these same standards; and
- Review of statistically significant, random samplings of examiners' work.

Since the USPTO put additional quality initiatives into place in 2003, our compliance rates have increased and the percentage of patent applications approved for issuance has fallen.

We will continue to manage quality through the successful implementation of a comprehensive and integrated quality system throughout the examination processes.

Another challenge vital to the long-term success of the Office's mission is obtaining the resources and flexibilities needed to provide a stable and reliable foundation in a changing world. As a performance-based organization whose operations are not funded out of general taxpayer revenues, Congress granted the agency substantial autonomy in its management and administrative functions. Nevertheless, the USPTO faces challenges beyond its immediate control in achieving the business-like operations that such an organizational structure contemplates.

In summary, despite successes and accomplishments, the USPTO still faces ongoing challenges related to complex patent laws and rules, growth in filings, increasing complexity and volume of patent applications, continuing focus on the quality of examination, the transition to operating in a fully electronic environment, the impact of

counterfeiting and piracy on American business interests in the United States and throughout the world, and securing appropriate resource levels and operational flexibilities. This strategic plan proposes consideration of substantial changes for patents, trademarks, and management that will better position the USPTO and its users for future growth and complexity.

GUIDING PRINCIPLES

In support of the Department of Commerce goal to “Promote U.S. innovation and industrial competitiveness by protecting intellectual property...,” we identified objectives, initiatives, and performance measures that will enhance the degree of excellence or quality in every aspect of our patent and trademark processes—from the information we receive from applicants to the support we provide our own employees. In preparing this strategic plan, our goals, objectives, and initiatives were built upon four guiding principles.

Quality means accurate and consistent results in examination. It presumes improved inputs, better-focused examination, improved review processes, and consistent examination results.

Timeliness means processing, including review of applications, is completed without delay. It presumes that applicable laws, regulations, and policies work synergistically to eliminate frictions or uncertainties that lead to delays.

Cost-Effectiveness implies efficiency, accountability, and a focus on results. It requires leadership and commitment to ensure that activities and processes result in value. This means using resources in the most effective manner to deliver quality, timely USPTO services. It also means being responsible stewards of the public trust.

Transparency demands impartiality, fairness, accessibility, availability, and a public-service mentality. This includes

our continuing commitment to opening the USPTO to the public by providing electronic filing, patent and trademark file contents, and as much training and research material as possible via our Web site. It requires discipline on the part of the public to use public means to influence change in USPTO practices and activities.

PLANNING ASSUMPTIONS/CRITICAL NEEDS

This plan is predicated on the following assumptions and needs:

- Patent application filings will increase by eight percent a year through 2012.
- Trademark application filings will increase by six to eight percent each year through 2012.
- The fee structure and changes to practice that were temporarily put in place for fiscal years 2005-2007 will be made permanent, and the USPTO will be appropriated its full estimated revenues.
- Full implementation of some initiatives will be dependent upon completion of pilot projects and successful evaluation results (e.g., demonstrated cost-effectiveness and efficiency).
- Many initiatives cannot be developed or implemented without the input and active involvement of interested parties—for example, Congress, the Administration, special interest groups, IP officials from other countries, users of our systems, and our employees.

Throughout the life of this strategic plan, we will strive to find meaningful answers to the following questions:

- How can we process increasingly large numbers of more complex patent applications—consistent with our guiding principles of quality, timeliness, cost-effectiveness and transparency?
- Can we—as members of the public have suggested—simply hire more patent examiners (and supporting employees)—to handle the increase?
- What alternatives—including packages of alternatives—exist to handle increases in patent application filings?

We believe that partnership with stakeholders is crucial to defining, in a collaborative manner, solutions that will benefit the entire IP system. We also believe that such partnerships can offer keys to global IP solutions, as American inventors, entrepreneurs, and businesses have global issues to consider. As an example, in fiscal year 2006, the USPTO cooperated with a private sector-led group that chose to focus on so-called “peer review” as a possible means of improving the quality of patent application packages received by the USPTO. Private sector-initiated and -led efforts may provide the USPTO with important data and feedback that will help us, as stewards of the public trust, improve patent, trademark, and other IP systems for the benefit of all.



GOAL 1

Optimize Patent Quality and Timeliness

INTRODUCTION

The benefits of our patent system have been obvious to Americans since the founding of our country. More than 200 years ago, the need for a patent system was addressed in the Constitution, and a statutory system to examine and grant patents was put in place. Since that time, the ingenuity of American inventors, coupled with a patent system that encourages and rewards innovation, has transformed America into the world's preeminent technological and economic nation.

Today, economic success depends on intangible, information-based assets and industries, such as security and nanotechnology, which cut across our traditional economic sectors. As the clearinghouse for U.S. patent rights, the USPTO is an important catalyst for U.S. economic growth. 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 approved for issue, thus providing certainty that enhances competition in the marketplace.

In order for Americans to reap the benefits of their innovations, they often rely on the legal rights associated with a patent. This means that the longer it takes for the USPTO to review a patent application, the longer it will take for an applicant to receive the patent rights that ultimately may be granted for the invention. Congress and the public have recognized this issue—referred to as “pendency,” or the time an application remains with the USPTO until a final decision is made—as having a direct impact on American competitiveness.

Implementing the types of changes needed to fully realize the outcomes of a more efficient and effective examination process requires a multi-faceted approach.

CHALLENGES/OPPORTUNITIES

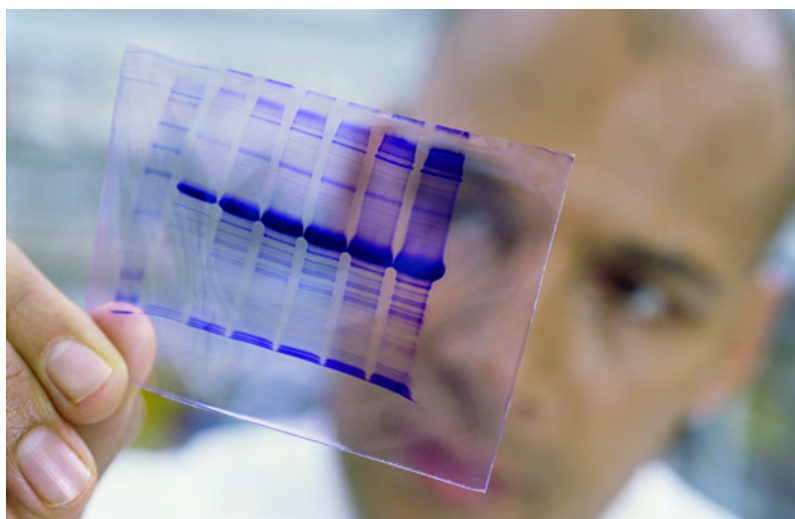
- Confidence in patent quality continues to be a topic of debate. Determining the appropriate measures of patent quality and the related performance targets are of critical interest to both the USPTO and the patent community.
- The increasing number and technical complexity of patent applications, coupled with the challenge of hiring and training new patent examiners, continues to confront the USPTO. The patent application filing rate



has increased beyond our ability to promptly examine new and pending patent applications.

- Operating in today's wired world requires us to have full electronic processing that is safe, secure, and continually available to employees, applicants, and stakeholders. We must expand the use of IT to all phases of patent processing.

- A longer-term endeavor, critical to addressing quality and timeliness, is working with our stakeholders, the Administration, Congress, and our international partners to determine if there is some combination of examination alternatives that will better meet applicants' needs while providing a more efficient use of USPTO examination resources.



OUR STRATEGIC RESPONSE

We will hire more patent examiners, train and retain them more effectively, and promote use of the patent hoteling program; build quality into every aspect of patent examination; fully leverage and expand the potentials of the electronic work environment; and explore the feasibility of offering alternatives to the current one-size-fits-all filing and examination system.

OBJECTIVE #1

Provide high quality examination of patent applications.

INITIATIVES

- Enhance recruitment to hire 1,200 new patent examiners a year for an extended period of time, including examiners with degrees and/or experience in areas of emerging technologies
- Expand telework and explore establishing regional USPTO offices
- Leverage the effectiveness of the Patent Training Academy to enhance training and create chief scientist positions to focus on technical training
- Explore partnerships with universities to offer IP courses to science and engineering students, develop an internship program, and train students in IP to create a ready pool of potential examiner candidates
- Utilize recruitment and retention incentives to hire and retain a highly qualified and motivated workforce
- Develop alternatives to the current performance and bonus systems
- Enhance search quality by improving examiners' ability to retrieve the most relevant prior art in the examination process
- Enhance the skill sets of examiners authorized to train others by providing formal training to all personnel who are responsible for training new examiners and reviewing their work
- Design and implement a comprehensive quality system for patent examination that includes:
 - Collecting and analyzing all quality review information for consistency and to provide feedback and improved training
 - Offering a separate quality award that better recognizes the accomplishments of examiners who meet or exceed assigned quality expectations
 - Conducting targeted reviews in problem areas, which focus on examination processes or functions that show problematic trends
 - Encouraging submission of relevant prior art by participating with a consortium of patent users, applicants, attorneys, and members of the academic community to build a system to actively solicit prior art, especially with regard to software applications
 - Developing quality measures and performance targets in conjunction with external stakeholders
 - Obtaining an independent verification of patent quality using existing Office of Patent Quality Assurance (OPQA) measures in an effort to increase public confidence in the USPTO quality measures and targets
- Support reclassification efforts to improve search quality through increased use of classified searching
- Competitively source Patent Cooperation Treaty (PCT) Chapter I applications, freeing examiners to focus on national cases
- Provide assistance to the open source community in their development of an open source database to provide examiners with potential prior art
- Explore examination reform through the rule making process to create better focused examination and enhance information exchange between applicant and examiner

- Enhance the Board of Patent Appeals and Interferences' (BPAI) flexibility and accountability by addressing projected jurisdictional expansion resulting from continuation reform, pre-appeal brief conferences, and potential post-grant legislation
- Enhance registered practitioner requirements by developing a program for Continuing Legal Education, implementing an annual registration fee, and reviewing qualifications to practice before the Office

OBJECTIVE #2

Improve and integrate existing electronic systems to promote full electronic patent application processing; implement better/more secure systems.

INITIATIVES

- Modernize the electronic data processing infrastructure to include a robust text-based electronic patent application file management system
- Develop a system which allows applicants to modify their application data
- Initiate a search exploration project to redesign the patent search systems by exploring commercial and public search capabilities and identifying user requirements
- Increase e-filing through outreach efforts and increasing awareness of the electronic filing process

OBJECTIVE #3

Improve the quality and timeliness of patent examination by exploring a range of approaches to examining applications.

INITIATIVE

- Explore the development of alternative approaches to examination in collaboration with stakeholders

PERFORMANCE MEASURES

- Patent Allowance Compliance Rate
- Patent In-Process Examination Compliance Rate
- Patent Average First Action Pendency
- Patent Average Total Pendency
- Patent Efficiency
- Patent Applications Filed Electronically
- Patent Applications Managed Electronically



GOAL 2

Optimize Trademark Quality and Timeliness

INTRODUCTION

Trademarks have served an important purpose throughout recorded history, as owners of goods and services put their names on their products. In the 21st century, trademarks represent valuable business properties, serving as the symbol of a company's good will and the products and services it offers. By registering trademarks, we have a significant role in protecting consumers from confusion as well as providing important benefits to American businesses.

A mark registered with the USPTO serves as *prima facie* evidence of ownership and the right to use the mark, and can provide access to the Federal court system. The registration can be recorded with U.S. Customs and Border Protection in order to stop the importation of infringing goods. Most importantly, the registration serves as notice to the world of the owner's claim of right in the trademark.

Today, a business developing a new mark to identify its goods or services can search and discover via the USPTO Web site more than two million marks in which others claim rights, and then subsequently file an application for registration. Our plan is to continually assess our process for improvements, to complete electronic processing and workflow to better manage operations, and to maximize the use of e-government for conducting business with applicants and registrants. In addition to our electronic filing and information systems, completion of an electronic file management system will: reduce cycle times; enhance the functionality and number of electronic filing options; provide increased access to pending applications and registered marks; and facilitate processing requests from U.S. applicants seeking protection of their mark in foreign countries, as well as requests for protection of marks from foreign applicants in the United States.

CHALLENGES/OPPORTUNITIES

- We must clearly identify what constitutes quality and demonstrate, through statistically valid metrics, that the quality of our work is the highest possible.
- Operating in today's domestic and international environment requires us to have full electronic processing that is safe, secure, and accessible to employees, registrants and stakeholders. Our robust trademark electronic workplace systems must be adaptable to continuous improvement.
- We must be able to provide certainty for first action pendency, regardless of fluctuations in filing and funding, by changing our practices for staffing and distributing work. This requires a collaborative management effort to improve application-filing projections, and provide more certainty to a budget process that begins 18 months prior to the start of the fiscal year.
- The integration of Trademark and Trademark Trial and Appeal Board (TTAB) systems must be an area of focus to provide a seamless interface for applicants and reliability of operations.
 - We are experiencing increased pendency for requests for reconsideration that are filed contemporaneously with the notices of appeal and must find ways to address this issue.
 - Currently, uncontrolled discovery, along with an excessive number of discovery and trial motions, are increasing the pendency of TTAB opposition proceedings and, ultimately, registration or disposal pendency.



OUR STRATEGIC RESPONSE

We will develop alternatives for predicting workloads, making process improvements, hiring and retaining a qualified workforce and assigning work; fully leverage and expand the potentials of the electronic work environment; and improve TTAB case processing.



OBJECTIVE #1

Achieve and maintain a three-month first action pendency, and reduce disposal pendency excluding suspended and *inter partes* cases.

INITIATIVES

- Achieve and maintain first action pendency at three months by exploring ways to change how work is performed and assigned
- Improve disposal pendency by:
 - Consolidating or eliminating redundant levels of review of applications approved for publication
 - Changing the time frame for the *Official Gazette* legal review and Trademark Quality Review's image review to optimize efficiency
 - Exploring timeline modifications for the *Official Gazette* opposition and publication process
 - Completing process maps of the examination process and supporting the maps electronically
- Implement state-of-the-art remote training and meeting capabilities to further facilitate telework
- Expand telework opportunities to all eligible employees
- Streamline TTAB case resolution by:
 - Promulgating rules requiring parties in opposition and cancellation proceedings to participate in discovery conferences, make initial disclosure of information, and disclose potential witnesses
 - Promoting and expanding the use of "accelerated case resolution" whereby cases are decided based on summary judgment-type submissions stipulated by the parties

OBJECTIVE #2

Improve quality of examination by ensuring consistency and quality of searching and examination, and provide internal on-line tools.

INITIATIVE

- Continue quality improvements that began with the adoption of a new quality standard and quality review process in fiscal year 2003 by:
 - Increasing the use of quality review findings by analyzing and incorporating the results in training, examination guidelines and policies, and manuals
 - Creating comprehensive new employee training programs and procedures manuals for all examination-related positions
 - Revising the final office action metrics by measuring and reporting on the quality of all Trademark final work rather than just final refusals
 - Exploring the creation of web-based search tools, data mining, and automated preliminary searches so that examining attorneys can search more effectively

OBJECTIVE #3

Provide electronic file management and workflow.

INITIATIVE

- Implement the Trademark Information System (TIS) as a truly electronic workflow environment to manage correspondence from pre-examination through post-examination, to provide more automated communications with internal and external customers, to permit real-time monitoring of applications, and to implement tighter integration among all supporting automation information systems

OBJECTIVE #4

Develop interactive on-line electronic filing capabilities and upgrade e-tools.

INITIATIVE

- Expand/enhance trademark electronic filing by enhancing IT systems, expanding types of filings that will be accepted electronically, and offering incentives

PERFORMANCE MEASURES

- Trademark First Action Compliance Rate
- Trademark Final Action Compliance Rate
- Trademark Average First Action Pendency
- Trademark Average Final Action Pendency
- Trademark Efficiency
- Trademark Applications Filed Electronically
- Trademark Applications Managed Electronically



GOAL 3

Improve Intellectual Property Protection and Enforcement Domestically and Abroad

INTRODUCTION

The USPTO is an important component in the Administration's strategy to encourage American innovation and strengthen the nation's ability to compete in the global economy. America's economic strength and global leadership depend on continued innovation and the ability to protect investments in those innovations.

To keep competitive in an increasingly globalized business environment, U.S. businesses need as much certainty as possible in the creation and protection of their IP, both here and abroad. Losses due to counterfeiting and piracy seriously undermine U.S. businesses' ability to trade globally. Additionally, the costs and difficulties in obtaining IP protection globally, and preserving and enforcing these rights, is an impediment for many businesses.

The Strategy Targeting Organized Piracy (STOP!), led by the White House, is the most comprehensive initiative ever advanced to fight global piracy where it starts, block bogus goods at America's borders and help American businesses secure and enforce their rights around the world. The USPTO supports this program through GIPA, training and capacity building in various regions of the world, and staffing the STOP! hotline.

CHALLENGES/OPPORTUNITIES

- There is a lack of simplified and harmonized international IP systems, which is making it difficult, slow, and expensive for innovators and businesses to obtain protection in global markets.
- Striking a balance between the rights of IP holders and cultural and socio-economic concerns continues to be a challenge for all countries.
- Achieving consensus among countries advocating effective IP protection is critical for counteracting countries concerned about efforts to enhance IP standards.
- We must continue to address counterfeiting, piracy, and failure to respect IP rights here and abroad.
- The Office must continue to craft and deliver an effective educational program about the benefits and effective use of IP, scam awareness, and careers in IP fields; and expand access to IP information.
- The USPTO must provide leadership by assisting the Solicitor General of the United States in cases before the Supreme Court, particularly as the Court considers the obviousness standard in patent law.

OUR STRATEGIC RESPONSE

We will advocate U.S. Government IP policy by increasing our presence and activities domestically and internationally; partner with international counterparts in pursuit of harmonization; and increase the certainty and effectiveness of IP rights through developments in decisional law.





OBJECTIVE #1

Support efforts and initiatives aimed at strengthening IP protection and curbing theft of IP.

INITIATIVES

- Expand foreign postings of IP experts to advocate U.S. Government IP policy, interests, and initiatives; conduct training on IP rights matters; and assist U.S. businesses
- Expand the GIPA to raise awareness of IP theft worldwide and improve an understanding of IP rights
- Expand training and capacity building to help create an understanding of, and the infrastructure for, IP protection in various countries, thereby enabling Americans to increase their ability to market products abroad
- Negotiate and monitor implementation of the IP chapter of Free Trade Agreements (FTAs) in conjunction with the USTR, thereby ensuring IP protection at levels similar to those in the United States

OBJECTIVE #2

Continue efforts to develop unified standards for international IP practice.

INITIATIVES

- Advocate progress in IP-related norm-setting bodies (e.g., intergovernmental organizations such as WIPO) by promoting the harmonization of global IP systems and reducing duplication of efforts through bilateral, regional, and multilateral fora
- Develop guidance for electronic filing and processing by promoting the compatibility and interoperability of patent and trademark electronic filing and processing systems among IP offices, thereby enhancing efficiencies in the acquisition and maintenance of IP rights

OBJECTIVE #3

Provide policy guidance on domestic IP issues.

INITIATIVES

- Develop domestic IP reform proposals that would promote and enhance the protection of IP in the United States by taking a comprehensive and participatory role in addressing issues through the establishment of reform focus groups, developing positions, and drafting legislation to implement IP treaties
- Maximize best practices from BPAI and TTAB decisions by increasing the impact of Board decisions in developing best practices for patent and trademark examination and allowance
- Support post-grant review legislation to ensure that the ultimate legislation comports as closely as possible with the Administration's view of an effective system

OBJECTIVE #4

Foster innovation and competitiveness by delivering IP information and education worldwide.

INITIATIVE

- Promote the importance of IP by taking a coordinated approach in carrying out projects related to communication, education and support, and domestic and international public awareness, including a focus on the special needs of independent inventors and entrepreneurs

PERFORMANCE MEASURES

- Number of instances in which USPTO experts review IP policies/standards
- Improving worldwide IP expertise for U.S. Government interests
- Plans of action, mechanisms, and support programs initiated or implemented in developing countries



MANAGEMENT GOAL

Achieve Organizational Excellence

INTRODUCTION

Fulfillment of the USPTO's mission and accomplishment of our goals, objectives, and initiatives requires strong leadership and collaborative management, which begin with the senior executive team. While our strategic goals focus on our core mission, this management goal focuses on the organizational excellence that is a prerequisite for achieving those goals and objectives.

Organizational excellence is a shared responsibility and is focused on sound resource management, solid workforce planning, and effective use of IT. Collectively, the leadership of the USPTO is responsible for core management activities that result in:

- Becoming an employer of choice with a culture of high performance through the implementation of the USPTO's Strategic Human Capital Plan;
- Ensuring responsible management of fiscal resources; and
- Providing the IT expertise and systems to ensure that electronic processing is safe, secure, accurate, and continually available to employees, applicants, and stakeholders.

CHALLENGES/OPPORTUNITIES

- The USPTO must continuously recruit a large number of highly qualified patent examiners in a growing economy.
- To quickly respond to changing workloads and deliver the services our applicants and others demand, the USPTO must use the most effective personnel practices, technologies, flexibilities, and management techniques to continually maintain and develop an appropriately sized, skilled, and diverse staff.
- It is critical to accurately project fee-paid inputs to ensure that fee collections cover the cost of operations, and enable us to implement a workforce-staffing plan capable of meeting future-year demands.
- To support core mission activities, the USPTO must simplify and standardize its systems and fully integrate them to operate better and more efficiently.
- Organizational health is directly related to effective communication—among employees and between employees and our external community. Our challenge is to enhance communications at every level of the organization.

OUR STRATEGIC RESPONSE

We will develop an enterprise-wide approach to providing reliable and consistent information for decision-making purposes; recruit, hire, develop, and retain employees with competencies for accomplishing our mission; enhance the capabilities of our corporate systems, processes, and services; and improve the quality, cost-effectiveness, timeliness, and user friendliness of IT solutions.



OBJECTIVE #1

Function as true business partners across the organization to achieve superior enterprise performance and provide strategic leadership.

INITIATIVES

- Implement the agency's Strategic Human Capital Plan by:
 - Closing competency gaps (capacity and capability) in mission-critical occupations to meet current and future needs
 - Enhancing the performance management and reward system to effectively differentiate between high and low performance and link individual, team, and organizational goals
 - Ensuring that leaders and managers effectively (1) manage people, (2) maintain continuity of leadership, (3) sustain a learning environment, and (4) provide a means to share critical knowledge



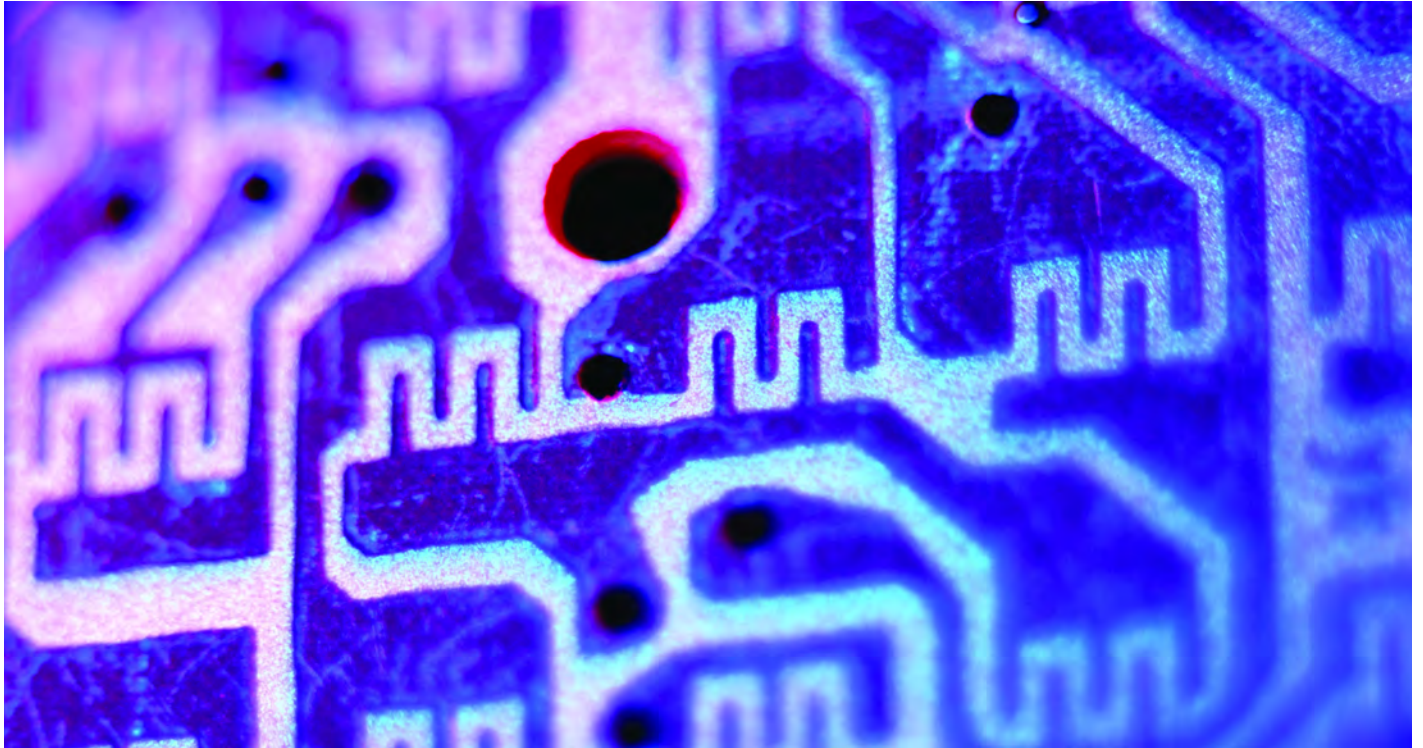
- Ensure effective resource stewardship by:
 - Developing a means to display electronic integrated executive management information—strategic, financial, performance, and operational—to monitor the “health” of the USPTO
 - Developing enterprise-wide management analysis expertise

OBJECTIVE #2

Ensure operational excellence in enterprise-wide management processes.

INITIATIVES

- Enhance the capabilities of financial systems and processes by:
 - Establishing an enterprise-wide approach for financial management
 - Establishing methods for more accurate and timely predictions of application filings, workloads, and revenues
 - Providing an automated operating environment for conducting financial management business with the USPTO
- Improve human resource processes and services
- Improve the quality, cost-effectiveness, and timeliness of IT solutions by:
 - Simplifying IT systems and support infrastructure
 - Improving existing business area tools and capabilities



OBJECTIVE #3

Dramatically simplify on-line access to, and availability of, USPTO information and data.

INITIATIVE

- Improve accessibility to USPTO information by:
 - Expanding searchable information
 - Providing streamlined access to information
 - Increasing system capabilities for access to information
 - Implementing secure IP office information exchange
 - Improving search engine capabilities
 - Developing and deploying a “search aggregator”

PERFORMANCE MEASURES

- Closed competency/skills gaps for mission-critical occupations, on both capacity (numbers hired) and capability (quality) dimensions
- Ninety-five percent of supervisors, managers, and executives will have performance plans in place that link to agency mission, goals and/or outcomes
- Percentage availability of critical systems
- IT expense as a percentage of revenue
- Maximize and/or obtain new funding flexibilities
- Process cost as a percent of revenue (efficiency)
- Revenue actual versus plan and percent error in revenue forecasts (effectiveness)



ACCOMPANYING INFORMATION

Strategic Planning Process

The USPTO launched a bottom-up, collaborative process to formulate this new plan, which consisted of:

INPUT FROM INTERESTED PARTIES

- Conducted employee focus sessions, including a special session with bargaining unit leaders and representatives, to identify the USPTO's internal strengths and weaknesses, and external opportunities and threats.
- Reviewed recently issued reports and evaluations to capture findings and suggestions about USPTO operations.
- Created an opportunity for all employees to provide input and ideas on addressing USPTO challenges, either anonymously or with attribution.
- Established a special e-mail address for external interested parties to tell us what is important to them.
- Reviewed all of the input to ensure that strategic issues were addressed during the planning and review process.

STRATEGY DEVELOPMENT

- Executives validated and updated the USPTO mission statement, vision statement, and goals that drove the strategic planning process.
- The Director personally met with the heads of the business areas to discuss a vision of what the USPTO might be like in the next decade.
- Business heads identified high-level strategies/means, objectives, and performance measures for accomplishing the goals.
- Supporting plans were developed to complement the strategic plan, such as the Strategic Human Capital Plan.

BUDGET AND PERFORMANCE INTEGRATION

- The strategic plan and fiscal year 2008 budget are in alignment.
- Performance accountability cascades from the strategic plan to the yearly performance agreements between the Secretary and the Commissioners for

Patents and Trademarks, to senior executives, office directors, managers, and supervisors.

EVALUATIONS

USPTO executives reviewed recently issued reports and evaluations and took these findings and suggestions into consideration as they formulated the strategic goals, objectives, and initiatives that comprise this plan.

- The fiscal year 2003 Program Assessment Rating Tool (PART) assessed the Patent organization, which received a rating of “adequate,” and the Trademark organization, which received a rating of “moderately effective.”
- The Government Accountability Office (GAO) report entitled *Intellectual Property: USPTO Has Made Progress in Hiring Examiners, but Challenges to Retention Remain*.
- The GAO report entitled *Intellectual Property: Key Processes for Managing Patent Automation Need Strengthening*.
- A study conducted by the National Academy of Public Administration entitled *U.S. Patent and Trademark Office: Transforming to Meet the Challenges of the 21st Century*.
- The management reports to Congress by the Patent Public Advisory Committee and the Trademark Public Advisory Committee.

Future evaluations

To ensure that the USPTO proposes appropriate changes to patent and trademark regulations and laws, makes changes to internal processes that provide benefits and increased efficiency, and makes sound investment decisions, many of the initiatives proposed in this plan will be subjected to evaluations before full implementation. Pilot projects will be carried out using rigorous criteria of measurable objectives, critical success factors, baseline data, and conditions for full implementation.

CONSULTATION PROCESS

- A draft strategic plan was sent to the Trademark Public Advisory Committee and the Patent Public Advisory Committee on August 22 and 23, 2006, respectively.
- The USPTO published a *Federal Register* notice on August 24, 2006, announcing the availability of the draft strategic plan on its Web site.
- Stakeholders and employees were encouraged to provide comments to special e-mail boxes established earlier in the year.
- A public forum was held on September 26, 2006, to receive oral comments.
- Individual letters encouraging review of the draft plan and comments were sent to various key stakeholder groups.
- Representatives of the European Patent Office (EPO) and the Japan Patent Office (JPO) were briefed on the draft strategic plan in mid-September.
- The proposed strategic plan was shared with Congress, and no substantive changes were suggested.

COMMUNICATIONS

In conjunction with the development of this strategic plan, the Under Secretary of Commerce for Intellectual Property and Director of the USPTO is committed to making strategic thinking and execution of the strategic plan a primary responsibility of USPTO executives, with monitoring implementation of the plan, and keeping employees, stakeholders, and the public informed of progress, one of their primary tasks.

List of Initiatives

GOAL 1 *Optimize Patent Quality and Timeliness*

Objective 1

INITIATIVES	PAGE
Enhance recruitment to hire 1,200 new patent examiners a year for an extended period of time, including examiners with degrees and/or experience in areas of emerging technologies	16
Expand telework and explore establishing regional USPTO offices.	16
Leverage the effectiveness of the Patent Training Academy to enhance training and create chief scientist positions to focus on technical training	16
Explore partnerships with universities to offer IP courses to science and engineering students, develop an internship program, and train students in IP to create a ready pool of potential examiner candidates	16
Utilize recruitment and retention incentives to hire and retain a highly qualified and motivated workforce.	16
Develop alternatives to the current performance and bonus systems	16
Enhance search quality by improving examiners' ability to retrieve the most relevant prior art in the examination process	16
Enhance the skill sets of examiners authorized to train others by providing formal training to all personnel who are responsible for training new examiners and reviewing their work	16
Design and implement a comprehensive quality system for patent examination that includes:	16
<ul style="list-style-type: none"> • Collecting and analyzing all quality review information for consistency and to provide feedback and improved training. • Offering a separate quality award that better recognizes the accomplishments of examiners who meet or exceed assigned quality expectations • Conducting targeted reviews in problem areas, which focus on examination processes or functions that show problematic trends 	16

- Encouraging submission of relevant prior art by participating with a consortium of patent users, applicants, attorneys, and members of the academic community to build a system to actively solicit prior art, especially with regard to software applications
- Developing quality measures and performance targets in conjunction with external stakeholders
- Obtaining an independent verification of patent quality using existing Office of Patent Quality Assurance (OPQA) measures in an effort to increase public confidence in the USPTO quality measures and targets

Support reclassification efforts to improve search quality through increased use of classified searching.	16
Competitively source PCT Chapter I applications, freeing examiners to focus on national cases	16
Provide assistance to the open source community in their development of an open source database to provide examiners with potential prior art.	16
Explore examination reform through the rule making process to create better focused examination and enhance information exchange between applicant and examiner	16
Enhance BPAI flexibility and accountability by addressing projected jurisdictional expansion resulting from continuation reform, pre-appeal brief conferences, and potential post-grant legislation	17
Enhance registered practitioner requirements by developing a program for Continuing Legal Education, implementing an annual registration fee, and reviewing qualifications to practice before the Office	17

Objective 2

INITIATIVES	PAGE
Modernize the electronic data processing infrastructure to include a robust text-based electronic patent application file management system.	17
Develop a system which allows applicants to modify their application data.	17
Initiate a search exploration project to redesign the patent search systems by exploring commercial and public search capabilities and identifying user requirements	17
Increase e-filing through outreach efforts and increasing awareness of the electronic filing process	17

Objective 3

INITIATIVE	PAGE
Explore the development of alternative approaches to examination in collaboration with stakeholders	17

GOAL 2 *Optimize Trademark Quality and Timeliness*

Objective 1

INITIATIVES	PAGE
Achieve and maintain first action pendency at three months by exploring ways to change how work is performed and assigned.	20
Improve disposal pendency by:	
• Consolidating or eliminating redundant levels of review of applications approved for publication	20
• Changing the time frame for the <i>Official Gazette</i> legal review and Trademark Quality Review's image review to optimize efficiency	20
• Exploring timeline modifications for the <i>Official Gazette</i> opposition and publication process	20
• Completing process maps of the examination process and supporting the maps electronically	20
Implement state-of-the-art remote training and meeting capabilities to further facilitate telework.	20
Expand telework opportunities to all eligible employees	20
Streamline TTAB case resolution by:	
• Promulgating rules requiring parties in opposition and cancellation proceedings to participate in discovery conferences, make initial disclosure of information, and disclose potential witnesses	20
• Promoting and expanding the use of "accelerated case resolution" whereby cases are decided based on summary judgment-type submissions stipulated by the parties	20

Objective 2

INITIATIVES	PAGE
Continue quality improvements that began with the adoption of a new quality standard and quality review process in fiscal year 2003 by:	
• Increasing the use of quality review findings by analyzing and incorporating the results in training, examination guidelines and policies, and manuals	21

• Creating comprehensive new employee training programs and procedures manuals for all examination-related positions	21
• Revising the final office action metrics by measuring and reporting on the quality of all Trademark final work rather than just final refusals	21
• Exploring the creation of web-based search tools, data mining, and automated preliminary searches so that examining attorneys can search more effectively	21

Objective 3

INITIATIVE	PAGE
Implement TIS as a truly electronic workflow environment to manage correspondence from pre-examination through post-examination, to provide more automated communications with internal and external customers, to permit real-time monitoring of applications, and to implement tighter integration among all supporting automation information systems	21

Objective 4

INITIATIVE	PAGE
Expand/enhance trademark electronic filing by enhancing IT systems, expanding types of filings that will be accepted electronically, and offering incentives.	21

GOAL 3 *Improve Intellectual Property Protection and Enforcement Domestically and Abroad*

Objective 1

INITIATIVES	PAGE
Expand foreign postings of IP experts to advocate IP U.S. Government policy, interests, and initiatives; conduct training on IP rights matters; and assist U.S. businesses.	24
Expand the GIPA to raise awareness of IP theft worldwide and improve an understanding of IP rights.	24
Expand training and capacity building to help create an understanding of, and the infrastructure for, IP protection in various countries, thereby enabling Americans to increase their ability to market products abroad.	24
Negotiate and monitor implementation of the IP chapter of FTAs in conjunction with the USTR, thereby ensuring IP protection at levels similar to those in the United States	24

Objective 2

INITIATIVES	PAGE
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Advocate progress in IP-related norm-setting bodies by promoting the harmonization of global IP systems and reducing duplication of efforts through bilateral, regional, and multilateral fora. 24

Develop guidance for electronic filing and processing by promoting the compatibility and interoperability of patent and trademark electronic filing and processing systems among IP offices, thereby enhancing efficiencies in the acquisition and maintenance of IP rights. 24

Objective 3

INITIATIVES	PAGE
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Develop domestic IP reform proposals that would promote and enhance the protection of IP in the United States by taking a comprehensive and participatory role in addressing issues through the establishment of reform focus groups, developing positions, and drafting legislation to implement IP treaties. 25

Maximize best practices from BPAI and TTAB decisions by increasing the impact of Board decisions in developing best practices for patent and trademark examination and allowance 25

Support post-grant review legislation to ensure that the ultimate legislation comports as closely as possible with the Administration's view of an effective system. 25

Objective 4

INITIATIVE	PAGE
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Promote the importance of IP by taking a coordinated approach in carrying out projects related to communication, education and support, and domestic and international public awareness, including a focus on the special needs of independent inventors and entrepreneurs 25

MANAGEMENT GOAL

Achieve Organizational Excellence

Objective 1

INITIATIVES	PAGE
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Implement the agency's Strategic Human Capital Plan, by:

- Closing competency gaps (capacity and capability) in mission-critical occupations to meet current and future needs 28
- Enhancing the performance management and reward system to effectively differentiate between high and

low performance and link individual, team, and organizational goals 28

- Ensuring that leaders and managers effectively (1) manage people, (2) maintain continuity of leadership, (3) sustain a learning environment, and (4) provide a means to share critical knowledge 28

Ensure effective resource stewardship by:

- Developing a means to display electronic integrated executive management information—strategic, financial, performance and operational—to monitor the “health” of the USPTO 28
- Developing enterprise-wide management analysis expertise. 28

Objective 2

INITIATIVES	PAGE
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Enhance the capabilities of financial systems and processes by:

- Establishing an enterprise-wide approach for financial management 28
- Establishing methods for more accurate and timely predictions of application filings, workloads and revenues. 28
- Providing an automated operating environment for conducting financial management business with the USPTO. 28

Improve human resource processes and services 28

Improve the quality, cost-effectiveness and timeliness of IT solutions by:

- Simplifying IT systems and support infrastructure 28
- Improving existing business area tools and capabilities. 28

Objective 3

INITIATIVE	PAGE
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Improve accessibility to USPTO information by:

- Expanding searchable information 29
- Providing streamlined access to information 29
- Increasing system capabilities for access to information 29
- Implementing secure IP office information exchange 29
- Improving search engine capabilities. 29
- Developing and deploying a “search aggregator”. 29

Transition from the 21st Century Strategic Plan

The *21st Century Strategic Plan* was submitted to Congress in February 2003 in conjunction with the President's budget for fiscal year 2004. In February 2006, a document describing the significant adjustments to that Plan was included with the President's budget for fiscal year 2007. The following initiatives, originally identified in the *21st Century Strategic Plan*, are being continued in this plan.

LEGISLATIVE INITIATIVES

Patent and Trademark Fees—As of October 1, 2006, the current fee schedule continues in effect pursuant to section 124 of Division B (Continuing Resolution) of H.R. 5631 (Pub.L. 109-289, as amended), Department of Defense Appropriations Act, 2007. The Administration plans to submit a legislative proposal to permanently extend that fee schedule beyond fiscal year 2007.

Patent Quality—The USPTO actively supports two proposals likely to be considered in the 110th Congress that are widely supported throughout the IP community and would directly improve patent quality: a post-grant review procedure and a new procedure for submission of prior art.

A new post-grant review procedure, originally recommended by the USPTO in the *21st Century Strategic Plan*, is intended to improve upon existing administrative reexamination alternatives. It would serve as a quicker, lower cost alternative to expensive litigation in reviewing patent validity questions. Such a procedure would complement rather than displace ongoing quality-focused initiatives at the USPTO, which include measures to address the hiring, training, certification, and retention of an adequate number of examiners. Under this plan, the USPTO will work with Congress and other stakeholders in developing a post-grant review procedure that effectively serves the interests of the patent community.

While the USPTO currently has a procedure for submission of prior art after publication, which allows submission by third parties within two months of publication, the procedure does not allow explanations or other information

about the patents or publications. Congress is likely to examine a procedure for the submission of third-party prior art as part of its consideration of patent law reform proposals. We encourage consideration of a change to the statute governing this procedure to allow submissions by third parties after pre-grant publication. Such a change would allow those interested parties to explain why the prior art would have a negative impact on the patentability of the claims. This process would provide the examiner with information that might not otherwise be obtained during the examination process. We look forward to working with Congress and other stakeholders to develop a submission procedure that effectively and fairly balances the interests of the patent applicant, interested third parties, and the general public.

The USPTO continues to consider various other legislative proposals, originally contained in the *21st Century Strategic Plan*, for possible inclusion in a package of recommendations to Congress as the legislative process proceeds on patent reform. These issues include restriction practice reform, simplification of patent term adjustment procedures, wider publication of patent applications, and assignee filing.

COMPETITIVE SOURCING INITIATIVES

In the *21st Century Strategic Plan*, the USPTO had proposed initiatives for several Patent functions: classifying patent documents, transitioning to a new global patent classification system, and competitively sourcing prior-art searches. The first two are currently under way.

Competitively sourcing prior-art searches was originally delayed due to legislative changes. In September 2005, the USPTO awarded contracts to two commercial firms to participate in a PCT search program that would serve as a pilot for commercial searches of national stage applications. After the initial six-month base period expired, the pilots were concluded due to several factors, including the quality of searches, the capacity to handle increased workloads, and financial, timeliness, and management considerations.

The USPTO concluded that the restrictions imposed by Pub.L. 108-447 (Consolidated Appropriations Act, 2005) and the conflict of interest clause significantly reduced the pool

of potential contractors and opportunities for success. The USPTO further decided to no longer pursue this initiative.

This strategic plan includes an initiative to competitively source the PCT Chapter I search and opinion work for up to 20,000 PCT applications per year. This initiative is solely a pendency reduction initiative and not a pilot for competitive sourcing national stage application searches. In September 2006, the USPTO awarded contracts to two commercial firms to perform PCT Chapter I search and opinion functions. Additionally, the USPTO expects to begin competitively sourcing PCT Chapter I work to one or more foreign IP offices beginning March 2007.

PERIODIC RECERTIFICATION FOR REGISTERED PRACTITIONERS AND DISCIPLINARY INITIATIVES

Goal 1, Objective 1, contains an initiative that will finalize the work initiated in the *21st Century Strategic Plan* by developing a program for Continuing Legal Education, implementing an annual registration fee, and reviewing qualifications to practice before the Office.

INTERNATIONAL ACTIVITIES

Work sharing

- A work sharing program was implemented with the JPO for a one-year trial starting July 3, 2006.
- The USPTO and the JPO implemented the “Patent Prosecution Highway” on a trial basis. This enables participating offices to take advantage of work results provided by the office of first filing, and this provides applicants with the opportunity for fast track examination for qualifying cases in the later filed office.
- The EPO is waiting until the end of the one-year trial to evaluate its feasibility in joining with this effort.
- A memorandum of understanding was signed in January 2007 for PCT Chapter I searches to IP Australia. The planned implementation date is March 1, 2007.
- The Trilateral offices (the USPTO, EPO, and JPO) are now utilizing the 2006 examiner exchange program to improve on recordation of search history for each office. The 2006 program is conducted in three phases. The

first exchange was conducted at the USPTO in May 2006. The second exchange was at the EPO in October 2006, and the third exchange will be at the JPO in April 2007.

- All items under the work sharing umbrella link to Goal 3, Objective 2 (Continue efforts to develop unified standards for international IP practice).

Pursuit of Patent harmonization and PCT reform

- Activities are ongoing and link to Goal 3, Objective 2.
- An agreement with the Korean Intellectual Property Office to act as an International Searching Authority/ International Preliminary Examination Authority for the USPTO was signed in December 2005, and fully implemented on January 1, 2006. This is also an example of ongoing activities under Goal 3, Objective 2.

UNITY STANDARD

The USPTO studied changes needed to adopt a unity standard, including solicitation of public comments. A “Green Paper” was published for comment in June 2005. Based on the comments, no consensus was reached on the Green Paper options, and the USPTO expects to conclude the study.

TRADEMARK E-GOVERNMENT

Goal 2, Objective 3, of the strategic plan contains an initiative to implement TIS as a truly electronic workflow environment to manage correspondence from pre- through post-examination, to provide more automated communications with internal and external customers, to permit real-time monitoring of applications and to implement tighter integration among all supporting automation information systems.

PATENT FILE WRAPPER

Goal 1, Objective 2, of this plan contains an initiative that will finalize the work initiated in the *21st Century Strategic Plan* to modernize the electronic data processing infrastructure to include a robust text-based electronic patent application file management system.

Glossary of Acronyms

BPAI Board of Patent Appeals and Interferences

EFS-Web Electronic Filing System-Web

EPO European Patent Office

FTAs Free Trade Agreements

GAO Government Accountability Office

GDP Gross Domestic Product

GIPA Global Intellectual Property Academy

GPRA Government Performance and Results Act of 1993

IP Intellectual Property

IT Information Technology

JPO Japan Patent Office

OPQA Office of Patent Quality Assurance

PART Program Assessment Rating Tool

PCT Patent Cooperation Treaty

PHP Patent Hoteling Program

R&D Research and Development

STOP! Strategy Targeting Organized Piracy

TEAS Trademark Electronic Application System

TIS Trademark Information System

TTAB Trademark Trial and Appeal Board

UPR Utility, Plant and Reissue

USPTO United States Patent and Trademark Office

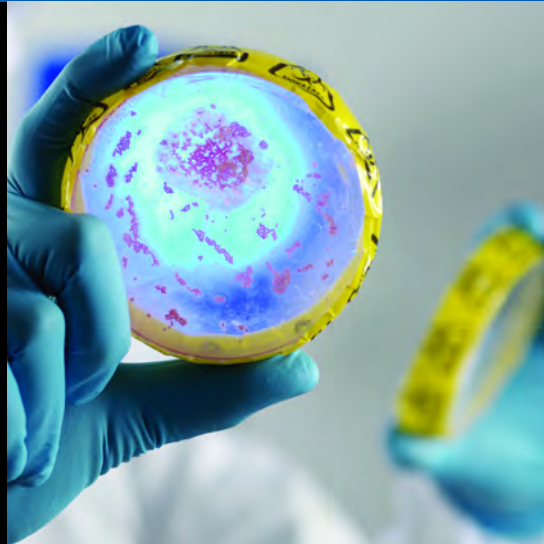
USTR United States Trade Representative

WIPO World Intellectual Property Organization

WTO World Trade Organization

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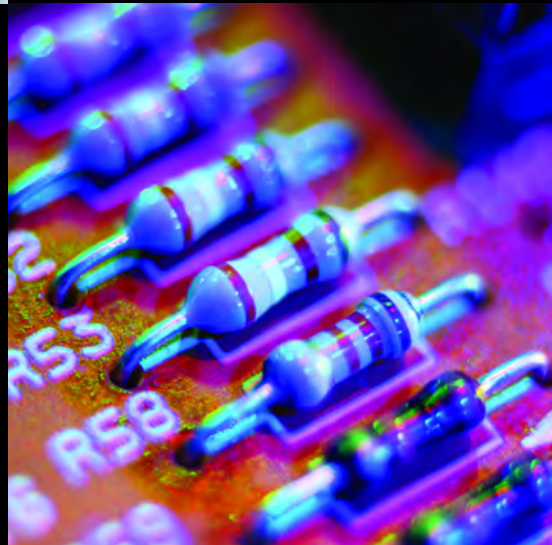


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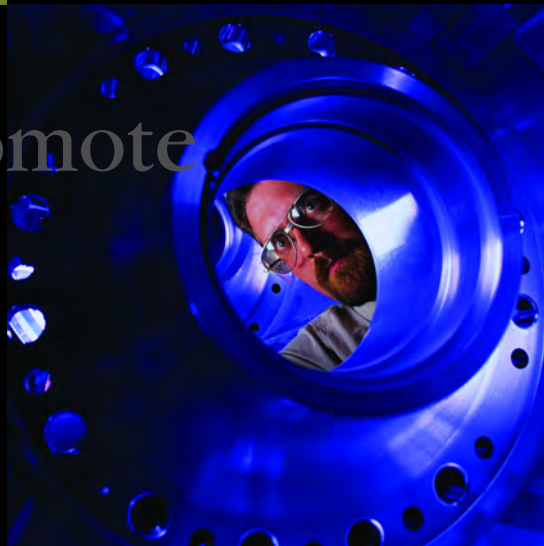


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