

2000 Highlights

Fiscal year 2000 was a year of remarkable change, progress, and innovation for the United States Patent and Trademark Office (USPTO). The following highlights illustrate the many milestones reached and the new initiatives instituted:

USPTO Established as a Performance-Based Organization

The American Inventors Protection Act of 1999 (AIPA) was signed into law (P.L. 106-113) on November 29, 1999. This legislation established the USPTO as a Performance-Based Organization (PBO) with the independent control over administrative and management functions. It also established the Patent and Trademark operations as separate business units within the agency.

The new USPTO is headed by an Under Secretary of Commerce for Intellectual Property and Director of the USPTO who is appointed by the President with

the advice and consent of the Senate. The Secretary of Commerce appoints a Commissioner for Patents and a Commissioner for Trademarks to serve as chief operating officers for their respective business units for five-year terms. The Secretary of Commerce enters into annual performance agreements with the Commissioners who are eligible for up to 50 percent bonuses based on their performance under those agreements.

The AIPA also made the most significant changes to the patent system since the 1952 Patent Act, including changes in the procedures available for reexamination of patents, establishment of a new timeliness standard, and publication of patent applications 18 months after filing. More details are included in the Patents section of this report.

New Public Advisory Committees Formed

The AIPA legislation also created Public Advisory Committees for both Patents and Trademarks. In July 2000, the Secretary of Commerce appointed nine members, including three non-voting members representing each labor organization recognized by the USPTO, to each Committee to advise the Director on matters involving policies, goals, performance, budget, and user fees. The members represent the USPTO's diverse community of users, such as entrepreneurial businesses, inventors, universities, large U.S.-based corporations, and law firms. The first meeting of the Advisory Committees was a joint meeting in August 2000. The Committees are charged with preparing annual reports on their efforts within 60 days after each fiscal year end.

The Advisory Committees raised several issues of critical concern to them in their respective annual reports. Both Committees identified the uncertain availability of funding and how it is limiting the USPTO's ability to address critical problems arising from the proliferation of work above levels experienced in the past. The Committee members also believed planning and funding problems would

be significantly ameliorated if the goal of having full access to user fees to fund the operations of the USPTO as a PBO had been realized. The Patent Advisory Committee unanimously passed a resolution strongly emphasizing the serious consequences of the budget shortfall and made it one of their priorities.

Additional issues raised by both Committees were electronic filing and quality. The Trademark Advisory Committee stated that the USPTO should take immediate steps to expedite the use of technology in fulfilling its mission by mandating electronic filing, to the extent allowed by law, and by replacing paper-based processes with processes designed to best leverage technology to conduct its business. Regarding quality, the Patent Advisory Committee stated that processing should be secondary to quality goals—quality needed to be the first priority.

Six Millionth Patent Granted

On December 10, 1999, 3Com Corporation received the six millionth patent at a special award ceremony hosted by the USPTO at the Herbert C. Hoover Auditorium. 3Com Corporation received this landmark patent for its innovative HotSync Technology, which allows users of hand-held devices based on the Palm Computing platform to

synchronize their information with a computer at a single touch of a button. The HotSync technology provides for fast, easy backup of data and the ability to put the most up-to-date information from a desktop computer or server into the user's pocket or purse.

Customer Satisfaction Continued to Improve

Since publishing our first customer service standards in fiscal year 1994, we have continued to validate them using annual customer satisfaction surveys.

The fiscal year 2000 customer satisfaction survey results were encouraging as reflected by the following:

Overall customer satisfaction with the Patents area improved by 12 percent since 1998, increasing from 52 percent to 64 percent. A larger number of respondents commented positively about the proactive and individualized service they received. Seventy-eight percent of respondents were satisfied with using the telephone for examination issues. Customers also recognized examiners' helpfulness regarding appropriate changes.

- Overall, 65 percent of Trademark customers were satisfied. Satisfaction with document accuracy (with the exception of filing receipts) remained strong,

Robert L. Mallett, Deputy Secretary of Commerce, and Director Dickinson cut the cake following ceremonies designating the USPTO as a Performance-Based Organization.



Director Dickinson joined Secretary Daley at the Commerce Department to present 3Com Corporation with the historic six millionth patent in special ceremonies (from left) Director Dickinson, Jeffrey C. Hawkins, 3Com co-inventor; Alan Kessler, President of Palm Computing; Michael Albanese, 3Com co-inventor; and Secretary Daley.

and several aspects of customer service and examination quality showed high satisfaction ratings.

We are continuing to review customer satisfaction standards, and have outlined targets for improvements for Patents and Trademarks through new and on-going initiatives under way to address these issues.

E-Government Initiatives Implemented

The USPTO has adopted e-government as a performance goal that is enabling us to deal with ever-increasing requests for service while extending information to all our customers, regardless of location. Electronic filing and information systems also help us serve our customers by improving the quality of data that the USPTO captures and shares.

We have made many advances toward conducting business electronically. In fiscal year 2000, Patent and Trademark customers could file applications electronically, access status information related to their applications, and search the text and images of U.S. patents and trademarks online. Customers can also pay for products and services, and order and receive patent and trademark products electronically via the Internet.

In fiscal year 2000, the USPTO created Electronic Business Centers for both Patents and Trademarks on the USPTO Web site to provide a single source for customer information, electronic filing, and patent and trademark application forms, and to improve the content and searching of patent and trademark databases.

The USPTO completed the pilot program for its Electronic Patent Application Filing System (EFS) in September 2000, and made EFS available to the public on October 27, 2000. Via the Patent Electronic Business Center, customers can access software that assembles all application components, calculates fees, validates

application content, and compresses, encrypts and transmits the filing to the USPTO.

In December 1999, we expanded our patent database to include every U.S. patent issued since 1790—a total of more than 6.5 million patents. Now the database includes full-page images for the 4,204,863 patents issued from 1790 through 1975, which are searchable by patent number and current patent classification. Patents issued from 1976 to the most recent issue week are searchable by full-text fields that include current classification data.



Mickey Mouse accepts the NIH medal on behalf of his creator, Walt Disney, at the annual Induction Ceremony for new members. Congratulating Mickey and Peter Nolan (right), the representative from Walt Disney Company, are USPTO's Nick Godici and Tom Smith, President of the NIH Foundation.

Partnership With the National Inventors Hall of Fame Supported

In 1973, the USPTO and the National Council of Intellectual Property Law Associations co-founded the National Inventors Hall of Fame (NIHF) to recognize the contributions of our Nation's inventors. In fiscal year 2000, Congress earmarked \$3.7 million in the USPTO budget for joint projects with the NIHF, including the annual induction ceremony, Camp Invention for children of all ages, exhibits for the USPTO museum, and a television series pilot about inventors and

Alternative Fee Structure Studied

The AIPA required the USPTO to "conduct a study of alternative fee structures that could be adopted to encourage maximum participation by the inventor community in the United States." The USPTO asked the public to comment on a number of possible alternatives and to suggest others. The resulting public input allowed the USPTO to provide a preliminary response to Congress. However, the USPTO plans to continue studying the issues and make recommendations at a later date after further analysis is conducted.

Space Consolidation Moved Forward

On June 1, 2000, the General Services Administration (GSA) awarded a lease to LCOR Alexandria, L.L.C. (LCOR) for the USPTO space consolidation. As a result of the lease signing, construction of the new campus should begin in calendar year 2001 with occupancy of a new headquarters in Alexandria, Virginia, scheduled to begin in late fiscal year 2003 and concluded in fiscal year 2004. The new campus will unite the USPTO's employees, who now occupy 2,424,856 square feet in 18 buildings throughout Crystal City, Virginia, into consolidated office space.

Unqualified Opinion Received on Fiscal Year 2000 Financial Statement Audit

The USPTO continued to make excellent financial management a priority in its daily operations. For the eighth consecutive year, the USPTO prepared financial statements in conformity with accounting principles generally accepted in the United States and the Office of Management and Budget form and content guidelines. Also, for the third year in a row, the auditors noted no matters involving internal control and its operation that were considered to be material weaknesses with only one reportable condition in fiscal year 1998.

Intellectual Property Leadership Efforts Continued to Expand

During fiscal year 2000, the USPTO continued its intellectual property leadership activities both

abroad and at home. In the global arena, the United States was one of 43 member states of the World Intellectual Property Organization (WIPO) that signed the Patent Law Treaty (Treaty) at a WIPO Conference in Geneva in June 2000. It is covered in the Intellectual Property (IP) section and it will not enter into force until three years after ratification. Significant outcomes that will result from the Treaty are uniform filing requirements and formal procedures among the Treaty's member states to reduce the cost of securing patent protection in other Nations, and the major concession secured by the USPTO in the negotiations that reduces from 2010 to 2005 the year in which member states will be able to require electronic filing pursuant to the Treaty. The USPTO also continued to lead the effort to streamline international patent application processing under the Patent Cooperation Treaty (PCT) with a comprehensive proposal for PCT reform.

Finally, the USPTO continued to work with the Japanese and European Patent Offices to seek ways to benefit from advances in information technology and strengthen mutual understanding in search and examination. Many developing countries were also provided technical assistance by the USPTO to help them implement their obligations under the Trade Related Aspects of Intellectual Property Agreement (TRIPs).



Online Magazine Launched
USPTO Today, an online magazine for the intellectual property community, made its debut in January 2000. Published monthly online and available in hardcopy quarterly, **USPTO Today** provides up-to-date news and in-depth coverage of issues of concern to our external customers. At the end of fiscal year 2000, the magazine had over 1,200 subscriptions for the printed version.

Management Challenges

The USPTO is a growing organization at the forefront of the high-tech driven national economy and a leader in 21st century management principles. As a result, we face many challenges in fiscal year 2001, as follows:

Diversion of the USPTO fee collections continues to be a major concern for us as demands for products and services, fueled by the high-tech economy, continue to escalate at double-digit levels. The USPTO relies solely on user fees for its operations and operates on cost-based accounting, so that the work performed relates directly to fees paid by customers.

Our patent and trademark workloads are increasing at significant rates. In fiscal year 2001, we expect to receive 335,000 utility, plant, and reissue (UPR) patent applications (including 7,500 refilings), and 470,000 trademark application classes. This represents a 12 percent increase in patent applications (excluding refilings) and a 25 percent increase in trademark applications over the filings received in fiscal year 2000.

We cannot rely solely on hiring additional personnel to manage our increasing workloads. We must also make critical investments in information technology systems, and reengineered processes now if we are to manage future workloads. The diversion of fee collections away from the USPTO means that we had to forego these investments at the expense of processing current workloads. Continued diversion of fees will result in our continuing to make tradeoffs and concessions that focus on our current workloads at the expense of our future workload processing.

Increase in workload without the corresponding growths in technology and personnel has resulted in a growing inventory of unprocessed applications. This dynamic combined with diverting fees created an unfunded liability for unprocessed work because funds must be used to process applications without the benefit of corresponding incoming fee amounts. Ultimately, this may result in a liability that the taxpayers may be asked to assume. The chart to the right illustrates the projected patent and trademark unprocessed

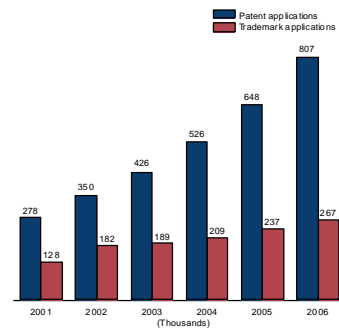
applications on hand at the beginning of each fiscal year from 2001 through 2006.

The scope of intellectual property protection is continually evolving and the USPTO must be prepared to respond rapidly to changes resulting from court decisions, modern technologies, and new legislation. Past practice has shown that many of these changes have short implementation dates. As a result, the USPTO is saddled with the financial burden of funding these activities from mission work and within current funding levels without the benefit of full fee usage.

The AIPA changed the patent system that affects our operations and expenditures. Because this work is new, we do not have sufficient historical information and experience to precisely assess the impact on our revenue stream and corresponding costs.

The USPTO must make incremental investments in the next several fiscal years to prepare for our move to consolidated space beginning in late fiscal year 2003 and concluding in fiscal year 2004. Although the out-year savings are significant to the agency, the incremental costs are also significant and must be funded from mission work.

Inventory of Unprocessed Applications



Strategic Leadership, Planning, and Goals

Leadership

In fiscal year 2000, the USPTO became a PBO, as a result of the enactment of the AIPA. This legislation designated the USPTO as an agency of the United States within the Department of Commerce, receiving intellectual property policy direction from the Secretary of Commerce. At the same time, the new USPTO became responsible for decisions regarding the management and administration of its operations and gained independent control of major management functions.



Mary Lee,
Administrator,
Office of Quality
Management

envisioned a three-pronged organizational structure for the USPTO: an intellectual property leadership component and two operational entities, Patents and Trademarks.

Leadership and executive direction is provided by the Under Secretary and Director, who serves as the link with the Department of Commerce and the rest of the Administration on intellectual property policy issues. The Under Secretary and Director also serves as the Chief Executive Officer of the new USPTO. A Commissioner for Patents and a Commissioner for Trademarks serve as the chief operating officers for their respective organizations. The AIPA also created Public Advisory Committees—one for Patents and one for Trademarks—to advise the Director on agency policies, goals, performance, budget and user fees.

Planning and Goals

The Government Performance and Results Act of 1993 (GPRA) required agencies to develop and institutionalize processes to plan for and measure mission performance. The USPTO has developed a framework of strategic and performance goals and performance indicators that define service from our customers' perspective.

In fiscal year 2000, the USPTO updated its strategic plan and took a fresh look at its goals and initiatives. This new strategic plan for fiscal years 2001-2006 identifies two strategic goals and four performance goals that cut across our programs, encompass all of our activities, and address the universe of competing needs of the wide variety of the USPTO's stakeholders.

USPTO's Strategic and Performance Goals

Strategic Goal—Maintain and grow our domestic and international leadership roles in intellectual property rights policy.

Performance Goal:

Strengthen intellectual property protection in the United States and abroad, making it more accessible, affordable, and enforceable

This goal relates to our Intellectual Property Leadership function, which provides executive direction to the USPTO and serves to champion intellectual property at home and abroad. By providing technical assistance to foreign country nationals, the United States can promote competitiveness in the global marketplace. This assistance also strengthens and safeguards our Nation's economic infrastructure by promoting and shaping intellectual property indirectly throughout the world. The USPTO provides seminars and technical training to officials in countries on reforming their intellectual property structures.

Strategic Goal—Provide our customers with the highest level of quality and service in all aspects of USPTO operations.

Performance Goals:

Enhance the quality of products and services

Transition to e-government

■ Optimize processing time

This second strategic goal is the primary and overarching focus of the Commissioner for Patents, the Commissioner for Trademarks, and all supporting

Intellectual Property Leadership

organizations within the USPTO. The two Commissioners have agreed to share common objectives which form the basis of their performance agreement with the Secretary and drive all operational planning, budgeting and management decisions. We must focus on managing incoming work while maintaining current operations, and at the same time, make investments in employees, processes, and technologies to help manage future workloads because trends indicate that our workload will continue to increase at higher-than-average rates.

Following are the specific business objectives of the three performance goals:

- **Enhance the quality of our products and services.** This goal has three aspects. First, investments in training and search tools are essential to increase the quality of our two major products—patents and trademarks. Second, the quality of our services and our daily interactions with our customers demands that we make investments in our outreach efforts to enhance customer satisfaction. Third, employee satisfaction requires that we make investments in innovative workplace initiatives, such as work-at-home programs, that will result ultimately in more satisfied customers.
- **Transition to e-government.** E-Government depends on Internet-based technology to improve Government services, reduce the growth of operational costs, enhance customer and citizen participation, and redefine Government processes. For the USPTO, this means building our services around customer choices, making e-services preferable. This move will make our services and information more accessible to all current and potential customers and make application processing more efficient.
- **Optimize processing time.** Managing workload and growth are among our long-standing priorities. They are even more important now because of the demand for intellectual property protection in our technology-driven economy. For patents, the AIPA legislation has provided a guarantee that ensures diligent applicants maximize their patents' term. Therefore, the USPTO must optimize processing time and avoid extending patent terms unnecessarily. In trademarks, a first Office action provides notice that permits the applicant

to make business decisions regarding the use of the mark.

Together, our four performance goals provide a critical link to accomplishing our two long-term strategic goals and ultimately allow us to accomplish our mission as mandated. Performance indicators were identified for each of the performance goals that help us assess whether or not our programs are achieving their intended outcomes. All of our performance indicators and the progress made in fiscal year 2000 are included in the GPR Annual Performance Goals and Results section of this report.



Robert L. Stoll,
Administrator for
External Affairs

As the largest intellectual property office in the world, the USPTO is at the forefront of developing and strengthening intellectual property protection, both at home and abroad. The Under Secretary and Director is the organization's standard-bearer of intellectual property (IP) rights protection in the global arena, advocating more efficient and cost-effective means of protecting the IP rights of U.S. nationals throughout the world. Through the Office and Legislative and International

Affairs, the USPTO promotes the development of multilateral systems for the protection of IP rights; participates in the IP aspects of trade consultations and the conclusion of bilateral investment treaties and trade agreements; works

closely with the Office of the U.S. Trade Representative and with industry in the annual review of IP protection and enforcement under Section 301 of the Trade Act of 1974; conducts IP rights enforcement training for developing countries; helps establish international standards and procedures to encourage foreign filing by U.S. nationals; and supports and promotes a valuable national resource—America's independent inventors and entrepreneurs.

The following highlights from fiscal year 2000 illustrate our ongoing leadership in this area:

Domestic Activities

Several pieces of intellectual property (IP)-related legislation were considered during the second session of the 106th Congress:

- **Intellectual Property Technical Amendments**—On September 19, 2000, the House passed H.R. 4870, the "Intellectual Property Technical Amendments Act of 2000." This bill would make clerical, technical, and minor substantive changes to the U.S. Code to clarify provisions of the AIPA. (It also provided that the title of the head of the USPTO revert to the traditional title of Commissioner.) This legislation was not enacted in the 106th Congress.
 - **The USPTO Reauthorization and Fees**—On May 9, 2000, the House Judiciary Committee approved H.R. 4034, the "United States Patent and Trademark Office Reauthorization Act." H.R. 4034 would permit the USPTO to access all of its fees without prior authorization in appropriation Acts. This legislation was not enacted in the 106th Congress.
 - **USPTO Appropriations**—The USPTO's fiscal year 2001 appropriation funds the agency at \$1,039 million, consistent with the President's budget request. Of that \$1,039 million, \$784 million is to be derived from fiscal year 2001 fee income and \$255 million will be carried over from fiscal years 1999 and 2000. Any fees received in excess of the \$784 million will not be available for obligation during fiscal year 2001. Recent congressional action also resulted in a 0.22 percent across-the-board rescission which will translate into an approximately \$2.3 million funding cut to the USPTO.
- The USPTO also participated in the following domestic activities:
- **The National Intellectual Property Law Enforcement Coordination Council (NIPLECC)**—The USPTO Director serves as co-chair of the NIPLECC, which was established in 1999 pursuant to PL 106-58 to coordinate domestic and international IP law enforcement among Federal and foreign entities. In its first year, the Council and staff members met on